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SENATE BILL NO. 31

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 15, 2000)

(Patron Prior to Substitute—Senator Chichester)

A *BILL* to authorize the issuance of bonds, in an amount up to \$131,763,100 plus issuance costs, reserve funds, and other financing costs, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, for paying costs of acquiring, constructing and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth; to authorize the Treasury Board, by and with the consent of the Governor, to fix the details of such bonds, to provide for the sale of such bonds, and to issue notes to borrow money in anticipation of the issuance of the bonds; to provide for the pledge of the net revenues of such capital projects and the full faith, credit and taxing power of the Commonwealth for the payment of such bonds; to provide that the interest income on such bonds and notes shall be exempt from all taxation by the Commonwealth and any political subdivision thereof; and to repeal Chapters 473 and 734 of the Acts of Assembly of 1998.

Whereas, Article X, Section 9 (c) of the Constitution of Virginia, provides that the General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees, or other charges and the full faith and credit of the Commonwealth of Virginia, provided that such debt is created for specific revenue-producing capital projects, including their enlargement or improvement, at, among others, institutions of higher education of the Commonwealth; and

Whereas, in accordance with Article X, Section 9 (c) of the Constitution of Virginia, the Governor has certified in writing, filed with the Auditor of Public Accounts, his opinion that the anticipated net revenues of each of the capital projects identified below to be pledged to the payment of the principal of and the interest on that portion of such debt issued for each such project will be sufficient to meet such payments as the same become due and to provide such reserves as may be required by law and that each of the capital projects complies with the requirements of Article X, Section 9 (c) of the Constitution of Virginia.

Be it enacted by the General Assembly of Virginia:

1. § 1. Title. This act shall be known and may be cited as the "Commonwealth of Virginia Higher Educational Institutions Bond Act of 2000."

§ 2. Authorization of bonds and BANs. The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series" in an aggregate principal amount not exceeding \$131,763,100 plus amounts needed to fund issuance costs, reserve funds, construction period interest and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes ("BANs"), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Code	Debt	Project Name
University			
of Virginia	16385	\$4,800,000	Monroe Lane Student Residence Hall
Virginia Polytechnic			
Institute and			
State University	14303	1,078,900	Major Repairs Dormitory and Dining

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59				
60	Virginia Polytechnic			
61				
62	Institute and State			
63				
64	University	14815	5,991,700	Parking Auxiliary
65				
66				Projects
67				
68	College of William			
69				
70	and Mary	16340	5,000,000	Renovate Dormitories
71				
72	Virginia Commonwealth			
73				
74	University	16405	15,346,000	Academic Campus Housing
75				
76	Virginia Commonwealth			
77				
78	University	16402	14,506,000	MCV Campus Housing
79				
80	Virginia Commonwealth			
81				
82	University	16338	6,365,000	Gladding Residence Hall
83				
84				Addition
85				
86	George Mason			
87				
88	University	16352	25,530,000	Housing Building V
89				
90	George Mason			
91				
92	University	15533	3,400,000	Housing Renovations
93				
94	Christopher Newport			
95				
96	University	16418	23,551,000	Residence Hall
97				
98	Virginia Community			
99				
100	College System	16216	635,500	Mt. Empire Parking
101				
102	James Madison			
103				
104	University	16395	8,259,000	Bluestone Dormitories,
105				
106				Phase II
107				
108	Mary Washington			
109				
110	College	16422	2,300,000	Residence Hall HVAC,
111				
112				Phase II
113				
114	Mary Washington			
115				

116	College	16348	2,000,000	Residence Hall
117				
118				Renovation
119				
120	Mary Washington			
121				
122	College	15980	1,500,000	Residence Hall HVAC
123				
124	Mary Washington			
125				
126	College	16096	5,000,000	Seacobeck Dining Hall
127				
128	Virginia State			
129				
130	University	16419	6,500,000	Residence Hall Addition
131				
132	TOTAL		\$131,763,100	
133				

§ 3. Application of proceeds. The proceeds, including any premium, of bonds and 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 in the state treasury and, together with the investment income thereon, shall be disbursed by the State Treasurer for paying costs of the acquisition, construction, renovation, enlargement, improvement and equipping of the authorized capital projects, including financing costs. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.

§ 4. Details, sale of bonds and BANs. Bonds and BANs shall be dated, and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on bonds and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the authorized denomination or denominations of the bonds and the place or places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or times not exceeding thirty years from their date or dates, and BANs shall mature at such time or times not exceeding five years from their date or dates.

The Treasury Board may sell bonds and BANs in such manner, by competitive bidding, negotiated sale, or private placement, and for such price or within such price parameters as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth.

In the discretion of the Treasury Board, bonds and BANs may be issued at one time or from time to time, and may be sold and issued at the same time with other general obligation bonds and BANs, respectively, of the Commonwealth authorized pursuant to Article X, Section 9 (a)(3), (b), and (c) of the Constitution of Virginia, as separate issues or as a combined issue, designated "Commonwealth of Virginia General Obligation Bonds [Bond Anticipation Notes], Series"

§ 5. Execution of bonds and BANs. Certificated bonds and BANs shall be signed on behalf of the Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by,

176 such persons as at the actual time of execution are the proper officers to sign such bond or BAN
177 although, at the date of such bond or BAN, such persons may not have been such officers.

178 § 6. Sources for payment of expenses. All expenses incurred under this act shall be paid from the
179 proceeds of the bonds or BANs from payments made by the institutions for which the capital projects
180 were authorized in § 2 hereof or from any other available funds as the Treasury Board shall determine.

181 § 7. Revenues. Each institution of higher learning mentioned above is hereby authorized (i) to fix,
182 revise, charge and collect rates, fees and charges for or in connection with the use, occupancy and
183 services of each capital project mentioned above or the system of which such capital project is a part
184 and (ii) to pledge to the payment of the portion of the bonds or BANs issued for such capital project the
185 net revenues resulting from such rates, fees and charges and remaining after payment of the expenses of
186 operating the project or system, as the case may be. Each such institution is further authorized to create
187 debt service and sinking funds for the payments of the principal of, premium, if any, and interest on the
188 bonds and other reserves required by any agency of the United States of America purchasing the bonds
189 or any portion thereof.

190 § 8. Authorized investments. Pending the application of the proceeds of bonds and BANs to the
191 purpose for which they have been authorized and the application of the net revenues and other sums set
192 aside for the payment of bonds and BANs, all or any portion of such funds may be invested by the State
193 Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds.
194 Such investments shall be deemed at all times to be a part of such funds, and the interest thereon and
195 any profit realized from such investments shall be credited to such funds, and any losses shall be
196 deducted therefrom.

197 §
198 9.

199 Security for bonds and BANs. The net revenues of the capital projects set forth above and the full
200 faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the principal
201 of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of the
202 Governor, shall provide otherwise) issued under this act. The proceeds of (i) bonds the issuance of
203 which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby
204 irrevocably pledged for the payment of principal of and interest on and any premium on the bonds or
205 BANs to be paid or redeemed thereby. In the event the net revenues pledged to the payment of the
206 bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if
207 any, and interest on the bonds or BANs, where the full faith and credit of the Commonwealth have been
208 pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct
209 payment therefor from the general fund revenues of the Commonwealth.

210 § 10. Exemption of interest from tax. The bonds and BANs issued under the provisions of this Act,
211 their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times
212 be free and exempt from taxation by the Commonwealth and by any county, city or town, or other
213 political subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and
214 all actions and to covenant to such effect, and to require the participating institutions to do and to
215 covenant likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order
216 that interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on
217 bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal
218 income tax purposes.

219 § 11. Refunding bonds and BANs. The Treasury Board is authorized, by and with the consent of the
220 Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the
221 Commonwealth, to refund any or all of the bonds and BANs, respectively, issued under this act or
222 otherwise authorized pursuant to Article X, Section 9 (c) of the Constitution of Virginia. Refunding
223 bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or
224 redeem the bonds and BANs to be refunded and pay all issuance costs and other financing expenses of
225 the refunding. Such refunding bonds and BANs may be issued whether or not the obligations to be
226 refunded are then subject to redemption.

227 § 12. Defeasance. Any bond or BAN for which cash or direct obligations of the United States of
228 America shall have been set aside in escrow with the State Treasurer or a bank or trust company,
229 within or without the Commonwealth, shall be deemed no longer outstanding under the applicable
230 authorizing instrument, this act, and Article X, Section 9 (b) or (c), as the case may be, of the
231 Constitution of Virginia.

232 § 13. Severability. The provisions of this act or the application thereof to any person or circumstance
233 which are held invalid shall not affect the validity of other provisions or applications of this act which
234 can be given effect without the invalid provisions or applications.

235 **2. That Chapters 473 and 734 of the Acts of Assembly of 1998 are repealed; however, such repeal**
236 **shall not operate to invalidate, alter the security or prohibit the refunding of bonds heretofore**
237 **issued pursuant to such act.**

238 3. That an emergency exists and this act is in force from its passage.