

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to authorize the issuance of bonds to finance \$137,700,600 in previously authorized projects and \$117,616,000 in new projects for a total of up to \$255,316,600, plus 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.

[H 31]

Approved

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 learning 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), Constitution of Virginia; now, therefore

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 Bill of 2004."

§ 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 \$255,316,600 for \$137,700,600 previously authorized projects and \$117,616,000 in new projects, 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 Title	Project Code	Amount
Christopher Newport University	Residence Hall	16418	\$951,000
George Mason University	Renovate Commonwealth and Dominion Housing Facilities	16690	3,100,000
George Mason University	Renovate Student Housing,		

56				
57		President's Park I	17050	3,340,000
58				
59	George Mason University	Construct Student		
60				
61		Housing VII	17056	63,778,000
62				
63	James Madison	Renovate Bluestone Residence		
64				
65	University	Hall, Phase 3	16687	6,810,000
66				
67	Longwood University	Renovate Housing Facilities	16874	10,500,000
68				
69	Mary Washington College	Seacobeck Dining Hall	16096	5,000,000
70				
71	Mary Washington College	Acquisition of Student		
72				
73		Residence Facilities	16686	10,000,000
74				
75	Old Dominion University	Renovate Housing, Phase I	16688	5,100,000
76				
77	The College Of William			
78				
79	and Mary In Virginia	Renovate Dormitories	16340	6,105,000
80				
81	The College Of William	Renovate Commons		
82				
83	and Mary In Virginia	Dining Hall	16647	11,493,000
84				
85	University Of Virginia	Construct Alderman	16650	22,500,000
86				
87		Road Housing		
88				
89	University of Virginia	Construct Observatory		
90				
91		Hill Dining Facility	16094	10,000,000
92				
93	University of Virginia's			
94				
95	College at Wise	Construct Residence Hall	16151	6,400,000
96				
97	Virginia Military	Renovate and Enlarge		
98				
99	Institute	Crozet Hall and Parking	16684	10,447,000
100				
101	Virginia Commonwealth	Gladding Residence		
102				
103	University	Hall Addition	16338	6,365,000
104				
105	Virginia Commonwealth			
106				
107	University	MCV Campus Housing	16402	14,506,000
108				
109	Virginia Commonwealth			
110				
111	University	Academic Campus Housing	16405	15,346,000

112				
113	Virginia Polytechnic			
114				
115	Institute and State	Improve Major Residence and		
116				
117	University	Dining Hall	17008	4,000,000
118				
119	Virginia Polytechnic			
120				
121	Institute and	Major Repairs		
122				
123	State University	Dorm & Dining	14303	1,078,900
124				
125	Virginia Polytechnic			
126				
127	Institute and State			
128				
129	University	Parking Auxiliary Projects	14815	4,942,700
130				
131	Virginia Polytechnic			
132				
133	Institute and State	Renovate Dietrick Servery,		
134				
135	University	Phase II	16681	5,000,000
136				
137	Virginia Polytechnic			
138				
139	Institute and State	Construct New		
140				
141	University	Residence Hall	16682	15,000,000
142				
143	Virginia Polytechnic			
144				
145	Institute and State	Construct Dining and		
146				
147	University	Student Union Facility	16683	6,250,000
148				
149	Virginia State	Construct Student Village		
150				
151	University	240 Bed Residence Hall	16685	7,304,000
152				
153	Total			\$255,316,600
154				

155 § 3. Application of Proceeds. The proceeds, including any premium, of bonds and BANs (except the
 156 proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds and (iii)
 157 refunding BANs), shall be deposited in a special capital outlay fund in the state treasury and, together
 158 with the investment income thereon, shall be disbursed by the State Treasurer for paying costs of the
 159 acquisition, construction, renovation, enlargement, improvement and equipping of the authorized capital
 160 projects, including financing costs. The proceeds of (i) bonds the issuance of which has been anticipated
 161 by BANs, (ii) refunding bonds and (iii) refunding BANs shall be used to pay such BANs, refunded bonds
 162 and refunded BANs.

163 § 4. Details, sale of bonds and BANs. Bonds and BANs shall be dated, and may be made redeemable
 164 before their maturity or maturities at such price or prices or within such price parameters, all as may
 165 be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall
 166 be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by
 167 formula or other method, and may contain such other provisions, all as determined by the Treasury
 168 Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if

169 any, and the interest on bonds and BANs shall be payable in lawful money of the United States of
 170 America. Bonds and BANs may be certificated or uncertificated as determined by the Treasury Board.
 171 The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating
 172 agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs.
 173 Bonds and BANs issued in certificated form may be issued under a system of book entry for recording
 174 the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The
 175 Treasury Board shall fix the authorized denomination or denominations of the bonds and the place or
 176 places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or
 177 at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or
 178 times not exceeding 30 years from their date or dates, and BANs shall mature at such time or times not
 179 exceeding five years from their date or dates.

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

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

188 § 5. Execution of bonds and BANs. Certificated bonds and BANs shall be signed on behalf of the
 189 Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures,
 190 and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear
 191 the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as
 192 the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign
 193 them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds
 194 or BANs ceases to be such officer before delivery, such signature or facsimile signature shall
 195 nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office
 196 until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by,
 197 such persons as at the actual time of execution are the proper officers to sign such bond or BAN
 198 although, at the date of such bond or BAN, such persons may not have been such officers.

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

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

211 § 8. Investments and Contracts. A. Pending the application of the proceeds of the bonds or BANs
 212 (including refunding bonds and BANs) to the purpose for which they have been authorized and the
 213 application of funds set aside for the purpose to the payment of bonds or BANs, they may be invested by
 214 the State Treasurer in securities that are legal investments under the laws of the Commonwealth for
 215 public funds and sinking funds, as the case may be. Whenever the State Treasurer receives interest from
 216 the investment of the proceeds of bonds or any BANs, such interest shall become a part of the principal
 217 of the bonds or any BANs and shall be used in the same manner as required for principal of the bonds
 218 or BANs.

219 B. The Commonwealth may enter into any contract or other arrangement that is determined to be
 220 necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by
 221 bonds, BANs or investments, in whole or in part, on the interest rate, cash flow or other basis desired
 222 by the Commonwealth. Such contract or other arrangement may include without limitation, contracts
 223 commonly known as interest rate swap agreements, and futures or contracts providing for payments
 224 based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into
 225 by the Commonwealth in connection with, or incidental to, entering into, or maintaining any (i)
 226 agreement which secures bonds or BANs or (ii) investment, or contract providing for investment,
 227 otherwise authorized by law. These contracts and arrangements may contain such payment, security,
 228 default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due
 229 consideration to the creditworthiness of the counterparty or other obligated party, including any rating

230 by any nationally recognized rating agency, and any other criteria as may be appropriate. The
 231 determinations referred to in this paragraph may be made by the Treasury Board or any public funds
 232 manager with professional investment capabilities duly authorized by the Treasury Board to make such
 233 determinations.

234 C. Any money set aside and pledged to secure payments of bonds, BANs or any of the contracts
 235 entered into pursuant to this section may be invested in accordance with paragraph A of this section
 236 and may be pledged to and used to service any of the contracts or other arrangements entered into
 237 pursuant to paragraph B of this section.

238 § 9. Security for bonds and BANs. The net revenues of the capital projects set forth above and the
 239 full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the
 240 principal of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of
 241 the Governor, shall provide otherwise) issued under this act. The proceeds of (i) bonds the issuance of
 242 which has been anticipated by BANs, (ii) refunding bonds and (iii) refunding BANs are hereby
 243 irrevocably pledged for the payment of principal of and interest and any premium on the BANs or
 244 bonds to be paid or redeemed thereby. In the event the net revenues pledged to the payment of the
 245 bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if
 246 any, and interest on the bonds or BANs, where the full faith and credit of the Commonwealth have been
 247 pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct
 248 payment therefor from the general fund revenues of the Commonwealth.

249 § 10. Exemption of interest from tax. The bonds and BANs issued under the provisions of this act,
 250 their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times
 251 be free and exempt from taxation by the Commonwealth and by any county, city or town, or other
 252 political subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and
 253 all actions and to covenant to such effect, and to require the participating institutions to do and to
 254 covenant likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order
 255 that interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on
 256 bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal
 257 income tax purposes.

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

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

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

274 **2. That Chapters 808 and 815 of the Acts of Assembly of 2002 and Chapters 4 and 157 of the Acts**
 275 **of Assembly of 2003 are repealed; however, such repeal shall not operate to invalidate, alter the**
 276 **security, or prohibit the refunding of bonds heretofore issued pursuant to such acts.**