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SENATE BILL NO. 32

Offered January 9, 2002

Prefiled December 19, 2001

A BILL to authorize the issuance of bonds, in an amount up to \$156,005,400 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; and to repeal Chapters 220 and 244 of the Acts of Assembly of 2000; relating to the funding of capital projects at institutions of higher learning.

Patrons—Chichester and Rerras

Referred to Committee on Finance

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) 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 2002."

§ 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 \$156,005,400, 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:

Christopher Newport

University	Residence Hall	16418	\$	951,000
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College of William

and Mary in Virginia	Renovate Bryan
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	Complex, Barrett
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	and Chandler Hall
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INTRODUCED

SB32

58				
59		Dormitories	16340	5,293,000
60				
61	George Mason University	Housing Building V	16352	8,845,600
62				
63	George Mason University	Renovate Commonwealth		
64				
65		and Dominion housing		
66				
67		facilities	16690	3,100,000
68				
69	James Madison University	Bluestone Dormitories,		
70				
71		Ph. II	16395	2,161,200
72				
73	James Madison University	Renovate Bluestone		
74				
75		Residence Hall,		
76				
77		Phase III	16687	9,066,000
78				
79	Mary Washington College	Seacobeck Dining Hall	16096	5,000,000
80				
81	Mary Washington College	Acquisition of		
82				
83		Student Residence		
84				
85		Facilities	16686	10,000,000
86				
87	Old Dominion University	Renovate Housing,		
88				
89		Phase I	16688	7,800,000
90				
91	University of Virginia	Construct Observatory		
92				
93		Hill dining facility	16094	10,000,000
94				
95	Virginia Military			
96				
97	Institute Renovate			
98				
99	and Enlarge			
100				
101		Crozet Hall and Parking	16684	10,447,000
102				
103	Virginia Commonwealth			
104				
105	University	Gladding Residence		
106				
107		Hall Addition	16338	6,365,000
108				
109	Virginia Commonwealth			
110				
111	University	MCV Campus Housing	16402	14,506,000
112				
113	Virginia Commonwealth			
114				

115	University	Academic Campus		
116				
117		Housing	16405	15,346,000
118				
119	Virginia Polytechnic			
120				
121	Institute and State			
122				
123	University	Major Repairs Dorm		
124				
125		& Dining	14303	1,078,900
126				
127	Virginia Polytechnic			
128				
129	Institute and State			
130				
131	University	Parking Auxiliary		
132				
133		Projects	14815	5,991,700
134				
135	Virginia Polytechnic			
136				
137	Institute and State			
138				
139	University	Renovate Dietrick		
140				
141		Servery, Phase II	16681	5,000,000
142				
143	Virginia Polytechnic			
144				
145	Institute and State			
146				
147	University	Construct New		
148				
149		Residence Hall	16682	15,000,000
150				
151	Virginia Polytechnic			
152				
153	Institute and State			
154				
155	University	Construct Dining and		
156				
157		Student Union Facility	16683	6,250,000
158				
159	Virginia State University	Residence Hall	16419	6,500,000
160				
161	Virginia State University	Construct Student		
162				
163		Village 240 Bed		
164				
165		Residence Hall	16685	7,304,000
166				
167				\$156,005,400
168				

169 § 3. Application of Proceeds. The proceeds, including any premium, of bonds and BANs (except the  
170 proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds and (iii)

171 refunding BANs), shall be deposited in a special capital outlay fund in the state treasury and, together  
172 with the investment income thereon, shall be disbursed by the State Treasurer for paying costs of the  
173 acquisition, construction, renovation, enlargement, improvement and equipping of the authorized capital  
174 projects, including financing costs. The proceeds of (a) bonds the issuance of which has been  
175 anticipated by BANs, (b) refunding bonds and (c) refunding BANs shall be used to pay such BANs,  
176 refunded bonds and refunded BANs.

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

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

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

202 § 5. Execution of bonds and BANs. Certificated bonds and BANs shall be signed on behalf of the  
203 Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures,  
204 and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear  
205 the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as  
206 the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign  
207 them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds  
208 or BANs ceases to be such officer before delivery, such signature or facsimile signature shall  
209 nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office  
210 until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by,  
211 such persons as at the actual time of execution are the proper officers to sign such bond or BAN  
212 although, at the date of such bond or BAN, such persons may not have been such officers.

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

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

225 § 8. Investments and Contracts.

226 A. Pending the application of the proceeds of the bonds or BANs (including refunding bonds and  
227 BANs) to the purpose for which they have been authorized and the application of funds set aside for the  
228 purpose to the payment of bonds or BANs, they may be invested by the State Treasurer in securities that  
229 are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the  
230 case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of  
231 bonds or any BANs, such interest shall become a part of the principal of the bonds or any BANs and  
232 shall be used in the same manner as required for principal of the bonds or BANs.

*B. The Commonwealth may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by bonds, BANs or investments, in whole or in part, on the interest rate, cash flow or other basis desired by the Commonwealth. Such contract or other arrangement 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 Commonwealth in connection with, or incidental to, entering into, or maintaining any (i) agreement that secures bonds or BANs or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commonwealth, 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 appropriate. The determinations referred to in this paragraph may be made by the Treasury Board or any public funds manager with professional investment capabilities duly authorized by the Treasury Board to make such determinations.*

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

*§ 9. Security for bonds and BANs. The net revenues of the capital projects set forth above and the full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the principal of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of the Governor, shall provide otherwise) issued under this act. 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 the BANs or bonds to be paid or redeemed thereby. In the event the net revenues pledged to the payment of the bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if any, and interest on the bonds or BANs, where the full faith and credit of the Commonwealth have been pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct payment therefor from the general fund revenues of the Commonwealth.*

*§ 10. 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 free and exempt from taxation by the Commonwealth and by any county, city or town, or other political subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and all actions and to covenant to such effect, and to require the participating institutions to do and to covenant likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order that interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal income tax purposes.*

*§ 11. Refunding bonds and BANs. The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the Commonwealth, to refund any or all of the bonds and BANs, respectively, issued under this act or otherwise authorized pursuant to Article X, Section 9(c) of the Constitution of Virginia. Refunding bonds and 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 obligations to be refunded are then subject to redemption.*

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

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

**2. That Chapters 220 and 244 of the Acts of Assembly of 2000 are repealed; however, such repeal shall not operate to invalidate, alter the security, or prohibit the refunding of bonds heretofore issued pursuant to such act.**

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