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**HOUSE BILL NO. 100**

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—Callahan, Amundson, Armstrong, Baskerville, Bland, Bolvin, Christian, Crittenden, Darner, Hull, Jones, D.C., McQuigg, Miles, Morgan, Nutter, Petersen, Pollard, Scott, Shuler, Spruill, Suit, Van Yahres and Welch; Senator: 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			
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in Virginia			
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Renovate Bryan			
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Complex, Barrett			
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and Chandler Hall			
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INTRODUCED

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56			
57		Dormitories	16340 5,293,000
58			
59	George Mason University	Housing Building V	16352 8,845,600
60			
61	George Mason University	Renovate Commonwealth	
62			
63		and Dominion housing	
64			
65		facilities	16690 3,100,000
66			
67	James Madison University	Bluestone Dormitories,	
68			
69		Ph. II	16395 2,161,200
70			
71	James Madison University	Renovate Bluestone	
72			
73		Residence Hall,	
74			
75		Phase III	16687 9,066,000
76			
77	Mary Washington College	Seacobeck Dining Hall	16096 5,000,000
78			
79	Mary Washington College	Acquisition of	
80			
81		Student Residence	
82			
83		Facilities	16686 10,000,000
84			
85	Old Dominion University	Renovate Housing,	
86			
87		Phase I	16688 7,800,000
88			
89	University of Virginia	Construct Observatory	
90			
91		Hill dining facility	16094 10,000,000
92			
93	Virginia Military Institute	Renovate and Enlarge	
94			
95		Crozet Hall	
96			
97		and Parking	16684 10,447,000
98			
99	Virginia Commonwealth Univ	Gladding Residence	
100			
101		Hall Addition	16338 6,365,000
102			
103	Virginia Commonwealth Univ	MCV Campus Housing	16402 14,506,000
104			
105	Virginia Commonwealth Univ	Academic Campus	
106			
107		Housing	16405 15,346,000
108			
109	Virginia Polytechnic Institute		
110			
111	and State University	Major Repairs Dorm	
112			

& Dining	14303	1,078,900
Virginia Polytechnic Institute		
and State University	Parking Auxiliary	
Projects	14815	5,991,700
Virginia Polytechnic Institute		
and State University	Renovate Dietrick	
Servery, Phase II	16681	5,000,000
Virginia Polytechnic Institute		
and State University	Construct New	
Residence Hall	16682	15,000,000
Virginia Polytechnic Institute		
and State University	Construct Dining and	
Student Union		
Facility	16683	6,250,000
Virginia State University	Residence Hall	16419 6,500,000
Virginia State University	Construct Student	
Village 240 Bed		
Residence Hall	16685	7,304,000
	\$	156,005,400

§ 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 (a) bonds the issuance of which has been anticipated by BANs, (b) refunding bonds and (c) 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

171 Treasury Board shall fix the authorized denomination or denominations of the bonds and the place or  
172 places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or  
173 at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or  
174 times not exceeding thirty years from their date or dates, and BANs shall mature at such time or times  
175 not exceeding five years from their date or dates.

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

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

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

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

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

207 § 8. Investments and Contracts.

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

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

230 C. Any money set aside and pledged to secure payments of bonds, BANs or any of the contracts  
231 entered into pursuant to this section may be invested in accordance with paragraph A of this section  
232 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.**