

VIRGINIA CODE COMMISSION

Monday, May 4, 2015 - 10 a.m.
General Assembly Building, 6th Floor
Speaker's Conference Room
Richmond, Virginia 23219

MEMBERS PRESENT: John S. Edwards; Pamela S. Baskervill; Gregory D. Habeeb; Carlos L. Hopkins; James M. LeMunyon; Ryan T. McDougle; Thomas M. Moncure, Jr.; E.M. Miller, Jr.; Christopher R. Nolen; G. Timothy Oksman; Robert L. Tavenner

MEMBERS ABSENT: Robert L. Calhoun; Charles S. Sharp

OTHERS PRESENT: Delegate Marcus Simon; Karen Grimm, Department of Motor Vehicles; Brian Kennedy, LexisNexis

STAFF PRESENT: Jane Chaffin, Karen Perrine, Nicole Brenner, Ryan Brimmer, Tom Stevens, Kristen Walsh, Division of Legislative Services (DLS)

Call to order: Senator Edwards, Chair, called the meeting to order at 10:05 a.m.

Approval of minutes: Hearing no objection, Senator Edwards stated that the minutes of the April 6, 2015, meeting of the Code Commission stand approved as printed and distributed to the members of the Code Commission.

Remaining compacts issues: At its November 18, 2014, meeting, the Code Commission decided to set out the full text of all compacts in the Code of Virginia. Nicole Brenner reported on the status of the implementation of this decision at the April 6, 2015, meeting, and she is reporting today on the last remaining issues. In the 2015 Session of the General Assembly, three compacts were repealed as no longer effective. Also in that session, the General Assembly adopted a compact regarding Interstate 73, but the compact will not be effective in Virginia until other partnering states adopt the compact. The Code Commission agreed with Ms. Brenner's recommendation to list the Interstate 73 compact on the Virginia Law Portal (<http://law.lis.virginia.gov/>) but not add it to the Code of Virginia.

Ms. Brenner reviewed the three remaining compacts that are not currently codified: the Southeastern Interstate Forest Fire Protection Compact, the Middle Atlantic Interstate Forest Fire Protection Compact, and the Nonresident Violator Compact of 1977. Ms. Brenner asked the Commission to reconsider its decision to codify the forest fire compacts until the existing Code of Virginia sections that incorporate the compacts by reference are repealed. Ms. Brenner will present a draft to repeal the existing sections and to set out the compacts in full in the Code of Virginia at a later meeting. Karen Grimm, Department of Motor Vehicles (DMV), addressed the Commission regarding the nonresident violator compact; she advised the Commission that the compact is outdated and that DMV would like to withdraw from the 1977 compact and enter into a new one. Ms. Brenner indicated that this compact will likely be addressed in the 2016 Session of the General Assembly pending further information from the DMV.

On motion of Judge Baskervill, seconded by Delegate Habeeb, the Code Commission approved drafting a bill regarding the forest fire compacts as described by Ms. Brenner.

Senator Edwards advised that Agenda Item No. 5 would be considered next, and there was no objection.

Letter from House Courts requesting review of HB1600 (2015, Simon) and SB1211 (2015, Ebbin) pertaining to use of gender-specific references in the Code of Virginia. Delegate Simon, patron of House Bill 1600, explained that this administration bill was intended to revise references to certain gender-specific terms in the Code of Virginia to bring Virginia's statutory code into the 21st century. Although the bills are not identical, House Bill 1600 and Senate Bill 1211 both revise references to certain gender-specific terms in the Code of Virginia in light of the 2014 *Bostic v. Rainey* decision, which changed the definition of what constitutes a marriage. The House Courts of Justice Committee tabled both bills and requested that the Code Commission review the bills and make suggestions for clarification or improvement. Although Delegate Simon believed that the bills are sufficient as drafted, he suggested that the Code Commission may want to review every instance of "husband" and "wife," as well as other gender-specific terms, in the Code of Virginia.

Delegate Habeeb, a member of the House Courts of Justice Committee, gave additional background on the bill. Delegate Habeeb stated that the Civil Courts Subcommittee recommended tabling the bills for several reasons, including the pending ruling from the U.S. Supreme Court on same-sex marriage and the need to evaluate the best method of implementing gender-specific reference changes in the Code of Virginia.

Delegate Habeeb suggested that the Commission wait for the upcoming U.S. Supreme Court ruling in *Obergefell v. Hodges* before moving forward.

Senator Edwards directed staff to perform a keyword search of the Code of Virginia, compile a list of Code sections that contain gender-specific terms, identify any complexities or potential unintended consequences, and report back to the Commission at a subsequent meeting. The Commission will revisit this issue after the U.S. Supreme Court rules on the same-sex marriage issue.

Recodification of Title 23, Educational Institutions: Ryan Brimmer and Tom Stevens presented Chapters 1 through 3 of Subtitle I (General Provisions) and Chapters 26 (Virginia Polytechnic Institute and State University), 27 (Virginia State University), 28 (The College of William and Mary), and 29 (State Board for Community Colleges; Virginia Community College System) of Subtitle IV (Public Institutions of Higher Education).

Chapter 1 - Definitions and General Provisions (lines 10 through 115)

§ 23.1-100 - Definitions:

- "Four-year public institution" (lines 29–36) and "two-year public institution" (lines 51–54). Mr. Brimmer explained that staff and the workgroup developed definitions for the terms "four-year public institutions" and "two-year public institutions" because these terms are used throughout current Title 23. The members discussed the use of the word "includes" and the listing of universities by name. In response to Delegate LeMunyon's inquiry as to whether any institutions were not included in the list, staff replied that the list is not exclusive because of the statutory rule of construction in § 1-218, which states, "'Includes' means includes, but not limited to."

The Commission also considered using "bachelor's degrees" or "associate degrees" instead of four-year or two-year public institution. Ellen Davenport, Virginia Community College System, opposed replacing references to two-year college with associate degree.

Monday, May 4, 2015

After extensive discussion, Judge Baskervill moved to delete the sentences in each definition (lines 31–36 and 53–54) that list the names of the colleges and universities. During the discussion on the motion, Kirsten Nelson, State Council of Higher Education for Virginia (SCHEV), indicated that SCHEV could support removal of the specific list of institutions.

After additional discussion, Senator Edwards decided to delay the vote on the motion until the Code Commission reviews the remainder of the materials. When the Code Commission returned to this matter, Judge Baskervill withdrew her motion.

- "In-state student" (lines 37–40). Delegate Habeeb advised that there is an Attorney General's opinion that may affect the definition of "in-state student" and that the Code Commission must be careful not to make a substantive change in this definition that will differ from the current law.
- § 23.1-101 (lines 63–115). Section 23.1-101 relates to governmental contracts with certain nonprofit private institutions of higher education. Delegate Habeeb suggested that the workgroup consider developing definitions of "nonprofit" and "for-profit." Senator McDougle noted that in the definition of "private institution of higher education," the applicable sections of the Code of Virginia are no longer cited as they are currently in § 23-9.10:3 (line 68).

Chapter 2 - State Council of Higher Education for Virginia.

- § 23-9.3 (lines 9–67). On line 51, the Code Commission approved correcting an error by changing "board" to "council."
- § 23-276.1 (lines 531–632). Mr. Brimmer advised that the definition of "degree" on lines 555–557 is applicable only to new Article 3 and not the entire title. In response to a question from Senator McDougle, Mr. Brimmer explained that the changes to "degree" and "degree credit" were not substantive. Mr. Oksman suggested that "degree" be defined because there are many references to the term in the Code of Virginia. Judge Baskervill stated that her concern is unintended consequences of these changes and requested that the workgroup look at this issue. Mr. Moncure reminded the Code Commission that the Southern Association of Colleges and Schools is an important factor to consider.

Chapter 3 - The Virginia Higher Education Act (lines 1–528).

- § 23-38.87:10 (lines 48–128). The Code Commission concurred in the workgroup's request to retain the short title for this chapter on the basis of current usage and practices.
- § 23-38.87:14 (lines 184–207). The Code Commission concurred in the workgroup's request to retain the phrase "unfunded enrollment growth" in subsection B, even though the phrase may be obsolete.

Chapter 27 - Virginia State University (lines 1–148). Consideration of this chapter will be postponed until the Virginia State University representative meets with staff. In addition, the Attorney General's office expressed concerns over the land grant language.

Selection of Code of Virginia title for next recodification: Ms. Chaffin advised the Commission that this matter was presented at the April 6, 2015, meeting, at which time the Chair deferred this item to solicit public comment. No comments were received.

Monday, May 4, 2015

Ms. Chaffin reminded the Code Commission that the letter from Delegate Tom Rust relating to referencing statutes of limitations should be addressed during this agenda item. Brian Kennedy, LexisNexis, confirmed that all statutes of limitations are listed in the index of the Code of Virginia. Kristen Walsh advised the Commission that the index in the Code of Virginia contains an exhaustive list under statute of limitations, limitations of action, and limitations of repose. Judge Baskervill stated that this information addresses the issue in Delegate Rust's letter, at least in the short term.

Senator Edwards asked if DLS had a recommendation on which title to select for recodification. Mr. Tavenner observed, regarding the candidacy of Title 8.01, that when Title 8 was recodified to the current Title 8.01, the process took five years and outside counsel was used. Another concern is that the recodification of Title 8.01 may raise sufficient political concerns such that the recodification bill would not pass during the legislative session. Considering the selection criteria, DLS staff suggests Title 55 or Title 20 for the next recodification. Mr. Miller suggested appointing a subcommittee or workgroup of the Code Commission to conduct an in-depth review and return with a recommendation. After further discussion, and in light of Delegate Habeeb's interest in Title 8.01 and his absence from today's discussion, the Code Commission deferred the matter to a later meeting.

Overview of Code Commission responsibility - Part I--Virginia Register Act and Administrative Process Act: At the Code Commission's last meeting, staff was requested to provide information on the Code Commission's authority and responsibilities. Staff will present this information in two parts -- Virginia Register Act (VRA) and Administrative Process Act (APA) at this meeting and the Code of Virginia at a later meeting.

Ms. Perrine reviewed the handout in the meeting materials outlining the Code Commission authority and responsibilities related to the VRA and APA. She explained that under the Code Commission's basic law, the Code Commission is responsible for publishing and maintaining the Virginia Administrative Code (VAC) and the Virginia Register of Regulations (Register); making minor changes to VAC; and monitoring the APA and the VRA, which includes the appointment of the Administrative Law Advisory Committee.

The VRA requires the Code Commission to publish a list of agency guidance documents, designates the Registrar's Office as the central repository for state agency regulations, and gives the Code Commission the authority to adopt regulations to carry out the purpose of the VRA.

The APA establishes additional duties of the Registrar. For example, the Registrar determines the applicability of the exemption to the APA contained in subdivision of § 2.2-4006 A 4 c regarding regulations that are necessary to meet the requirements of federal law or regulations, provided that the regulations do not differ materially from those required by federal law or regulation. The Registrar and her staff review proposed regulation packages to verify that certain statutory requirements are met. The Registrar's office also functions as the central repository for proposed and final regulations and related information. The APA also contains a specific provision regarding the Register that requires the Registrar to publish the Virginia Register every two weeks and outlines the information to be included.

In response to a question, Ms. Chaffin explained the organization of the titles in the VAC and the detailed review process by her office once a proposed or final regulation is submitted for publication in the Register.

Proposed revisions to Code Commission regulations: Senator Edwards deferred this item to a later meeting.

Other business: The Chair opened the floor for other business. No items were presented.

Public comment; adjournment: The Chair opened the floor for public comment. As there was no public comment and no further business to discuss, the Chair adjourned the meeting at 12:30 p.m.

Policy on Member Participation in Virginia Code Commission Meetings by Electronic Communication Means

Proposed July 20, 2015


It is the policy of the Virginia Code Commission (Commission) that individual members of the Commission may participate in meetings of the Commission by electronic means as permitted by Virginia Code § 2.2-3708.1. This policy shall apply to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

Whenever an individual member wishes to participate from a remote location, the law requires a quorum of the Commission to be physically assembled at the primary or central meeting location, and arrangements will be made for the voice of the remote participant to be heard by all persons at the primary or central meeting location. The reason that the member is unable to attend the meeting and the remote location from which the member participates will be recorded in the meeting minutes.

When such individual participation is due to an emergency or personal matter, such participation is limited by law to two meetings or 25 percent of the meetings of the public body per member each calendar year, whichever is fewer.

Individual participation from a remote location shall be approved unless such participation would violate this policy or the provisions of the Virginia Freedom of Information Act. If a member's participation from a remote location is challenged, then the Commission shall vote whether to allow such participation. If the Commission votes to disapprove of the member's participation because such participation would violate this policy, such disapproval will be recorded in the minutes with specificity.

This policy applies to all committees and subcommittees of the Commission.

| | | |
|--|---|---|
| Commonwealth of Virginia | | |
| Thomas A. Lisk, Chair |  | General Assembly Building 201 North 9th St., Second Floor Richmond, Virginia 23219 (Phone) 804-786-3591 (Fax) 804-692-0625 akubincanek@dls.virginia.gov http://codecommission.dls.virginia.gov/alac/alac.shtml |
| Andrew Kubincanek, Program Coordinator | | |
| Administrative Law Advisory Committee | | |

2015 Work Plan Administrative Law Advisory Committee

Model State Administrative Procedure Act

The Model State Administrative Procedure Act judicial work group will reconvene to continue discussion of ex parte communications and additional amendments on reconsideration and intervention. The Administrative Law Advisory Committee (ALAC) will also discuss amendments on administrative hearings by teleconference or videoconference.

Executive Review Process

The work group will continue to study EO-17, Development and Review of State Agency Regulations and discuss recommendations on increasing the efficiency and effectiveness of the executive review process for rules and regulations.

APA Exemptions

ALAC will review an amendment to § 2.2-4006 enacted by the 2011 Session of the General Assembly, regarding an exemption for regulations that are necessary to conform to changes in Virginia law where no agency discretion is involved. The 2011 amendment required such regulations to be filed with the Registrar's office within 90 days of the law's effective date. Some agencies are now being advised that once the 90-day period passes, they cannot use the exemption and have to go through the full or fast-track process.

Guidance Document Availability

ALAC previously discussed soliciting presentations from certain agencies regarding their use of guidance documents to determine best practices. The committee became aware of efforts by the Department of Planning and Budget and the Registrar's Office to streamline the submission of guidance documents to the Town Hall website. ALAC refocused its study to concentrate on instances of incorporation of guidance documents by reference.

Thomas A. Lisk, Chair
 Elizabeth Andrews
 Roger L. Chaffe
 Jeffrey S. Gore

Edward A. Mullen
 Eric M. Page
 Karen Perrine
 Mike Quinan

Alexander F. Skirpan, Jr.
 Brooks Smith
 Kristina Stoney
 Kristi Wright

Notice Provisions

ALAC will continue to monitor this issue and offer further recommendations as necessary or as requested by the Code Commission.

Thomas A. Lisk, Chair
Elizabeth Andrews
Roger L. Chaffe
Jeffrey S. Gore

Edward A. Mullen
Eric M. Page
Karen Perrine
Mike Quinan

Alexander F. Skirpan, Jr.
Brooks Smith
Kristina Stoney
Kristi Wright

Virginia General Assembly



June 26, 2015

The Honorable John S. Edwards
Chair, Virginia Code Commission

The Honorable James M. LeMunyon
Vice Chair, Virginia Code Commission

Virginia General Assembly
P.O. Box 406
Richmond, VA 23218

Dear Senator Edwards and Delegate LeMunyon,

As you know, the Supreme Court issued a ruling today in *Obergefell v. Hodges*, which relates to the validity of same-sex marriage in the United States. The Court ruled that states must license same-sex marriages and that states must recognize same-sex marriages performed in other states.

The Supreme Court's ruling is binding on the Commonwealth, regardless of any current provisions of Virginia law. There is no need to make immediate changes to the *Code of Virginia* in order to bring the Code into compliance.

However, we respectfully request the Code Commission begin to evaluate what, if any, changes are necessary to ensure Virginia's Code remains consistent with current federal law.

Thank you for your attention to this matter.

Sincerely,

Handwritten signature of William J. Howell in black ink.

William J. Howell
Speaker, House of Delegates

Handwritten signature of Thomas K. Norment in black ink.

Thomas K. Norment
Majority Leader, Senate of Virginia

CHART OF TITLE 58.1-RELATED OBSOLETE STATUTES RECOMMENDED FOR REPEAL

| SECTION | CATCHLINE | LAST AMENDED | CROSS-REFS | RECOMMENDATION | REASONING & NOTES | STAKEHOLDERS |
|----------------|--|---------------------|--|-----------------------|--|--|
| § 36-55.63 | Low-income housing credit. | 2010 | § 36-139 | Repeal | Requirement to issue regulations for low-income housing tax credits (§ 58.1-435), which expired on July 1, 2010 | Department of Taxation; Department of Housing and Community Development |
| § 58.1-339.5 | Not in effect (Earned-income tax credit for low-income families with children. | 1998 | None | Repeal | Credit was effective upon affirmative notice from the U.S. Department of Health and Human Services; actual notice provided credit did not qualify as TANF maintenance effort | Department of Taxation |
| § 58.1-339.9 | Rent reductions tax credit. | 2011 | § 58.1-439.12:04 | Repeal | Credit expired for taxable years beginning in 2011 | Department of Taxation |
| § 58.1-434 | Telecommunications income tax credit. | 1988 | None | Repeal | Credit expired for taxable years beginning in 1999 | Department of Taxation |
| § 58.1-435 | Low-income housing credit. | 2011 | § 36-55.63 | Repeal | Credit expired on July 1, 2010 | Department of Taxation; Department of Housing and Community Development |
| § 58.1-439.1 | Clean fuel vehicle and advanced cellulosic biofuels job creation tax credit. | 2011 | None | Repeal | Credit expired for taxable years beginning in 2015 | Department of Taxation |
| § 58.1-439.11 | Employees with disabilities tax credit. | 2012 | None | Repeal | Credit expired for taxable years beginning in 2003 | Department of Taxation |
| § 58.1-439.13 | Tax credit for investing in technology industries in tobacco-dependent localities. | 2000 | §§ 3.2-3106 and 58.1-439.17 | Repeal | Credit expired for taxable years beginning in 2010 | Department of Taxation; Attorney General; TICRC |
| § 58.1-439.14 | Tax credit for research and development occurring in tobacco-dependent localities. | 2000 | §§ 3.2-3106, 58.1-439.15, 58.1-439.16, and 58.1-439.17 | Repeal | Credit expired for taxable years beginning in 2010 | Department of Taxation; Attorney General; TICRC |

| SECTION | CATCHLINE | LAST AMENDED | CROSS-REFS | RECOMMENDATION | REASONING & NOTES | STAKEHOLDERS |
|------------------|---|--------------|--|----------------|---|---|
| § 58.1-439.15 | Technology Initiative in Tobacco-Dependent Localities Fund. | 2011 | §§ 3.2-3106, 58.1-439.13, and 58.1-439.14 | Repeal | In 2013, all moneys in the Fund were reverted to the Tobacco Indemnification and Community Revitalization Fund | Department of Taxation; Attorney General; TICRC |
| § 58.1-439.15:01 | Tax incentives for use of domestic tobacco. | 2005 | § 3.2-4203 | Repeal | No incentive payments were authorized under the statute after 2012 | Department of Taxation; Attorney General |
| § 58.1-439.16 | Tax Commissioner to promulgate regulations. | 2000 | None | Repeal | Regulations related to tax credits under §§ 58.1-439.13 and 58.1-439.14, which expired beginning with taxable year 2010 | Department of Taxation |
| § 58.1-639 | Transitional provisions. | 2013 | §§ 58.1-603.1 and 58.1-604.01 | Repeal | Transitional provisions for sales tax increase in 2013 | Department of Taxation |
| § 58.1-1840.1 | Virginia Tax Amnesty Program established. | 2011 | None | Repeal | Tax amnesty ended on July 1, 2010 | Department of Taxation |
| § 58.1-2290.1 | Tax on fuel in inventory. | 2013 | None | Repeal | Transitional provisions for fuel tax increase in 2013 | Department of Motor Vehicles |
| § 58.1-3605.1 | Reports by owners of tax exempt real estate. | 1992 | None | Repeal | Deadline for reports was May 1, 1993 | Department of Taxation |
| § 58.1-3712.1 | Limitation on rate of license taxes. | 1985 | §§ 45.1-361.5, 45.1-361.38, 58.1-3706, and 58.1-3713.3 | Repeal | Local gross receipts tax on the severance of oil expired on July 1, 1995 | Department of Taxation |
| § 58.1-3822 | Additional transient occupancy tax. | 2008 | § 58.1-3823 | Repeal | Authority to impose hotel tax expired on January 1, 2012 | Department of Taxation |
| § 58.1-3825.1 | Additional transient occupancy tax in certain counties and cities in Northern Virginia. | 2007 | None | Repeal | Declared null and void by Chapter 652 of 2008 because unconstitutional per <u>Marshall v NVTA</u> (February 29, 2008) | Department of Taxation |

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 3.2-3106, 3.2-4203, 36-139, 45.1-361.5, 45.1-361.38, 58.1-439.12:04,
 2 58.1-439.17, 58.1-603.1, 58.1-604.01, 58.1-3706, 58.1-3713.3, and 58.1-3823 of the Code of
 3 Virginia and to repeal Chapter 1.4 (§ 36-55.63) of Title 36, §§ 58.1-339.5, 58.1-339.9, 58.1-434,
 4 58.1-435, 58.1-439.1, 58.1-439.11, 58.1-439.13, 58.1-439.14, 58.1-439.15, 58.1-439.15:01, 58.1-
 5 439.16, and 58.1-639, Article 3 (§ 58.1-1840.1) of Chapter 18 and Article 10 (§ 58.1-2290.1) of
 6 Chapter 22 of Title 58.1, and §§ 58.1-3605.1, 58.1-3712.1, 58.1-3822, and 58.1-3825.1 of the
 7 Code of Virginia, relating to repealing certain Title 58.1-related obsolete statutes.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That §§ 3.2-3106, 3.2-4203, 36-139, 45.1-361.5, 45.1-361.38, 58.1-439.12:04, 58.1-439.17, 58.1-**
 10 **603.1, 58.1-604.01, 58.1-3706, 58.1-3713.3, and 58.1-3823 of the Code of Virginia are amended and**
 11 **reenacted as follows:**

12 **§ 3.2-3106. Tobacco Indemnification and Community Revitalization Fund; tax credits for**
 13 **technology industries in tobacco-dependent localities.**

14 A. Money received by the Commonwealth pursuant to the Master Settlement Agreement shall be
 15 deposited into the state treasury subject to the special nonreverting funds established by subsection B
 16 and by §§ 3.2-3104 and 32.1-360.

17 B. There is created in the state treasury a special nonreverting fund to be known as the Tobacco
 18 Indemnification and Community Revitalization Fund. The Fund shall be established on the books of the
 19 Comptroller. Subject to the sale of all or any portion of the Commission Allocation, 50 percent of the
 20 annual amount received by the Commonwealth from the Master Settlement Agreement shall be paid into
 21 the state treasury and credited to the Fund. In the event of such sale: (i) the Commission Allocation shall
 22 be paid in accordance with the agreement for the period of sale; and (ii) the Fund shall receive the
 23 amounts withdrawn from the Endowment in accordance with § 3.2-3104. Interest earned on moneys in
 24 the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including
 25 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the

26 Fund. Moneys in the Fund shall be used solely for the purposes described in this chapter. ~~Starting with~~
27 ~~the fiscal year beginning July 1, 2000, through December 31, 2009, the Commission may deposit~~
28 ~~moneys from the Fund into the Technology Initiative in Tobacco Dependent Localities Fund,~~
29 ~~established under § 58.1-439.15, for purposes of funding the tax credits provided in §§ 58.1-439.13 and~~
30 ~~58.1-439.14 and the grants provided in § 58.1-439.17.~~ Expenditures and disbursements from the Fund
31 shall be made by the State Treasurer on warrants issued by the Comptroller upon written authorization
32 signed by the chairman of the Commission or his designee. The Fund shall also consist of other moneys
33 received by the Commission, from any source, for the purpose of implementing the provisions of this
34 chapter.

35 C. The obligations of the Commission shall not be a debt or grant or loan of credit of the
36 Commonwealth, and the Commonwealth shall not be liable thereon, nor shall such obligations be
37 payable out of any funds other than those credited to the Fund.

38 **§ 3.2-4203. Withdrawal of escrow funds assigned and contributed to the Commonwealth.**

39 Notwithstanding the provisions of subsection B of § 3.2-4201, any escrow funds assigned and
40 contributed to the Commonwealth pursuant to § 3.2-4202, ~~less the aggregate limitation for incentive~~
41 ~~payments to all small tobacco product manufacturers for the relevant year due from the escrow funds~~
42 ~~pursuant to § 58.1-439.15:01,~~ shall be withdrawn by the Commonwealth by request of the State
43 Treasurer to the Attorney General and upon approval of the Attorney General. The State Treasurer shall
44 make such request as soon as practicable and such escrow funds withdrawn shall be deposited into the
45 Virginia Health Care Fund established under § 32.1-366.

46 After such withdrawal, ~~and after the actual incentive payments pursuant to § 58.1-439.15:01~~
47 ~~have been made from the escrow funds in the escrow account,~~ any remaining escrow funds shall be
48 withdrawn under the withdrawal procedures provided in this section, and the withdrawn escrow funds
49 shall be deposited into the Virginia Health Care Fund. Nothing in this article shall be construed to
50 relieve a tobacco product manufacturer from any past, current, or future obligations it may have
51 pursuant to Article 1 (§ 3.2-4200 et seq.) or ~~Article 3~~ (§ 3.2-4204 et seq.) ~~of this chapter.~~

52 **§ 36-139. Powers and duties of Director.**

53 The Director of the Department of Housing and Community Development shall have the
54 following responsibilities:

55 1. Collecting from the governmental subdivisions of the Commonwealth information relevant to
56 their planning and development activities, boundary changes, changes of forms and status of
57 government, intergovernmental agreements and arrangements, and such other information as he may
58 deem necessary.

59 2. Making information available to communities, planning district commissions, service districts
60 and governmental subdivisions of the Commonwealth.

61 3. Providing professional and technical assistance to, and cooperating with, any planning agency,
62 planning district commission, service district, and governmental subdivision engaged in the preparation
63 of development plans and programs, service district plans, or consolidation agreements.

64 4. Assisting the Governor in the providing of such state financial aid as may be appropriated by
65 the General Assembly in accordance with § 15.2-4216.

66 5. Administering federal grant assistance programs, including funds from the Appalachian
67 Regional Commission, the Economic Development Administration and other such federal agencies,
68 directed at promoting the development of the Commonwealth's communities and regions.

69 6. Developing state community development policies, goals, plans and programs for the
70 consideration and adoption of the Board with the ultimate authority for adoption to rest with the
71 Governor and the General Assembly.

72 7. Developing a Consolidated Plan to guide the development and implementation of housing
73 programs and community development in the Commonwealth for the purpose of meeting the housing
74 and community development needs of the Commonwealth and, in particular, those of low-income and
75 moderate-income persons, families and communities.

76 8. Determining present and future housing requirements of the Commonwealth on an annual
77 basis and revising the Consolidated Plan, as necessary to coordinate the elements of housing production
78 to ensure the availability of housing where and when needed.

79 9. Assuming administrative coordination of the various state housing programs and cooperating
80 with the various state agencies in their programs as they relate to housing.

81 10. Establishing public information and educational programs relating to housing; devising and
82 administering programs to inform all citizens about housing and housing-related programs that are
83 available on all levels of government; designing and administering educational programs to prepare
84 families for home ownership and counseling them during their first years as homeowners; and
85 promoting educational programs to assist sponsors in the development of low and moderate income
86 housing as well as programs to lessen the problems of rental housing management.

87 11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

88 12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

89 13. Establishing and operating a Building Code Academy for the training of persons in the
90 content, application, and intent of specified subject areas of the building and fire prevention regulations
91 promulgated by the Board of Housing and Community Development.

92 14. Administering, in conjunction with the federal government, and promulgating any necessary
93 regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

94 15. Identifying and disseminating information to local governments about the availability and
95 utilization of federal and state resources.

96 16. Administering, with the cooperation of the Department of Health, state assistance programs
97 for public water supply systems.

98 17. Advising the Board on matters relating to policies and programs of the Virginia Housing
99 Trust Fund.

100 18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing
101 Trust Fund and to carry out the policies and procedures established by the Board.

102 19. Preparing agreements and documents for loans and grants to be made from the Virginia
103 Housing Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and
104 grants are to be made from such fund; directing the Virginia Housing Development Authority and the
105 Department as to the closing and disbursing of such loans and grants and as to the servicing and

106 collection of such loans; directing the Department as to the regulation and monitoring of the ownership,
107 occupancy and operation of the housing developments and residential housing financed or assisted by
108 such loans and grants; and providing direction and guidance to the Virginia Housing Development
109 Authority as to the investment of moneys in such fund.

110 ~~20. Advising the Board on matters relating to policies for the low-income housing credit and~~
111 ~~administering the approval of low-income housing credits as provided in § 36-55.63.~~

112 ~~21.~~ Establishing and administering program guidelines for a statewide homeless intervention
113 program.

114 ~~22.~~ 21. Administering 15 percent of the Low Income Home Energy Assistance Program
115 (LIHEAP) Block Grant and any contingency funds awarded and carry over funds, furnishing home
116 weatherization and associated services to low-income households within the Commonwealth in
117 accordance with applicable federal law and regulations.

118 ~~23.~~ 22. Developing a strategy concerning the expansion of affordable, accessible housing for
119 older Virginians and Virginians with disabilities, including supportive services.

120 ~~24.~~ 23. Serving as the Executive Director of the Commission on Local Government as prescribed
121 in § 15.2-2901 and perform all other duties of that position as prescribed by law.

122 ~~25.~~ 24. Developing a strategy, in consultation with the Virginia Housing Development Authority,
123 for the creation and implementation of housing programs and community development for the purpose
124 of meeting the housing needs of persons who have been released from federal, state, and local
125 correctional facilities into communities.

126 ~~26.~~ 25. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of
127 Title 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing
128 Development Authority.

129 ~~27.~~ 26. Carrying out such other duties as may be necessary and convenient to the exercise of
130 powers granted to the Department.

131 **§ 45.1-361.5. Exclusivity of regulation and enforcement.**

132 No county, city, town or other political subdivision of the Commonwealth shall impose any
133 condition, or require any other local license, permit, fee or bond to perform any gas, oil, or geophysical
134 operations which varies from or is in addition to the requirements of this chapter. However, no provision
135 of this chapter shall be construed to limit or supersede the jurisdiction and requirements of other state
136 agencies, local land-use ordinances, regulations of general purpose, or §§ 58.1-3712, ~~58.1-3712.1~~, 58.1-
137 3713, 58.1-3713.3, 58.1-3741, 58.1-3742, and 58.1-3743.

138 **§ 45.1-361.38. Report of permitted activities and production required; contents.**

139 A. Each holder of a permit for gas or oil wells or gathering pipelines shall file monthly and
140 annual reports of his activities as prescribed by the Director. These reports shall be for the purpose of
141 obtaining information regarding the production and sale of gas and oil resources, as well as information
142 concerning the ownership and control of permitted activities. Filing of these reports by a permittee shall
143 be a condition of such permit. Every annual report filed by a permittee shall contain a certification that
144 such permittee has paid all severance taxes levied under the provisions of §§ 58.1-3712, ~~58.1-3712.1~~,
145 58.1-3713, and 58.1-3741.

146 B. At the same time that a permittee files the monthly and annual reports as required by
147 subsection A, the permittee shall send copies of the reports by mail to the commissioner of revenue of
148 the political subdivision where the permitted wells are located.

149 **§ 58.1-439.12:04. Tax credit for participating landlords.**

150 A. As used in this section, unless the context clearly shows otherwise, the term or phrase:

151 "Dwelling unit" means an individual housing unit in an apartment building, an individual
152 housing unit in multifamily residential housing, a single-family residence, or any similar individual
153 housing unit.

154 "Eligible housing area" means a census tract in the Richmond Metropolitan Statistical area in
155 which less than 10 percent of the residents live below the poverty level, as defined by the United States
156 government and determined by the most recent United States census.

157 "Housing authority" means a housing authority created under Article 1 (§ 36-1 et seq.) of
158 Chapter 1 of Title 36 of this Code or other government agency that is authorized by the United States

159 government under the United States Housing Act of 1937 (42 U.S.C. § 1437 et seq.) to administer a
160 housing choice voucher program, or the authorized agent of such a housing authority that is authorized
161 to act upon that authority's behalf. The term shall also include the Virginia Housing Development
162 Authority.

163 "Housing choice voucher" means tenant-based assistance by a housing authority pursuant to 42
164 U.S.C. § 1437f et seq.

165 "Participating landlord" means any person engaged in the business of the rental of dwelling units
166 who is (i) subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) and (ii)
167 performing obligations under a contract with a housing authority relating to the rental of qualified
168 housing units.

169 "Qualified housing unit" means a dwelling unit that is located in an eligible housing area for
170 which a portion of the rent is paid by a housing authority, which payment is pursuant to a housing choice
171 voucher program.

172 B. For taxable years beginning on or after January 1, 2010, a participating landlord renting a
173 qualified housing unit shall be eligible for a credit against the tax levied pursuant to § 58.1-320 or 58.1-
174 400 in an amount equal to 10 percent of the fair market value of the rent for the unit, computed for that
175 portion of the taxable year in which the unit was rented by such landlord to a tenant participating in a
176 housing choice voucher program. The Department of Housing and Community Development shall
177 administer and issue the tax credit under this section. If (i) the same parcel of real property contains four
178 or more dwelling units and (ii) the total number of qualified housing units on the parcel in the relevant
179 taxable year exceeds 25 percent of the total dwelling units on the parcel, then the tax credit under this
180 section shall apply only to a limited number of qualified housing units with regard to such parcel of real
181 property, with the limited number being equal to 25 percent of the total dwelling units on such parcel of
182 real property in the taxable year.

183 C. The Department of Housing and Community Development shall issue tax credits under this
184 section on a fiscal year basis. The maximum amount of tax credits that may be issued under this section
185 in each fiscal year shall be \$250,000.

186 D. Participating landlords shall apply to the Department of Housing and Community
187 Development for tax credits under this section. The Department of Housing and Community
188 Development shall determine the credit amount allowable to the participating landlord for the taxable
189 year and shall also determine the fair market value of the rent for the qualified housing unit based on the
190 fair market rent approved by the United States Department of Housing and Urban Development as the
191 basis for the tenant-based assistance provided through the housing choice voucher program for the
192 qualified housing unit. In issuing tax credits under this section, the Department of Housing and
193 Community Development shall provide a written certification to the participating landlord, which
194 certification shall report the amount of the tax credit approved by the Department. The participating
195 landlord shall attach the certification to the applicable income tax return.

196 E. The Board of Housing and Community Development shall establish and issue guidelines for
197 purposes of implementing the provisions of this section. The guidelines shall provide for the allocation
198 of tax credits among participating landlords requesting credits. The guidelines shall be exempt from the
199 Administrative Process Act (§ 2.2-4000 et seq.).

200 F. In no case shall the amount of credit taken by a participating landlord for any taxable year
201 exceed the total amount of tax imposed by this chapter for the taxable year. If the amount of credit
202 issued by the Department of Housing and Community Development for a taxable year exceeds the
203 landlord's tax liability imposed by this chapter for such taxable year, then the amount that exceeds the
204 tax liability may be carried over for credit against the income taxes of the participating landlord in the
205 next five taxable years or until the total amount of the tax credit issued has been taken, whichever is
206 sooner. Credits granted to a partnership, limited liability company, or electing small business
207 corporation (S corporation) shall be allocated to the individual partners, members, or shareholders,
208 respectively, in proportion to their ownership or interest in such business entities.

209 ~~G. No person shall be allowed a tax credit under § 58.1-339.9 and this section for the rental of~~
210 ~~the same dwelling unit in a taxable year.~~

211 ~~H.~~In the event that the amount of the qualified requests for tax credits for participating landlords
212 in the fiscal year exceeds \$250,000, the Department of Housing and Community Development shall pro
213 rate the tax credits among the qualified applicants.

214 Article 13.1.

215 ~~Tax Credits for Technology Industries~~ Grants for Investment and Research and Development in
216 Tobacco-Dependent Localities.

217 **§ 58.1-439.17. Grants in lieu of or in addition to tax credits.**

218 ~~Notwithstanding any provision of this article, the~~ The Tobacco ~~Indemnification and Community~~
219 Region Revitalization Commission created under § 3.2-3101 may establish a grant program for purposes
220 of encouraging qualified investments and eligible research and development activities in tobacco-
221 dependent localities. If the Commission elects to establish such a program, the program ~~may replace or~~
222 may be in addition to the tax ~~credits established under this article~~ credit programs allowed under former
223 §§ 58.1-439.13 and 58.1-439.14. The criteria ~~for taxpayers~~ to receive grants shall be the same as the
224 criteria for ~~taxpayers to be allowed~~ the tax credits allowed under former §§ 58.1-439.13 and 58.1-439.14
225 as they were in effect on December 31, 2009. In any case where a grant is awarded ~~to a taxpayer~~ for any
226 investment ~~under § 58.1-439.13~~ or for eligible research and development activity ~~under § 58.1-439.14~~,
227 ~~such taxpayer~~ the person receiving the grant may not use such investment or research and development
228 activity as the basis for claiming any credit provided under the Code of Virginia.

229 **§ 58.1-603.1. (Contingent expiration date) Additional state sales tax in certain counties and**
230 **cities.**

231 ~~A.~~In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and
232 imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§
233 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as
234 shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered
235 therein, and has a total transit ridership of not less than 15 million riders per year across all transit
236 systems within the Planning District or (ii) as shown by the most recent United States Census meets the
237 population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set

238 forth in clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed
239 pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the
240 calendar year in which all of the criteria have been met. Such tax shall not be levied upon food
241 purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the
242 state sales tax imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the
243 provisions of this chapter and the rules and regulations published with respect thereto. No discount
244 under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered
245 and collected by the Tax Commissioner in the same manner and subject to the same penalties as
246 provided for the state sales tax under § 58.1-603.

247 The revenue generated and collected pursuant to the tax authorized under this section, less the
248 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds
249 established by law. In the case of Planning District 8, the revenue generated and collected therein shall
250 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue
251 generated and collected therein shall be deposited into the fund established in § 33.2-2600. For
252 additional Planning Districts that may become subject to this section, funds shall be established by
253 appropriate legislation.

254 ~~B. The transitional provisions of § 58.1-639 shall apply, mutatis mutandis, to the taxes imposed~~
255 ~~pursuant to this section.~~

256 **§ 58.1-604.01. (Contingent expiration date) Additional state use tax in certain counties and**
257 **cities.**

258 ~~A.~~In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed
259 in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et
260 seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as
261 shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered
262 therein, and has a total transit ridership of not less than 15 million riders per year across all transit
263 systems within the Planning District or (ii) as shown by the most recent United States Census meets the
264 population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set

265 forth in clause (i), a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed
266 pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the
267 calendar year in which all of the criteria have been met. Such tax shall not be levied upon food
268 purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the
269 state use tax imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the
270 provisions of this chapter and the rules and regulations published with respect thereto. No discount
271 under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be
272 administered and collected by the Tax Commissioner in the same manner and subject to the same
273 penalties as provided for the state use tax under § 58.1-604.

274 The revenue generated and collected pursuant to the tax authorized under this section, less the
275 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds
276 established by law. In the case of Planning District 8, the revenue generated and collected therein shall
277 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue
278 generated and collected therein shall be deposited into the fund established in § 33.2-2600. For any
279 additional Planning Districts that may become subject to this section, funds shall be established by
280 appropriate legislation.

281 ~~B. The transitional provisions of § 58.1-639 shall apply, mutatis mutandis, to the taxes imposed~~
282 ~~pursuant to this section.~~

283 **§ 58.1-3706. Limitation on rate of license taxes.**

284 A. Except as specifically provided in this section and except for the fee authorized in § 58.1-
285 3703, no local license tax imposed pursuant to the provisions of this chapter, except §§ 58.1-3712, ~~58.1-~~
286 ~~3712.1~~ and 58.1-3713, or any other provision of this title or any charter, shall be imposed on any person
287 whose gross receipts from a business, profession or occupation subject to licensure are less than: (i)
288 \$100,000 in any locality with a population greater than 50,000; or (ii) \$50,000 in any locality with a
289 population of 25,000 but no more than 50,000. Any business with gross receipts of more than \$100,000,
290 or \$50,000, as applicable, may be subject to the tax at a rate not to exceed the rate set forth below for the
291 class of enterprise listed:

- 292 1. For contracting, and persons constructing for their own account for sale, sixteen cents per
293 \$100 of gross receipts;
- 294 2. For retail sales, twenty cents per \$100 of gross receipts;
- 295 3. For financial, real estate and professional services, fifty-eight cents per \$100 of gross receipts;
- 296 and
- 297 4. For repair, personal and business services, and all other businesses and occupations not
298 specifically listed or excepted in this section, thirty-six cents per \$100 of gross receipts.

299 The rate limitations prescribed in this section shall not be applicable to license taxes on (i)
300 wholesalers, which shall be governed by § 58.1-3716; (ii) public service companies, which shall be
301 governed by § 58.1-3731; (iii) carnivals, circuses and speedways, which shall be governed by § 58.1-
302 3728; (iv) fortune-tellers, which shall be governed by § 58.1-3726; (v) massage parlors; (vi) itinerant
303 merchants or peddlers, which shall be governed by § 58.1-3717; (vii) permanent coliseums, arenas, or
304 auditoriums having a maximum capacity in excess of 10,000 persons and open to the public, which shall
305 be governed by § 58.1-3729; (viii) savings institutions and credit unions, which shall be governed by §
306 58.1-3730; (ix) photographers, which shall be governed by § 58.1-3727; and (x) direct sellers, which
307 shall be governed by § 58.1-3719.1.

308 B. Any county, city or town which had, on January 1, 1978, a license tax rate, for any of the
309 categories listed in subsection A, higher than the maximum prescribed in subsection A may maintain a
310 higher rate in such category, but no higher than the rate applicable on January 1, 1978, subject to the
311 following conditions:

312 1. A locality may not increase a rate on any category which is at or above the maximum
313 prescribed for such category in subsection A.

314 2. If a locality increases the rate on a category which is below the maximum, it shall apply all
315 revenue generated by such increase to reduce the rate on a category or categories which are above such
316 maximum.

317 3. A locality shall lower rates on categories which are above the maximums prescribed in
318 subsection A for any tax year after 1982 if it receives more revenue in tax year 1981, or any tax year

319 thereafter, than the revenue base for such year. The revenue base for tax year 1981 shall be the amount
320 of revenue received from all categories in tax year 1980, plus one-third of the amount, if any, by which
321 such revenue received in tax year 1981 exceeds the revenue received for tax year 1980. The revenue
322 base for each tax year after 1981 shall be the revenue base of the preceding tax year plus one-third of the
323 increase in the revenues of the subsequent tax year over the revenue base of the preceding tax year. If in
324 any tax year the amount of revenues received from all categories exceeds the revenue base for such year,
325 the rates shall be adjusted as follows: The revenues of those categories with rates at or below the
326 maximum shall be subtracted from the revenue base for such year. The resulting amount shall be
327 allocated to the category or categories with rates above the maximum in a manner determined by the
328 locality, and divided by the gross receipts of such category for the tax year. The resulting rate or rates
329 shall be applicable to such category or categories for the second tax year following the year whose
330 revenue was used to make the calculation.

331 C. Any person engaged in the short-term rental business as defined in § 58.1-3510.4 shall be
332 classified in the category of retail sales for license tax rate purposes.

333 D. 1. Any person, firm, or corporation designated as the principal or prime contractor receiving
334 identifiable federal appropriations for research and development services as defined in § 31.205-18 (a)
335 of the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii) computer
336 software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and physical
337 sciences shall be subject to a license tax rate not to exceed three cents per \$100 of such federal funds
338 received in payment of such contracts upon documentation provided by such person, firm or corporation
339 to the local commissioner of revenue or finance officer confirming the applicability of this subsection.

340 2. Any gross receipts properly reported to a Virginia locality, classified for license tax purposes
341 by that locality in accordance with subdivision 1 of this subsection, and on which a license tax is due
342 and paid, or which gross receipts defined by subdivision 1 of this subsection are properly reported to but
343 exempted by a Virginia locality from taxation, shall not be subject to local license taxation by any other
344 locality in the Commonwealth.

345 3. Notwithstanding the provisions of subdivision D 1, in any county operating under the county
346 manager plan of government, the following shall govern the taxation of the licensees described in
347 subdivision D 1. Persons, firms, or corporations designated as the principal or prime contractors
348 receiving identifiable federal appropriations for research and development services as defined in §
349 31.205-18 (a) of the Federal Acquisition Regulation in the areas of (i) computer and electronic systems,
350 (ii) computer software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and
351 physical sciences may be separately classified by any such county and subject to tax at a license tax rate
352 not to exceed the limits set forth in subsections A through C above as to such federal funds received in
353 payment of such contracts upon documentation provided by such persons, firms, or corporations to the
354 local commissioner of revenue or finance officer confirming the applicability of this subsection.

355 E. In any case in which the Department of Mines, Minerals and Energy determines that the
356 weekly U.S. Retail Gasoline price (regular grade) for PADD 1C (Petroleum Administration for Defense
357 District -- Lower Atlantic Region) has increased by 20% or greater in any one-week period over the
358 immediately preceding one-week period and does not fall below the increased rate for at least 28
359 consecutive days immediately following the week of such increase, then, notwithstanding any tax rate
360 on retailers imposed by the local ordinance, the gross receipts taxes on fuel sales of a gas retailer made
361 in the following license year shall not exceed 110% of the gross receipts taxes on fuel sales made by
362 such retailer in the license year of such increase. For license years beginning on or after January 1, 2006,
363 every gas retailer shall maintain separate records for fuel sales and nonfuel sales and shall make such
364 records available upon request by the local tax official.

365 The provisions of this subsection shall not apply to any person or entity (i) not conducting
366 business as a gas retailer in the county, city, or town for the entire license year immediately preceding
367 the license year of such increase or (ii) that was subject to a license fee in the county, city, or town
368 pursuant to § 58.1-3703 for the license year immediately preceding the license year of such increase.

369 The Department of Mines, Minerals and Energy shall determine annually if such increase has
370 occurred and remained in effect for such 28-day period.

371 **§ 58.1-3713.3. Validation of local coal and gas severance tax ordinances and local coal and**
372 **gas road improvement tax ordinances.**

373 A. All ordinances adopted pursuant to §§ 58.1-3712 and 58.1-3713 prior to October 1, 1989,
374 shall be valid as if they had been enacted as of January 1, 1985, as long as similar ordinances had been
375 validly enacted under the predecessor provisions to §§ 58.1-3712 and 58.1-3713 and in substantial
376 compliance therewith. Any such local tax ordinances are declared to be validly adopted and enacted as
377 of January 1, 1985, notwithstanding the failure of the locality to change the reference in the local tax
378 ordinance after the enactment of this title, effective January 1, 1985.

379 B. All ordinances adopted pursuant to §§ 58.1-3712, 58.1-3713, and 58.1-3713.4 prior to January
380 1, 2001, shall be valid and presumed to include all the provisions of §§ 58.1-3712, 58.1-3713, and 58.1-
381 3713.4 as long as such ordinances were in substantial compliance therewith at the time of their adoption.

382 C. 1. Any locality that imposed the tax under § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-
383 3713.4 for the 2008, 2009, 2010, or 2011 license year for coal, gas, or oil severed from the earth prior to
384 July 1, 2013, shall (if it has not already done so by the effective date of this subsection) amend its local
385 ordinance with regard to such taxes to adopt or include the uniform ordinance provisions of § 58.1-
386 3703.1, with the exception of subdivisions A 1 and A 3 of such section, in the local ordinance with an
387 effective date retroactive to the 2008 license year. As of the effective date of this subsection, each such
388 locality shall allow all persons assessed with such taxes for the 2008 license year or any license year
389 thereafter to exercise all rights and remedies under § 58.1-3703.1, provided that subdivisions A 1 and A
390 3 of such section shall be inapplicable for purposes of the imposition, collection, or appeal of such taxes.
391 Such rights and remedies shall include, but shall not be limited to, the appeal procedures set forth under
392 subdivisions A 5, A 6, and A 7 of § 58.1-3703.1. In addition, each such locality, upon the provisions of
393 this subsection becoming effective, shall within 60 days thereof provide written notice to all persons
394 upon whom the locality imposed one or more of the taxes under § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or
395 58.1-3713.4 for license year 2008, 2009, 2010, or 2011 for coal, gas, or oil severed from the earth prior
396 to July 1, 2013, informing the person that the locality has adopted or will adopt the uniform ordinance

397 provisions of § 58.1-3703.1 with regard to such taxes, excluding subdivisions A 1 and A 3 of such
398 section, retroactive to the 2008 license year and for each license year thereafter.

399 2. Any locality described in subdivision 1 that amends its local ordinance with regard to such
400 taxes, or has amended the same prior to the effective date of this subsection, to expressly include,
401 incorporate by reference, or adopt by incorporation the uniform ordinance provisions of § 58.1-3703.1
402 shall have met the requirement under subdivision 1 to amend its local ordinance with regard to such
403 taxes, provided that the locality on or after the effective date of this subsection further amends its local
404 ordinance to make such inclusion, incorporation by reference, or adoption by incorporation retroactive
405 to the 2008 license year. Nothing in this subdivision shall relieve the locality from (i) the notice
406 requirements under subdivision 1 or (ii) the requirement under subdivision 1 to allow all persons
407 assessed with such taxes for the 2008 license year or any license year thereafter to exercise all rights and
408 remedies under § 58.1-3703.1 except that subdivisions A 1 and A 3 of such section shall be inapplicable
409 for purposes of the imposition, collection, or appeal of such taxes.

410 3. Each locality amending its ordinance pursuant to subdivision 1 or 2 shall amend its ordinance
411 in accordance with the respective subdivision within 90 days of the effective date of this subsection.

412 4. Each local ordinance amended as provided under this subsection shall be deemed valid and
413 properly enacted for purposes of any tax imposed pursuant to § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or
414 58.1-3713.4 for license year 2008, 2009, 2010, 2011, or 2012 for coal, gas, or oil severed from the earth
415 prior to July 1, 2013. Further, each such ordinance shall be deemed to have met the requirement of
416 subsection A of § 58.1-3703.1 to include in the local ordinance provisions substantially similar to those
417 set forth under such subsection.

418 5. a. Notwithstanding any other provision of law, any person assessed with a license tax under §
419 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for license year 2008, 2009, 2010, 2011, 2012, or
420 2013 for coal, gas, or oil severed from the earth prior to July 1, 2013, shall be allowed to file an
421 administrative appeal of the same under § 58.1-3703.1 to the commissioner of the revenue or other local
422 assessing official only during the period beginning July 1, 2013, and ending July 1, 2014. Such person
423 shall be allowed to file the administrative appeal regardless of whether an appealable event, as defined

424 in § 58.1-3703.1, occurs on or after the effective date of this subsection. Such appeal to the
425 commissioner of the revenue or other local assessing official may be further appealed to the Tax
426 Commissioner pursuant to subdivision A 6 of § 58.1-3703.1 and to the appropriate circuit court pursuant
427 to subdivision A 7 of § 58.1-3703.1, in accordance with the procedures and time frames for the appeal as
428 provided under the respective subdivision.

429 If a locality, however, makes an additional assessment of tax on or after January 1, 2014, for
430 license year 2013, 2012, or 2011 for coal, gas, or oil severed from the earth prior to July 1, 2013, then
431 such additional assessment may be appealed within the time frame provided under § 58.1-3703.1
432 notwithstanding the provisions of this subdivision.

433 b. Notwithstanding any other provision of law, any person assessed with a license tax under §
434 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for license year 2008, 2009, 2010, 2011, 2012, or
435 2013 for coal, gas, or oil severed from the earth prior to July 1, 2013, who elects not to file an appeal of
436 the same pursuant to § 58.1-3703.1 may apply for relief of the same pursuant to § 58.1-3980 or 58.1-
437 3984 only during the period beginning July 1, 2013, and ending July 1, 2014. If such person elects not to
438 file an appeal of such license tax pursuant to § 58.1-3703.1 but applies for relief of the same pursuant to
439 § 58.1-3980 or 58.1-3984, then the period for collecting any such license tax shall expire as provided in
440 § 58.1-3940, two years after a final determination pursuant to § 58.1-3981, or two years after the final
441 decision in a court application pursuant to § 58.1-3984, whichever is later.

442 If a locality, however, makes an additional assessment of tax on or after January 1, 2014, for
443 license year 2013, 2012, or 2011 for coal, gas, or oil severed from the earth prior to July 1, 2013, then
444 such person so assessed may apply for relief of such assessment pursuant to § 58.1-3980 or 58.1-3984
445 within the time frame provided under the applicable section notwithstanding the provisions of this
446 subdivision, and the period for collecting any such additional assessment shall be as provided under
447 Title 58.1 or other controlling law notwithstanding the provisions of this subdivision.

448 c. Notwithstanding the provisions of § 58.1-3940, the period for collecting any license tax
449 imposed under § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for license years 2008 and 2009 for

450 coal, gas, or oil severed from the earth prior to July 1, 2013, shall expire on January 1, 2016, unless a
451 longer period is provided under law.

452 d. Notwithstanding any other provision of law, collection activity shall be suspended on the
453 assessment of additional license tax for license year 2008, 2009, 2010, or 2011 for coal, gas, or oil
454 severed from the earth prior to July 1, 2013, pursuant to § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-
455 3713.4. In addition, collection activity shall be suspended on the assessment of additional license tax for
456 license year 2012 or 2013 for such taxes on coal, gas, or oil severed from the earth prior to July 1, 2013,
457 provided that, in filing severance tax returns for the severance of coal, gases, or oil from the earth in the
458 locality in license year 2012 and 2013, the person filing the return includes with the return a good faith
459 payment of the tax due or a good faith report of the tax due. The good faith payment or report of tax due
460 shall be in accordance with the methodology used by that person as of January 1, 2010, to report the
461 person's gross receipts to the locality for purposes of such taxes unless such person and the locality have
462 entered into a contract or agreement on an alternate methodology to report the person's gross receipts.
463 As used in this subsection, "additional license tax" means all amounts of license tax, penalty, and
464 interest that are in addition to the amount of license tax paid by a person or reported by a person as due
465 in filing severance tax returns for the severance of coal, gases, or oil from the earth in the locality.
466 Collection activity shall not be required to be suspended if collection of any tax, interest, or penalty is
467 jeopardized by delay as defined in § 58.1-3703.1. However, nothing herein shall be construed or
468 interpreted as to require the suspension of collection activity for any amount of unpaid license tax (and
469 any interest and penalty related thereto) reported by a person as due in filing a severance tax return for
470 the severance of coal, gas, or oil from the earth.

471 Collection activity on additional license tax for license year 2008, 2009, 2010, or 2011 for coal,
472 gas, or oil severed from the earth prior to July 1, 2013, may commence on July 1, 2013, unless other law
473 requires the suspension of collection activity. Collection activity on additional license tax for license
474 year 2012 or 2013 for coal, gas, or oil severed from the earth prior to July 1, 2013, if suspended pursuant
475 to this subdivision, may commence on or after July 1, 2013, unless other law requires the suspension of
476 collection activity.

477 6. Except as otherwise provided in subdivision 5, nothing in this subsection shall be construed or
478 interpreted as extending or decreasing any limitations period for appealing any of the taxes imposed
479 under § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for coal, gas, or oil severed from the earth
480 prior to July 1, 2013, or extending any period for the collection of such taxes.

481 **§ 58.1-3823. Additional transient occupancy tax for certain counties.**

482 A. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through ~~58.1-~~
483 ~~3822~~ 58.1-3821, Hanover County, Chesterfield County and Henrico County may impose:

484 1. An additional transient occupancy tax not to exceed four percent of the amount of the charge
485 for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms
486 or spaces rented and continuously occupied by the same individual or same group of individuals for 30
487 or more days. The revenues collected from the additional tax shall be designated and spent for
488 promoting tourism, travel or business that generates tourism or travel in the Richmond metropolitan
489 area; and

490 2. An additional transient occupancy tax not to exceed two percent of the amount of the charge
491 for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms
492 or spaces rented and continuously occupied by the same individual or same group of individuals for 30
493 or more days. The revenues collected from the additional tax shall be designated and spent for
494 expanding the Richmond Centre, a convention and exhibition facility in the City of Richmond.

495 3. An additional transient occupancy tax not to exceed one percent of the amount of the charge
496 for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms
497 or spaces rented and continuously occupied by the same individual or group of individuals for 30 or
498 more days. The revenues collected from the additional tax shall be designated and spent for the
499 development and improvement of the Virginia Performing Arts Foundation's facilities in Richmond, for
500 promoting the use of the Richmond Centre and for promoting tourism, travel or business that generates
501 tourism and travel in the Richmond metropolitan area.

502 B. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through ~~58.1-~~
503 ~~3822~~ 58.1-3821, any county with the county manager plan of government may impose an additional

504 transient occupancy tax not to exceed two percent of the amount of the charge for the occupancy of any
505 room or space occupied, provided the county's governing body approves the construction of a county
506 conference center. The tax imposed hereunder shall not apply to rooms or spaces rented and
507 continuously occupied by the same individual or same group of individuals for 30 or more days. The
508 revenues collected from the additional tax shall be designated and spent for the design, construction,
509 debt payment, and operation of such conference center.

510 C. 1. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through
511 ~~58.1-3822~~ 58.1-3821, the Counties of James City and York may impose an additional transient
512 occupancy tax not to exceed \$2 per room per night for the occupancy of any overnight guest room. The
513 revenues collected from the additional tax shall be designated and expended solely for advertising the
514 Historic Triangle area, which includes all of the City of Williamsburg and the Counties of James City
515 and York, as an overnight tourism destination by the members of the Williamsburg Area Destination
516 Marketing Committee of the Greater Williamsburg Chamber and Tourism Alliance. The tax imposed by
517 this subsection shall not apply to travel campground sites or to rooms or spaces rented and continuously
518 occupied by the same individual or same group of individuals for 30 or more days.

519 2. The Williamsburg Area Destination Marketing Committee shall consist of the members as
520 provided herein. The governing bodies of the City of Williamsburg, the County of James City, and the
521 County of York shall each designate one of their members to serve as members of the Williamsburg
522 Area Destination Marketing Committee. These three members of the Committee shall have two votes
523 apiece. In no case shall a person who is a member of the Committee by virtue of the designation of a
524 local governing body be eligible to be selected a member of the Committee pursuant to subdivision a.

525 a. Further, one member of the Committee shall be selected by the Board of Directors of the
526 Williamsburg Hotel and Motel Association; one member of the Committee shall be from The Colonial
527 Williamsburg Foundation and shall be selected by the Foundation; one member of the Committee shall
528 be an employee of Busch Gardens Europe/Water Country USA and shall be selected by Busch Gardens
529 Europe/Water Country USA; one member of the Committee shall be from the Jamestown-Yorktown
530 Foundation and shall be selected by the Foundation; one member of the Committee shall be selected by

531 the Executive Committee of the Greater Williamsburg Chamber and Tourism Alliance; and one member
532 of the Committee shall be the President and Chief Executive Officer of the Virginia Tourism Authority
533 who shall serve ex officio. Each of these six members of the Committee shall have one vote apiece. The
534 President of the Greater Williamsburg Chamber and Tourism Alliance shall serve ex officio with
535 nonvoting privileges unless chosen by the Executive Committee of the Greater Williamsburg Chamber
536 and Tourism Alliance to serve as its voting representative. The Executive Director of the Williamsburg
537 Hotel and Motel Association shall serve ex officio with nonvoting privileges unless chosen by the Board
538 of Directors of the Williamsburg Hotel and Motel Association to serve as its voting representative.

539 In no case shall more than one person of the same local government, including the governing
540 body of the locality, serve as a member of the Committee at the same time.

541 If at any time a person who has been selected to the Committee by other than a local governing
542 body becomes or is (a) a member of the local governing body of the City of Williamsburg, the County of
543 James City, or the County of York, or (b) an employee of one of such local governments, the person
544 shall be ineligible to serve as a member of the Committee while a member of the local governing body
545 or an employee of one of such local governments. In such case, the body that selected the person to
546 serve as a member of the Commission shall promptly select another person to serve as a member of the
547 Committee.

548 3. The Williamsburg Area Destination Marketing Committee shall maintain all authorities
549 granted by this section. The Greater Williamsburg Chamber and Tourism Alliance shall serve as the
550 fiscal agent for the Williamsburg Area Destination Marketing Committee with specific responsibilities
551 to be defined in a contract between such two entities. The contract shall include provisions to reimburse
552 the Greater Williamsburg Chamber and Tourism Alliance for annual audits and any other agreed-upon
553 expenditures. The Williamsburg Area Destination Marketing Committee shall also contract with the
554 Greater Williamsburg Chamber and Tourism Alliance to provide administrative support services as the
555 entities shall mutually agree.

556 4. The provisions in subdivision 2 relating to the composition and voting powers of the
557 Williamsburg Area Destination Marketing Committee shall be a condition of the authority to impose the
558 tax provided herein.

559 For purposes of this subsection, "advertising the Historic Triangle area" as an overnight tourism
560 destination means advertising that is intended to attract visitors from a sufficient distance so as to require
561 an overnight stay of at least one night.

562 D. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied
563 under this section, mutatis mutandis.

564 **2. That Chapter 1.4 (§ 36-55.63) of Title 36, §§ 58.1-339.5, 58.1-339.9, 58.1-434, 58.1-435, 58.1-**
565 **439.1, 58.1-439.11, 58.1-439.13, 58.1-439.14, 58.1-439.15, 58.1-439.15:01, 58.1-439.16, and 58.1-639,**
566 **Article 3 (§ 58.1-1840.1) of Chapter 18 and Article 10 (§ 58.1-2290.1) of Chapter 22 of Title 58.1,**
567 **and §§ 58.1-3605.1, 58.1-3712.1, 58.1-3822, and 58.1-3825.1 of the Code of Virginia are repealed.**

568 **3. That this act shall in no way alter or affect any (i) tax credit or tax benefit or other tax attribute**
569 **allowed or earned under any section repealed by this act or (ii) tax liability or obligation pursuant**
570 **to any such section.**

571 #

**TEXT OF TITLE 58.1-RELATED OBSOLETE STATUTES RECOMMENDED FOR
REPEAL**

§ 36-55.63. Low-income housing credit.

The Board of Housing and Community Development shall, consistent with the provisions, terms, and conditions set forth under § 58.1-435, issue regulations establishing the amount of the credit allowable for the low-income housing credit provided under such section, the taxable year or years in which such credit may be taken by the taxpayer, and the terms and conditions for qualifying for such credit. However, the Board shall not approve any low-income housing credits after June 30, 2010.

The Department of Housing and Community Development shall administer the approval of low-income housing credits.

§ 58.1-339.5. Not in effect (§ 58.1-339.5. Earned-income tax credit for low-income families with children).

A. As used in this section, unless the context requires otherwise:

"Eligible child" means a child, by birth or adoption, of the individual (i) who lives with the individual who claims the child as a dependent on the individual's income tax return for the taxable year and (ii) who has not attained age eighteen years during the taxable year.

"Family" means an individual, the individual's spouse, and any person claimed as a dependent on the individual's income tax return for the taxable year.

"Poverty guidelines" means the poverty guidelines for the forty-eight contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673 (2) of the Omnibus Budget Reconciliation Act of 1981.

"Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

B. For taxable years beginning on and after January 1, 1998, any individual with an eligible child whose Virginia adjusted gross income does not exceed the maximum family Virginia income amount set forth in subsection C, as such amount is increased for taxable years beginning on and after January 1, 1999, as provided in subsection D, shall be allowed a credit against the tax levied pursuant to § 58.1-320 in an amount equal to the greater of (i) seventy-five percent of the federal earned-income credit allowed the individual for the taxable year under § 32 (a) (1) of the Internal Revenue Code, using the percentages under § 32 (b) with the limitation contained in § 32 (a) (2) or (ii) \$300 for each eligible child.

C. An individual shall not be eligible for the credit provided by this section if the Virginia adjusted gross income of the members of the individual's family for the taxable year beginning on or after January 1, 1998, but before January 1, 1999, exceeds the maximum amount stated below that corresponds to the number of persons in the individual's family:

| Family size | Maximum family Virginia adjusted gross income amount |
|-----------------------|---|
| Two persons | \$10,850 |
| Three persons | \$13,650 |
| Four persons | \$16,450 |
| Five persons | \$19,250 |
| Six persons | \$22,050 |
| Seven persons | \$24,850 |
| Eight or more persons | \$27,650 |

D. For taxable years beginning in calendar year 1999 and subsequent years, the maximum family Virginia adjusted gross income amount corresponding to family size as stated in subsection C shall be the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year.

E. The amount of the credit provided pursuant to this section for any taxable year shall not exceed the individual's Virginia income tax liability.

§ 58.1-339.9. Rent reductions tax credit.

For taxable years beginning on and after January 1, 2000, through December 31, 2010, any individual shall be entitled to a credit against the tax levied pursuant to § 58.1-320, and any corporation shall be entitled to a credit against the tax levied pursuant to § 58.1-400, provided the following requirements are satisfied: (i) the individual or corporation is engaged in the business of the rental of dwelling units and subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.); (ii) the landlord provides a reduced rent to low-income tenants who either (a) exceed the age of 62, (b) are disabled from a physical or mental condition, or (c) have been homeless at any time within the 12 months preceding the commencement of the lease term; and (iii) the rent charged for the elderly, disabled, or previously homeless tenants is at least 15 percent less than the rent charged to other tenants for comparable units in the same property or, if none, for comparable units in the same market area. No individual or corporation shall be entitled to claim a credit under this section for reduction of rents charged to a tenant on or after January 1, 2000, and prior to January 1, 2006, on any dwelling unit unless a credit for rental reductions was validly claimed on such dwelling unit pursuant to § 58.1-339 for all or part of the month of December 1999. No individual or corporation shall be entitled to claim a credit under this section for reduction of rents charged to a tenant on or after January 1, 2006, and prior to January 1, 2011, on any dwelling unit unless a credit for rental reductions was validly claimed on such dwelling unit pursuant to § 58.1-339, as in effect December 31, 1999, for all or part of the month of December 1999 and unless such tenant was an occupant of such dwelling unit on December 31, 2005. As used herein, a homeless person includes only persons who resided in a

domestic violence shelter or homeless shelter at any time during the 12 months preceding the lease term.

The allowable credit amount shall be 50 percent of the total rent reductions allowed during the taxable year to the elderly, disabled and previously homeless tenants. The amount of the credit for each individual or corporation for each taxable year shall not exceed the total amount of the tax imposed by this chapter. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount that exceeds the tax liability may be carried over for credit against the income taxes of such individual or corporation in the next five taxable years until the total amount of the tax credit has been taken. Credits granted to a partnership or electing small business corporation (S corporation) shall be passed through to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

The Virginia Housing Development Authority shall certify to the Department of Taxation that the individual or corporation claiming a credit is providing rent reductions as authorized under this section. The Authority shall establish regulations detailing the requirements and procedures applicable to claiming the credit provided for hereunder and setting forth the certification process and may request that the individual or corporation requesting certification submit records and other documents indicating that the requirements of this section have been satisfied. The total amount of credits that may be approved by the Authority in any fiscal year shall not exceed \$50,000.

§ 58.1-434. Telecommunications income tax credit.

Any telecommunications company as defined in § 58.1-400.1 shall receive the following credit against the tax imposed by § 58.1-400 :

| Taxable Year | Tax Credit |
|---------------|--|
| 1989 | 80% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts. |
| 1990 | 70% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts. |
| 1991 | 60% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts. |
| 1992 and 1993 | 50% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts. |
| 1994 | 40% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts. |
| 1995 and 1996 | 30% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts. |
| 1997 | 20% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts. |
| 1998 | 10% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts. |

In no event shall the credit allowed under this section exceed the tax imposed by § 58.1-400. The provisions of § 58.1-400.1 shall be applied in computing gross receipts for purposes of this section.

§ 58.1-435. Low-income housing credit.

A. Any person shall be entitled to a credit against the tax imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); or Article 1 (§ 58.1-2500 et seq.) of Chapter 25 of Title 58.1 in the amount certified to the Department or the State Corporation Commission, as applicable, pursuant to subsection F for any five taxable years, as such years are determined by the Board of Housing and Community Development, in which a federal low-income housing credit is allowed for low-income housing units placed in service on or after January 1, 1998, provided such person qualified for and claimed the low-income housing credit on the federal income tax return filed for the taxable year, and meets the qualifications established by the Board for claiming such credit on the applicable Virginia tax return.

B. The Board of Housing and Community Development shall issue regulations establishing the amount of the low-income housing credit allowable, the taxable year or years in which such credit may be taken by the taxpayer, and the terms and conditions for qualifying for such credit. The Virginia low-income housing credit amount shall be a percentage of the federal low-income tax credit claimed for the taxable year; however, the specific percentage shall be determined by the Board. If the low-income housing credit claimed on the person's federal tax return was calculated on a period of less than 12 months, the Board may nevertheless calculate the Virginia low-income housing credit amount on the basis of a 12-month period for the taxable year.

C. The Department of Housing and Community Development shall administer the approval of low-income housing credits. However, the Board shall not approve any low-income housing credits after June 30, 2010. The total maximum amount of low-income housing credits which may be approved by the Board of Housing and Community Development in any calendar year shall be \$500,000. Credits granted to a partnership, limited liability company or electing small business corporation (S corporation) shall be allocated among all partners or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners or shareholders mutually agree as provided in an executed document, the form of which shall be prescribed by the Board.

D. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. Any credit not usable for the taxable year may be carried over for credit until the earlier of (i) the full amount of the credit is used or (ii) the expiration of the fifth taxable year after the taxable year in which the Department of Housing and Community Development has certified the amount of such tax credit pursuant to subsection F. No credit shall be carried back to a preceding taxable year. If a taxpayer who is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit that is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

E. If any person qualifies in a taxable year for the Virginia low-income housing credit, and in a subsequent taxable year is subject to the credit recapture provisions for federal income tax purposes, such person shall similarly be subject to a credit recapture amount on the Virginia tax return for which the applicable Virginia low-income housing credit was applied or used. Any credit recapture shall be assessed and collected in the same manner as a tax attributable to a

change in federal taxable income within the meaning of § 58.1-311. The Board of Housing and Community Development shall promulgate regulations establishing the terms and conditions for computing the credit recapture amount for the applicable Virginia tax return.

F. To claim the credit authorized under this section, the taxpayer shall apply to the Department of Housing and Community Development to determine the credit amount allowable for the taxable year. The Department shall certify to the Department of Taxation that such person qualified for the Virginia low-income housing credit amount claimed on the applicable tax return for the taxable year. The taxpayer shall attach the certification form to the Virginia tax return filed with the Department of Taxation. The Department of Housing and Community Development shall also provide the Department of Taxation with credit recapture amounts and any other information it may require relating to the credit claimed by the taxpayer.

§ 58.1-439.1. Clean fuel vehicle and advanced cellulosic biofuels job creation tax credit.

A. For purposes of this section:

"Advanced biofuel" means a fuel derived from any cellulose, hemicellulose, or lignin that is derived from renewable biomass or algae.

"Clean special fuel" means any product or energy source used to propel a highway vehicle, the use of which, compared to conventional gasoline or reformulated gasoline, results in lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide or particulates or any combination thereof. The term includes compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, hythane (a combination of compressed natural gas and hydrogen), or electricity.

"Job" shall mean the full-time employment of an individual in Virginia by a corporation for at least 40 hours per week during at least 40 weeks during the calendar year whose primary work activity is related directly to any of the activities listed in subsection B.

"Vehicle" shall have the same meaning as provided in U.S. Internal Revenue Code §§ 179A and 30 .

B. For taxable years beginning on or after January 1, 1996, through December 31, 2014, a corporation shall be eligible for a credit against the tax levied pursuant to § 58.1-400 equal to \$700 for each job that is created in either (i) the manufacture of the major components of the energy storage, energy supply, or engine, motor, and power train mechanisms unique to a vehicle fueled by clean special fuels; (ii) the manufacture of components uniquely used to convert vehicles designed to operate on gasoline or diesel fuel to operate on clean special fuels or advanced biofuels; (iii) the conversion of vehicles designed to operate on gasoline or diesel fuel to operate on clean special fuels or advanced biofuels; (iv) the manufacture of vehicles designed to operate on clean special fuels; (v) the manufacture of components designed to produce, store, and dispense clean special fuels or advanced biofuels; or (vi) the production of advanced biofuels. The credit shall be allowed in the taxable year in which the job is created and in each of the two succeeding years in which the job is continued.

C. To qualify for the tax credit provided in subsection B of this section, a corporation must demonstrate (i) that a job was created during the taxable year for which the credit is claimed or was continued from the previous taxable year in which a credit was claimed and (ii) the

employment level in jobs defined in subsection A of this section in the taxable year for which the credit is first claimed has increased in comparison to the previous taxable year.

D. Any tax credit not used in the taxable year of job creation or continuation may be carried over for credit against the corporation's income tax in the five succeeding taxable years until the total credit amount is used.

E. In case of a partnership or limited liability company, the credit shall be allocated to the corporate partners or corporate members in proportion to their ownership or interest in the partnership or limited liability company.

F. A corporation shall not be eligible for a tax credit pursuant to this section if such corporation is allowed a major business facility job tax credit pursuant to § 58.1-439.

§ 58.1-439.11. Employees with disabilities tax credit.

A. As used in this section, unless the context clearly requires otherwise:

"Qualified employee" means an otherwise qualified person with a disability who has completed or is completing rehabilitative services from the Department for Aging and Rehabilitative Services, the Department for the Blind and Vision Impaired or the U.S. Department of Veterans Affairs. An otherwise qualified person with a disability (i) shall not be a relative of any owner or the employer claiming the credit and (ii) shall not own, directly or indirectly, more than five percent in value of the outstanding stock of a corporation claiming the credit. As used herein, "relative" means a spouse, child, grandchild, parent or sibling of an owner or employer, and "owner" means, in the case of a corporation, any person who owns five percent or more of the corporation's stock.

"Wages" means wages, within the meaning of § 51(c)(1), (2) and (3) of the Internal Revenue Code without regard to § 51(c)(4) of the Internal Revenue Code, that are paid by an employer to an employee for services performed in the employer's trade or business.

B. Except as provided in subsection D, an employer may claim a tax credit in the amounts determined under subsection C for the wages of a qualified employee that are paid in the taxable year for which the employer claims the credit. The same tax credit shall not be applied more than once against different taxes by the same taxpayer.

C. For taxable years beginning on and after January 1, 1999, but before December 31, 2002, an employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 20 percent of the first \$6,000 of wages paid annually to each qualified employee during the first two taxable years of such employee's employment.

D. An employer shall not claim the credit allowed under this section for a qualified employee who is on strike or for whom the employer simultaneously receives federal or state employment training benefits. Furthermore, the credit allowed under this section shall be based on actual wages paid during the applicable taxable year.

E. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the

individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

F. An employer shall be entitled to the credit granted under this section only for those qualified employees who have been certified as otherwise qualified persons with disabilities to the Department of Taxation by the Department for Aging and Rehabilitative Services, the Department for the Blind and Vision Impaired or the U.S. Department of Veterans Affairs. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), establishing procedures for claiming the credit provided by this section. The Department for Aging and Rehabilitative Services, the Department for the Blind and Vision Impaired or the U.S. Department of Veterans Affairs shall review requests for certification submitted by employers and shall advise the Tax Commissioner whether an employee qualifies.

G. Any credit not usable for the taxable year may be carried over for the next three taxable years. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If an employer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such employer shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

H. No employer shall be eligible to claim a credit under this section if the employer is claiming a tax credit for the same employee under § 58.1-439.

I. The Tax Commissioner shall report annually to the Chairmen of the House Finance and Senate Finance Committees on the status and implementation of the credit established by this section, including certifications for otherwise qualified persons with disabilities.

§ 58.1-439.13. Tax credit for investing in technology industries in tobacco-dependent localities.

A. For purposes of this section:

"Biotechnology company" means a taxpayer that (i) has paid or incurred qualified research expenses for research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including, but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes; agricultural purposes; or environmental purposes, (ii) conducts pilot scale manufacturing in Virginia, or (iii) provides services or products necessary for such research, development, production, or provision.

"Capital investment" means an investment in real property, personal property, or both, by an information technology or biotechnology company that is capitalized by such company.

"Equity" has the same meaning as that term is defined in § 58.1-339.4.

"Qualified investment" means a cash investment in an information technology or biotechnology company in the form of equity or subordinated debt; however, an investment shall not be qualified if the taxpayer who holds such investment, or any of such taxpayer's family members, or any entity affiliated with such taxpayer, receives or has received compensation from such

company in exchange for services provided to such business as an employee, officer, director, manager, independent contractor or otherwise in connection with or within one year before or after the date of such investment. For the purposes hereof, reimbursement of reasonable expenses incurred shall not be deemed to be compensation.

A qualified investment shall also include a capital investment.

"Qualified research expenses" means qualified research expenses as defined in § 41 of the Internal Revenue Code of 1986, 26 U.S.C. § 41, as in effect on June 30, 1992, in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, environmental technology, or medical device technology.

"Subordinated debt" has the same meaning as that term is defined in § 58.1-339.4.

"Tobacco-dependent locality" means those Virginia localities that have traditionally economically depended on tobacco and shall be identified by the Tobacco Indemnification and Community Revitalization Commission.

B. For taxable years beginning on and after January 1, 2000, but before January 1, 2010, a taxpayer shall be allowed a credit against the taxes imposed for such taxable years by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of this chapter in the amount equal to fifty percent of the qualified investment in an information technology or biotechnology company located in a tobacco-dependent locality. The amount of credit allowed to a taxpayer under this section shall not exceed \$500,000 in aggregate for qualified investments other than capital investments, and shall not exceed \$500,000 per taxable year for capital investments. Such credit shall be first allowed for the taxable year in which the qualified investment was completed or made if the qualified investment was a capital investment. For all qualified investments, before any credit is allowed under this section, the Virginia Economic Development Partnership shall review, evaluate and report to the Tobacco Indemnification and Community Revitalization Commission upon the taxpayer's proposed capital investments, detailing how such qualified investment will be spent in a tobacco-dependent locality. The credit provided under this section shall then first be allowed for the taxable year in which the Commission finds that such qualified investment was spent in a tobacco-dependent locality. The amount of credit allowed shall not exceed the tax imposed for the taxable year. Any credit not usable for the taxable year because of this limitation may be carried over for the next ten succeeding taxable years. No credit shall be carried back to a preceding taxable year. If a taxpayer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit that is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

C. The tax credit established in this section may be claimed to the extent moneys from the Tobacco Indemnification and Community Revitalization Fund, created in § 3.2-3106, are deposited into the Technology Initiative in Tobacco-Dependent Localities Fund, established under § 58.1-439.15, for the purpose of funding this credit. If the amount of credits otherwise allowable under this section exceed the amount deposited in the Fund for a fiscal year, such credits shall be allocated to taxpayers on a pro rata basis by the Department of Taxation.

D. In the case of a qualified investment other than a capital investment, unless the taxpayer transfers the equity received in connection with such investment as a result of (i) the liquidation of the information technology or biotechnology company issuing such equity, (ii) the merger, consolidation or other acquisition of such business with or by a party not affiliated with such business, or (iii) the death of the taxpayer, any taxpayer that fails to hold such equity for at least five full calendar years following the calendar year for which a tax credit for such investment is allowed pursuant to this section shall forfeit both used and unused tax credits and shall pay the Department of Taxation a penalty equal to all of the tax credits allowed to such taxpayer pursuant to this section, except for credit allowed for a capital investment, with interest at the rate of one percent per month, compounded monthly, from the date the tax credits were allocated to the taxpayer. Any amount received under this subsection shall be deposited into the Technology Initiative in Tobacco-Dependent Localities Fund.

E. A taxpayer who claims the credit for a qualified investment under this section may not use such qualified investment as the basis for claiming any other credit provided under the Code of Virginia.

F. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders or members, respectively, in proportion to their ownership or interest in such business entities.

§ 58.1-439.14. Tax credit for research and development activity occurring in tobacco-dependent localities.

A. As used in this section:

"Eligible research and development activity" means qualified research expenses as defined in § 41 of the Internal Revenue Code of 1986, 26 U.S.C. § 41, as in effect on June 30, 1992, in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, environmental technology, or medical device technology, or other technology field, when such expenses are paid or incurred by a taxpayer for such activity occurring at the taxpayer's place of business in a tobacco-dependent locality of the Commonwealth.

"Tobacco-dependent locality" means those Virginia localities that have traditionally economically depended on tobacco and shall be identified by the Tobacco Indemnification and Community Revitalization Commission.

B. For taxable years beginning on and after January 1, 2000, but before January 1, 2010, a taxpayer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of this chapter as set forth in this section. The amount of credit allowed pursuant to this section shall be equal to fifty percent of the amount paid or incurred by a taxpayer for an eligible research and development activity during the taxable year.

C. A taxpayer may claim the credit for the taxable year in which the eligible research and development activity occurred. No taxpayer shall be eligible to claim a credit of more than \$500,000 per taxable year. The amount of credit allowed shall not exceed the tax imposed for the taxable year. Any credit not usable for the taxable year because of such limitation may be, to the extent usable and subject to subsections D and E, carried over for the next ten succeeding taxable

years. No credit shall be carried back to a preceding taxable year. If a taxpayer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit that is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

D. The tax credit established in this section may be claimed to the extent moneys from the Tobacco Indemnification and Community Revitalization Fund, created in § 3.2-3106, are deposited into the Technology Initiative in Tobacco-Dependent Localities Fund, established under § 58.1-439.15, for the purpose of funding this credit. If the amount of credits otherwise allowable under this section exceed the amount deposited in the Fund for a fiscal year, such credits shall be allocated to taxpayers on a pro rata basis by the Department of Taxation.

E. Tax credit redemption and transfer.

If the taxpayer has no state tax liability for two consecutive taxable years for which credit is otherwise allowable, the credit amount applicable to such taxable years may be redeemable by the Tax Commissioner on behalf of the Commonwealth for seventy-five percent of the face value within ninety days after the taxpayer has filed the applicable income tax return for the second such taxable year. If the Commonwealth does not redeem the tax credit or upon the taxpayer's election, such tax credit shall be transferable by sale.

F. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders or members, respectively, in proportion to their ownership or interest in such business entities.

G. A taxpayer who claims the credit for eligible research and development activity under this section may not use such research and development activity as the basis for claiming any other credit provided under the Code of Virginia.

§ 58.1-439.15. Technology Initiative in Tobacco-Dependent Localities Fund.

There is hereby created in the Department of the Treasury a special fund that shall be known as the Technology Initiative in Tobacco-Dependent Localities Fund (the Fund). The Fund shall be composed of those moneys deposited from the Tobacco Indemnification and Community Revitalization Fund as provided in § 3.2-3106. The Department of the Treasury shall administer and manage the Fund. Moneys in the Fund shall be made available to reimburse the general fund for providing tax credits under this article, including redeeming tax credits pursuant to § 58.1-439.14 and pursuant to subsection I of § 58.1-439.12:06, and shall be used to reimburse the general fund for the administrative costs incurred by the Department of Taxation in implementing the provisions of this article. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. After all eligible tax credits have been claimed through all taxable years beginning before January 1, 2013, any moneys left in the Fund shall revert to the Tobacco Indemnification and Community Revitalization Fund.

§ 58.1-439.15:01. Tax incentives for use of domestic tobacco.

A. Definitions. -- As used in this section, unless the context requires a different meaning:

"Domestic tobacco" means tobacco grown, produced, and processed entirely within the United States of America.

"Master Settlement Agreement" means the same as that term is defined in § 3.2-4200.

"Small tobacco product manufacturer" means an entity making an assignment pursuant to § 3.2-4202 that directly (and not exclusively through any affiliate) manufactures fewer than 5 billion cigarettes in the calendar year in which the assignment is made, whose manufactured cigarettes contain a minimum of 75 percent domestic tobacco, who is not participating in the Master Settlement Agreement, who is in compliance with all obligations imposed pursuant to Article 1 (§ 3.2-4200 et seq.) and Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, and who has executed an assignment and payment to the Commonwealth in accordance with Article 2 (§ 3.2-4202 et seq.) of Chapter 42 of Title 3.2.

B. Any small tobacco product manufacturer who intends to apply for incentive payments pursuant to this section shall, by January 31 of the applicable year, provide in a written certification to the Department such information as the Department may require to establish: (i) the percentage of domestic tobacco contained in cigarettes produced by such manufacturer; and (ii) the amount paid for domestic tobacco purchased by the manufacturer on or after January 1, 2005, which was used by the manufacturer in manufacturing cigarettes in the immediately preceding year. For all such certifications made by an eligible manufacturer that are approved by the Department, the Department shall cause incentive payments to be made to the small tobacco product manufacturer. Incentive payments shall first be made pursuant to this section in calendar year 2007 for calendar year 2006 manufacturing.

The Tax Commissioner shall, as soon as practicable but no later than 30 days after the manufacturer's certification, make a written certification to the Comptroller of the amount of the incentive payment to be made to the small tobacco product manufacturer. As soon as practicable after receipt of the Tax Commissioner's certification, but no later than 15 days after receipt of such certification, the Comptroller shall draw his warrant from funds in the appropriate escrow account pursuant to §§ 3.2-4201 and 3.2-4203 on the Treasurer of Virginia in the proper amount in favor of the small tobacco product manufacturer.

C. 1. For incentive payments made in 2007 for calendar year 2006, the incentive payments shall equal the amount paid by the small tobacco product manufacturer for domestic tobacco that was purchased by the manufacturer on or after January 1, 2005, and was used by the manufacturer in manufacturing cigarettes in 2006, provided that the aggregate incentive payments for which a small tobacco product manufacturer may be eligible for such purchases shall not exceed a total sum equal to 25 percent of the amount that the manufacturer paid in calendar year 2005 into a qualified escrow account established pursuant to Article 1 (§ 3.2-4200 et seq.) of Chapter 42 of Title 3.2 net of any escrow funds released and reverted back to the small tobacco product manufacturer that are attributable to calendar year 2005 escrow payments pursuant to subdivision B 2 of § 3.2-4201 as it was in effect on June 30, 2005. The amount paid into a qualified escrow account in calendar year 2005 shall also include the amount that the small tobacco product manufacturer paid into a qualified escrow account for all calendar years prior to 2005 net of any

escrow funds released and reverted back to the manufacturer for such years pursuant to subdivision B 2 of § 3.2-4201 as it was in effect on June 30, 2005.

The aggregate amount of incentive payments to all small tobacco product manufacturers pursuant to this subdivision shall not exceed \$9 million. However, if the amount of the incentive payments computed by the Tax Commissioner pursuant to the provisions of this subdivision without regard to such \$9 million limitation is in excess of \$9 million, the share of the \$9 million to be paid to each qualifying small tobacco product manufacturer shall be determined as provided in subsection D.

2. For incentive payments made in 2008 for calendar year 2007, the incentive payments shall equal the amount paid by the small tobacco product manufacturer for domestic tobacco that was purchased by the manufacturer on or after January 1, 2005, and was used by the manufacturer in manufacturing cigarettes in 2007, provided that the aggregate incentive payments for which a small tobacco product manufacturer may be eligible for such purchases shall not exceed a total sum equal to 20 percent of the amount that the manufacturer paid in calendar year 2006 into a qualified escrow account established pursuant to Article 1 (§ 3.2-4200 et seq.) of Chapter 42 of Title 3.2.

The aggregate amount of incentive payments to all small tobacco product manufacturers pursuant to this subdivision shall not exceed \$8 million. However, if the amount of the incentive payments computed by the Tax Commissioner pursuant to the provisions of this subdivision without regard to such \$8 million limitation is in excess of \$8 million, the share of the \$8 million to be paid to each qualifying small tobacco product manufacturer shall be determined as provided in subsection D.

3. For incentive payments made in 2009 for calendar year 2008, the incentive payments shall equal the amount paid by the small tobacco product manufacturer for domestic tobacco that was purchased by the manufacturer on or after January 1, 2005, and was used by the manufacturer in manufacturing cigarettes in 2008, provided that the aggregate incentive payments for which a small tobacco product manufacturer may be eligible for such purchases shall not exceed a total sum equal to 15 percent of the amount that the manufacturer paid in calendar year 2007 into a qualified escrow account established pursuant to Article 1 (§ 3.2-4200 et seq.) of Chapter 42 of Title 3.2.

The aggregate amount of incentive payments to all small tobacco product manufacturers pursuant to this subdivision shall not exceed \$6 million. However, if the amount of the incentive payments computed by the Tax Commissioner pursuant to the provisions of this subdivision without regard to such \$6 million limitation is in excess of \$6 million, the share of the \$6 million to be paid to each qualifying small tobacco product manufacturer shall be determined as provided in subsection D.

4. For incentive payments made in 2010 for calendar year 2009, the incentive payments shall equal the amount paid by the small tobacco product manufacturer for domestic tobacco that was purchased by the manufacturer on or after January 1, 2005, and was used by the manufacturer in manufacturing cigarettes in 2009, provided that the aggregate incentive payments for which a small tobacco product manufacturer may be eligible for such purchases shall not exceed a total sum equal to 10 percent of the amount that the manufacturer paid in calendar year 2008 into a qualified escrow account established pursuant to Article 1 (§ 3.2-4200 et seq.) of Chapter 42 of Title 3.2.

The aggregate amount of incentive payments to all small tobacco product manufacturers pursuant to this subdivision shall not exceed \$4 million. However, if the amount of the incentive payments computed by the Tax Commissioner pursuant to the provisions of this subdivision without regard to such \$4 million limitation is in excess of \$4 million, the share of the \$4 million to be paid to each qualifying small tobacco product manufacturer shall be determined as provided in subsection D.

5. For incentive payments made in 2011 for calendar year 2010, the incentive payments shall equal the amount paid by the small tobacco product manufacturer for domestic tobacco that was purchased by the manufacturer on or after January 1, 2005, and was used by the manufacturer in manufacturing cigarettes in 2010, provided that the aggregate incentive payments for which a small tobacco product manufacturer may be eligible for such purchases shall not exceed a total sum equal to five percent of the amount that the manufacturer paid in calendar year 2009 into a qualified escrow account established pursuant to Article 1 (§ 3.2-4200 et seq.) of Chapter 42 of Title 3.2.

The aggregate amount of incentive payments to all small tobacco product manufacturers pursuant to this subdivision shall not exceed \$3 million. However, if the amount of the incentive payments computed by the Tax Commissioner pursuant to the provisions of this subdivision without regard to such \$3 million limitation is in excess of \$3 million, the share of the \$3 million to be paid to each qualifying small tobacco product manufacturer shall be determined as provided in subsection D.

6. For incentive payments made in 2012 for calendar year 2011, the incentive payments shall equal the amount paid by the small tobacco product manufacturer for domestic tobacco that was purchased by the manufacturer on or after January 1, 2005, and was used by the manufacturer in manufacturing cigarettes in 2011, provided that the aggregate incentive payments for which a small tobacco product manufacturer may be eligible for such purchases shall not exceed a total sum equal to five percent of the amount that the manufacturer paid in calendar year 2010 into a qualified escrow account established pursuant to Article 1 (§ 3.2-4200 et seq.) of Chapter 42 of Title 3.2.

The aggregate amount of incentive payments to all small tobacco product manufacturers pursuant to this subdivision shall not exceed \$3 million. However, if the amount of the incentive payments computed by the Tax Commissioner pursuant to the provisions of this subdivision without regard to such \$3 million limitation is in excess of \$3 million, the share of the \$3 million to be paid to each qualifying small tobacco product manufacturer shall be determined as provided in subsection D.

7. No incentive payments shall be made in calendar years subsequent to 2012.

D. If the aggregate amount of the incentive payments to all small tobacco product manufacturers to be made in any calendar year exceeds the aggregate limitation for incentive payments for the year, the payment to each qualifying small tobacco product manufacturer for such year shall be a pro rata share of such aggregate limitation based upon the amount of the incentive payment that would have been made to each qualifying manufacturer for such year if there were no such aggregate limitation.

E. A small tobacco product manufacturer shall not be eligible for any incentive payment under this section for purchases of domestic tobacco that is grown by an agent or director of the small tobacco product manufacturer.

F. The provisions of Chapter 18 (§ 58.1-1800 et seq.) shall apply to the administration of this section, mutatis mutandis.

§ 58.1-439.16. Tax Commissioner to promulgate regulations.

Pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), the Tax Commissioner shall promulgate regulations that are necessary or desirable to carry out the provisions of this article, including (i) computation, carryover, and rollover of the credits provided under this article and (ii) rules and procedures for redeeming and transferring tax credits under § 58.1-439.14.

§ 58.1-639. Transitional provisions.

A. To the extent of the 0.3 percent increase in the state sales and use tax rate effective July 1, 2013, enacted by the 2013 Session of the Virginia General Assembly, the Tax Commissioner, upon application of the purchaser in accordance with regulations promulgated by the Commissioner, shall have the authority to refund state sales or use taxes paid on purchases of tangible personal property made pursuant to bona fide real estate construction contracts, contracts for the sale of tangible personal property, and leases, provided that the real estate construction contract, contract for the sale of tangible personal property or lease is entered into prior to the date of enactment of such increase in the state sales and use tax rate; and further provided that the date of delivery of the tangible personal property is on or before September 30, 2013. The term "bona fide contract," when used in this section in relation to real estate construction contracts, shall include but not be limited to those contracts which are entered into prior to the enactment of such increase in the state sales and use tax rate, provided that such contracts include plans and specifications.

B. Notwithstanding the foregoing September 30, 2013, delivery date requirement, with respect to bona fide real estate construction contracts which contain a specific and stated date of completion, the date of delivery of such tangible personal property shall be on or before the completion date of the applicable project.

C. Applications for refunds pursuant to this section shall be made in accordance with the provisions of § 58.1-1823. Interest computed in accordance with § 58.1-1833 shall be added to the tax refunded pursuant to this section.

§ 58.1-1840.1. Virginia Tax Amnesty Program established.

A. There is hereby established the Virginia Tax Amnesty Program. It is the intent of this program to improve voluntary compliance with the tax laws and to increase and to accelerate collections of certain taxes owed to the Commonwealth.

B. The Virginia Tax Amnesty Program shall be administered by the Department of Taxation, and any person, individual, corporation, estate, trust or partnership required to file a return or to pay

any tax administered or collected by the Department of Taxation shall be eligible to participate, subject to the requirements set forth below and guidelines established by the Tax Commissioner.

C. The Tax Commissioner shall establish guidelines and rules for the procedures for participation and any other rules that are deemed necessary by the Tax Commissioner. The guidelines and rules issued by the Tax Commissioner regarding the Virginia Tax Amnesty Program shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

D. The Virginia Tax Amnesty Program shall have the following features:

1. The program shall be conducted during the period July 1, 2009, through June 30, 2010, and shall not last less than 60 nor more than 75 days. The exact dates of the program shall be established by the Tax Commissioner.

2. All civil or criminal penalties assessed or assessable, as provided in this title, including the addition to tax under §§ 58.1-492 and 58.1-504, and one-half of the interest assessed or assessable, as provided in this title, which are the result of nonpayment, underpayment, nonreporting or underreporting of tax liabilities, shall be waived upon receipt of the payment of the amount of taxes and interest owed, with the following exceptions:

a. No person, individual, corporation, estate, trust or partnership currently under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall qualify to participate.

b. No person, individual, corporation, estate, trust or partnership shall be eligible to participate in the program with respect to any assessment outstanding for which the date of assessment is less than 90 days prior to the first day of the program or with respect to any liability arising from the failure to file a return for which the due date of the return is less than 90 days prior to the first day of the program.

c. No person, individual, corporation, estate, or trust shall be eligible to participate in the program with respect to any tax liability from the income taxes imposed by §§ 58.1-320, 58.1-360 and 58.1-400, if the tax liability is attributable to taxable years beginning on and after January 1, 2008.

E. For the purpose of computing the outstanding balance due because of the nonpayment, underpayment, nonreporting or underreporting of any tax liability that has not been assessed prior to the first day of the program, the rate of interest specified for omitted taxes and assessments under § 58.1-15 shall not be applicable. The Tax Commissioner shall, instead, establish one interest rate to be used for each taxable year that approximates the average "underpayment rate" specified under § 58.1-15 for the five-year period immediately preceding the program.

F.1. If any taxpayer eligible for amnesty under this section and under the rules and guidelines established by the Tax Commissioner retains any outstanding balance after the close of the Virginia Tax Amnesty Program because of the nonpayment, underpayment, nonreporting or underreporting of any tax liability eligible for relief under the Virginia Tax Amnesty Program, then such balance shall be subject to a 20 percent penalty on the unpaid tax. This penalty is in addition to all other penalties that may apply to the taxpayer.

2. Any taxpayer who defaults upon any agreement to pay tax and interest arising out of a grant of amnesty is subject to reinstatement of the penalty and interest forgiven and the imposition of the

penalty under this section as though the taxpayer retained the original outstanding balance at the close of the Virginia Tax Amnesty Program.

G. For the purpose of implementing the Virginia Tax Amnesty Program, the Department is exempt from §§ 2.2-2015 and 2.2-2018.1 through 2.2-2021 pertaining to the Virginia Information Technologies Agency's project management and procurement oversight.

§ 58.1-2290.1. Tax on fuel in inventory.

A. In addition to any other tax levied under this chapter, there is hereby levied a tax on taxable gasoline, gasohol, and diesel fuel held in storage by a licensed distributor as of the close of the business day preceding July 1, 2013. For the purposes of this section, "close of the business day" means the time at which the last transaction has occurred for that day. The tax shall be payable by the licensed distributor. The amount of the tax liability shall be determined separately for gasoline and gasohol and for diesel fuel and shall be calculated as the difference between (i) the tax rate specified for the type of fuel under § 58.1-2217 and (ii) the tax rate as specified for that type of fuel under § 58.1-2217 as it was in effect on June 30, 2013, multiplied by the number of gallons of that type of fuel in storage as of the close of the business day preceding July 1, 2013.

B. A licensed distributor in possession of taxable gasoline, gasohol, or diesel fuel in storage as of the close of the business day preceding July 1, 2013, shall take an inventory at the close of that day to determine the number of gallons in storage for each type of fuel and shall report this inventory, on forms provided by the Commissioner, no later than January 1, 2014. In addition:

1. If the net amount of the tax liability for all fuel types is a positive number, the distributor shall remit that amount to the Department no later than January 1, 2014.
2. If the net amount of the tax liability for all fuel types is a negative number, the distributor may apply to the Department for a refund of that amount no later than January 1, 2014. However, the Department shall not issue any such refund prior to September 1, 2013.

C. In determining the amount of the tax liability under this section, the licensed distributor shall exclude the amount of taxable fuel in dead storage. For the purposes of this section, "dead storage" means the amount of taxable fuel that will not be pumped out of a storage tank because that fuel is below the mouth of the draw pipe. The distributor may assume that the amount of fuel in dead storage is 200 gallons for a draw tank with a capacity of less than 10,000 gallons and 400 gallons for a tank with a capacity of 10,000 gallons or more. Alternatively, the amount of fuel in dead storage in a tank may be computed using the manufacturer's conversion table for the tank and the number of inches between the bottom of the tank and the mouth of the draw pipe. If the conversion table method is used to compute the amount of fuel in dead storage, the distance between the bottom of the tank and the mouth of the draw pipe will be assumed to be six inches, unless otherwise established.

§ 58.1-3605.1. Reports by owners of tax exempt real estate.

Every owner of tax exempt real estate shall report to the appropriate assessing officer, on or before May 1, 1993, whether it has reported for tax year 1992 to the Internal Revenue Service unrelated business taxable income as defined by § 512 of the Internal Revenue Code . Such tax exempt entity shall also advise such assessing officer of the amount of unrelated business taxable

income reported, and the assessing officer shall record such information in a manner so that it may be easily compared to the property tax liability such entity would be paying if it were not tax exempt. An inventory of all such information shall be reported to the Department of Taxation on or before August 1, 1993, so that the Department may compile such information for submission to the chairmen of the Senate Finance Committee and House Finance Committee, on or before December 1, 1993.

§ 58.1-3712.1. Counties and cities authorized to levy severance tax on oil.

The governing body of any county or city may levy a license tax on every person engaging in the business of severing oil from the earth. Such tax shall be at a rate equal to one-half of one percent of the gross receipts from the sale of oil severed in such county or city. Such gross receipts shall be the fair market value measured at the time such oil is utilized or sold for utilization in such county or city or at the time such oil is placed in transit for shipment therefrom.

Any county or city enacting a license tax pursuant to this section may require producers of oil and common carriers to maintain records and file reports showing the quantities of and receipts from oil which they have produced or transported.

§ 58.1-3822. Additional transient occupancy tax.

In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 and 58.1-3820, beginning January 1, 1991, and ending January 1, 2012, Arlington County may impose an additional transient occupancy tax not to exceed one-fourth of one percent of the amount of the charge for the occupancy of any room or space occupied. The revenues collected from the additional tax shall be designated and spent for the purpose of promoting tourism and business travel in the county. Such designated funds shall be in addition to the county's previous budgeted amount for the promotion of tourism and business travel.

§ 58.1-3825.1. (See Editor's note for effect of section) Additional transient occupancy tax in certain counties and cities in Northern Virginia.

In addition to such transient occupancy taxes as are authorized by this chapter, the Northern Virginia Transportation Authority established under § 33.2-2500 may impose an additional transient occupancy tax at the rate of 2% of the amount of charge for the occupancy of any room or space occupied provided that such room or space is located within a county or city embraced by the Authority. Such revenues shall be used according to the provisions of § 33.2-2510.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

CHAPTER 8.

HEALTH AND CAMPUS SAFETY.

Drafting note: Provisions of existing Chapters 1 and 17 relating to student health and campus safety are consolidated in proposed Chapter 8, and technical changes are made.

Article 1.

Student Health.

Drafting note: Provisions of existing Chapter 1 relating to student health are consolidated in proposed Article 1, and technical changes are made.

§ ~~23-7.5~~ 23.1-800. Health histories ~~required; and~~ immunizations required; exemptions.

A. No full-time student ~~shall be enrolled~~ who enrolls for the first time in any ~~four-year~~, baccalaureate public institution of higher education ~~in this Commonwealth shall be eligible to register for his second semester or quarter~~ unless he (i) has furnished, before the beginning of the second semester or quarter of enrollment, a health history consistent with guidelines adopted by each institution's board of visitors, ~~pursuant to the requirements of this section. Any student who fails to furnish the history will not be eligible for registration for the second semester or quarter. Any student who~~ that includes documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the date on which the immunization was administered, and any further immunizations indicated or (ii) objects to such health history requirement on religious grounds, in which case he shall be exempt from ~~the health history such~~ requirement ~~set forth in this section.~~

B. ~~The health history shall include documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated.~~

Prior to enrollment, ~~all students~~ for the first time in any baccalaureate public institution of higher education, each student shall be immunized by vaccine against diphtheria, tetanus,

28 poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the
29 guidelines of the American College Health Association.

30 C. ~~In addition to the immunization requirements set forth in subsection B, all incoming~~
31 ~~full-time students, prior~~ Prior to enrollment ~~for the first time~~ in any ~~baccalaureate~~ public ~~four-~~
32 ~~year~~ institution of higher education, ~~each full-time student~~ shall be vaccinated against ~~(i)~~
33 meningococcal disease and ~~(ii)~~ hepatitis B.

34 ~~However, if the institution of higher education provides the student or, if the student is a~~
35 ~~minor, the student's parent or other legal representative, detailed information on the risks~~
36 ~~associated with meningococcal disease and hepatitis B and on the availability and effectiveness~~
37 ~~of any vaccine, unless~~ the student or, if the student is a minor, the student's parent or other legal
38 representative ~~may sign~~ signs a written waiver stating that he has received and reviewed ~~the~~
39 detailed information on the risks associated with meningococcal disease and hepatitis B and the
40 availability and effectiveness of any vaccine and has chosen not to be or not to have the student
41 vaccinated.

42 D. Any student shall be exempt from the immunization requirements set forth in ~~this~~
43 ~~section~~ subsections B and C who (i) objects on the grounds that administration of immunizing
44 agents conflicts with his religious tenets or practices, unless the Board of Health has declared an
45 emergency or epidemic of disease ~~has been declared by the Board of Health~~, or (ii) presents a
46 statement from a licensed physician ~~which that~~ states that his physical condition is such that
47 administration of one or more of the required immunizing agents would be detrimental to his
48 health.

49 E. The Board and Commissioner of Health shall cooperate with any board of visitors
50 seeking assistance in the implementation of this section.

51 F. ~~Further, the State~~ The Council ~~of Higher Education~~ shall, in cooperation with the
52 Board and Commissioner of Health, encourage private ~~colleges and universities~~ institutions of
53 higher education to develop a procedure for providing information about the risks associated

54 with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine
55 against meningococcal disease and hepatitis B.

56 **Drafting note: Technical changes.**

57 § ~~23-9.2:3.2~~ 23.1-801. ~~Education~~ Educational program on human immunodeficiency
58 virus infection.

59 ~~Virginia~~ Each public ~~institutions~~ institution of higher education, in cooperation with the
60 Department of Health, shall develop and implement ~~education~~ educational programs for college
61 students on the etiology, effects, and prevention of infection with human immunodeficiency
62 virus.

63 **Drafting note: Technical changes.**

64 § ~~23-9.2:8~~ 23.1-802. Student mental health; policies; website resource.

65 A. The governing board of each public institution of higher education shall develop and
66 implement policies that (i) advise students, faculty, and staff, including residence hall staff, of
67 the proper procedures for identifying and addressing the needs of students exhibiting suicidal
68 tendencies or behavior; and (ii) provide for training; where appropriate. Such policies shall
69 require procedures for notifying the institution's student health or counseling center for the
70 purposes set forth in ~~subsection C~~ subdivision B 4 of § ~~23-9.2:3~~ 23.1-1303 when a student
71 exhibits suicidal tendencies or behavior.

72 B. The governing board of each baccalaureate public ~~four-year~~ institution of higher
73 education shall establish a written memorandum of understanding with its local community
74 services board or behavioral health authority and with local hospitals and other local mental
75 health facilities in order to expand the scope of services available to students seeking treatment.
76 The memorandum shall designate a contact person to be notified when a student is involuntarily
77 committed; or when a student is discharged from a facility and consents to such notification.
78 The memorandum shall ~~also~~ provide for the inclusion of the institution in the post-discharge
79 planning of a student who has been committed and intends to return to campus, to the extent
80 allowable under state and federal privacy laws.

81 ~~§ 23-9.2:14. Mental health resources website page required.~~

82 ~~C. Each four-year baccalaureate~~ public institution of higher education shall create and
83 feature on its website a page with information dedicated solely to the mental health resources
84 available to students at the institution.

85 **Drafting note: The provisions of existing §§ 23-9.2:8 and 23-9.2:14 are logically**
86 **combined as proposed § 23.1-802. Technical changes are made.**

87 Article 2.

88 Campus Safety; General Provisions.

89 **Drafting note: Provisions of existing Chapter 1 relating to campus safety generally**
90 **are consolidated in proposed Article 2 of Chapter 8, and technical changes are made.**

91 ~~§ 23-9.2:11~~ 23.1-803. First warning notification and emergency ~~notification~~ broadcast
92 system required.

93 ~~By January 1, 2009, the A. The~~ governing ~~boards~~ board of each public institution of
94 higher education shall establish a comprehensive, prompt, and reliable first warning notification
95 and emergency broadcast system for their students, faculty, and staff, both on and off campus.
96 Such system shall be activated in the case of an emergency and may rely on website
97 announcements; email notices; phone, cellular phone, and text messages; alert lines; public
98 address systems; and other means of communication. ~~In addition, each~~

99 B. Each public institution of higher education shall designate individuals authorized to
100 activate the first warning notification and emergency broadcast system and provide such
101 individuals with appropriate training for its use.

102 **Drafting note: An obsolete 2009 deadline is stricken, and technical changes are**
103 **made.**

104 ~~§ 23-9.2:9~~ 23.1-804. Institutional crisis and emergency management plan; ~~review~~
105 ~~required; annual functional exercise required.~~

106 A. The ~~board of visitors or other~~ governing ~~body~~ board of each public institution of
107 higher education shall develop, adopt, and keep current a written crisis and emergency

108 management plan. The plan shall ~~include a provision that~~ (i) require the Department of Criminal
109 Justice Services and the Virginia Criminal Injuries Compensation Fund ~~shall to~~ be contacted
110 immediately to deploy assistance in the event of an emergency as defined in the emergency
111 response plan when there are victims as defined in § 19.2-11.01 and (ii) include current contact
112 information for both agencies. The Department of Criminal Justice Services and the Virginia
113 Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those
114 individuals determined to be victims, ~~and the plan shall also contain current contact information~~
115 for both agencies.

116 B. Every four years, each public institution of higher education shall conduct a
117 comprehensive review and revision of its crisis and emergency management plan to ensure that
118 the plan remains current, and the revised plan shall be adopted formally by the ~~board of visitors~~
119 ~~or other~~ governing body board. Such review shall also be certified in writing to the Department
120 of Emergency Management. The institution shall coordinate with the local emergency
121 management organization, as defined by in § 44-146.16, to ensure integration into the local
122 emergency operations plan.

123 C. ~~In addition, the~~ The Chancellor of the System and the president and vice-president of
124 each baccalaureate public institution of higher education, or in the case of the Virginia Military
125 Institute, the superintendent, shall annually (i) review the institution's crisis and emergency
126 management plan; (ii) certify in writing to the Department of Emergency Management that the
127 Chancellor, president and vice-president, or ~~the~~ superintendent, have has reviewed the plan; and
128 (iii) make recommendations to the institution for appropriate changes to the plan.

129 D. Each public institution of higher education shall annually conduct a functional
130 exercise in accordance with the protocols established by the institution's crisis and emergency
131 management plan and certify in writing to the Department of Emergency Management that such
132 exercise was conducted.

133 **Drafting note: Technical changes.**

134 § ~~23-9.2-10~~ 23.1-805. Violence prevention committee; threat assessment team.

135 A. Each public ~~college or university~~ institution of higher education shall ~~have in place~~
136 establish policies and procedures for the prevention of violence on campus, including
137 assessment of and intervention with individuals whose behavior poses a threat to the safety of
138 the campus community.

139 B. The ~~board of visitors or other~~ governing body board of each public institution of
140 higher education shall determine a violence prevention committee structure on campus
141 composed of individuals charged with education on and prevention of violence on campus. Each
142 violence prevention committee shall include representatives from student affairs, law
143 enforcement, human resources, counseling services, residence life, and other constituencies as
144 needed. ~~Such committee and~~ shall ~~also~~ consult with legal counsel as needed. ~~Once formed, each~~
145 Each violence prevention committee shall develop a clear statement of: ~~(i)~~ mission, ~~(ii)~~
146 membership, and ~~(iii)~~ leadership. Such statement shall be published and made available to the
147 campus community.

148 C. Each violence prevention committee shall ~~be charged with~~: (i) ~~providing~~ provide
149 guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior
150 that may represent a physical threat to the community; (ii) ~~identifying~~ identify members of the
151 campus community to whom threatening behavior should be reported; (iii) ~~establishing~~ establish
152 policies and procedures that outline circumstances under which all faculty and staff are required
153 to report behavior that may represent a physical threat to the community, provided that such
154 report is consistent with state and federal law; and (iv) ~~establishing~~ establish policies and
155 procedures for (a) the assessment of individuals whose behavior may present a threat, (b)
156 appropriate means of intervention with such individuals, and (c) sufficient means of action,
157 including interim suspension, referrals to community services boards or health care providers
158 for evaluation or treatment, medical separation to resolve potential physical threats, ~~or~~ and
159 notification of family members or guardians, or both, unless such notification would prove
160 harmful to the individual in question, consistent with state and federal law.

161 D. The ~~board of visitors or other~~ governing body board of each public institution of
162 higher education shall establish a ~~specific~~ threat assessment team that ~~shall include~~ includes
163 members from law enforcement, mental health professionals, representatives of student affairs
164 and human resources, and, if available, college or university counsel. ~~Such~~ Each threat
165 assessment team shall implement the assessment, intervention, and action policies set forth by
166 the violence prevention committee pursuant to subsection C.

167 E. Each threat assessment team shall establish relationships or utilize existing
168 relationships with mental health agencies and local and state law-enforcement agencies ~~as well~~
169 ~~as mental health agencies~~ to expedite assessment of and intervention with individuals whose
170 behavior may present a threat to safety. Upon a preliminary determination that an individual
171 poses a threat of violence to self or others, or exhibits significantly disruptive behavior or a need
172 for assistance, ~~a the~~ threat assessment team may obtain criminal history record information, as
173 provided in §§ 19.2-389 and 19.2-389.1, and health records, as provided in § 32.1-127.1:03.

174 F. No member of a threat assessment team shall redisclose any criminal history record
175 information or health information obtained pursuant to this section or otherwise use any record
176 of an individual beyond the purpose for which such disclosure was made to the threat
177 assessment team.

178 **Drafting note: Technical changes.**

179 ~~§ 23-9.2:15~~ 23.1-806. Reporting of acts of sexual violence.

180 A. For purposes of this section:

181 "Campus" means (i) any building or property owned or controlled by an institution of
182 higher education within the same reasonably contiguous geographic area of the institution and
183 used by the institution in direct support of, or in a manner related to, the institution's educational
184 purposes, including residence halls, and (ii) any building or property that is within or reasonably
185 contiguous to the area described in clause (i) that is owned by the institution but controlled by
186 another person, is frequently used by students, and supports institutional purposes, such as a
187 food or other retail vendor.

188 "Noncampus building or property" means (i) any building or property owned or
189 controlled by a student organization officially recognized by an institution of higher education
190 or (ii) any building or property owned or controlled by an institution of higher education that is
191 used in direct support of, or in relation to, the institution's educational purposes, is frequently
192 used by students, and is not within the same reasonably contiguous geographic area of the
193 institution.

194 "Public property" means all public property, including thoroughfares, streets, sidewalks,
195 and parking facilities, that is within the campus, or immediately adjacent to and accessible from
196 the campus.

197 "Responsible employee" means a person employed by a public institution of higher
198 education or ~~private~~ nonprofit private institution of higher education who has the authority to
199 take action to redress sexual violence, who has been given the duty of reporting acts of sexual
200 violence or any other misconduct by students to the Title IX coordinator or other appropriate
201 institution designee, or whom a student could reasonably believe has this authority or duty.

202 "Sexual violence" means physical sexual acts perpetrated against a person's will or
203 where a person is incapable of giving consent.

204 "Title IX coordinator" means an employee designated by a public institution of higher
205 education or ~~private~~ nonprofit private institution of higher education to coordinate the
206 institution's efforts to comply with and carry out the institution's responsibilities under Title IX
207 (20 U.S.C. § 1681 et seq.). If no such employee has been designated by the institution, the
208 institution shall designate an employee who will be responsible for receiving information of
209 alleged acts of sexual violence from responsible employees in accordance with subsection B.

210 B. Any responsible employee who in the course of his employment obtains information
211 that an act of sexual violence may have been committed against a student attending the
212 institution or may have occurred on campus, in or on a noncampus building or property, or on
213 public property shall report such information to the Title IX coordinator as soon as practicable
214 after addressing the immediate needs of the victim.

215 C. Upon receipt of information pursuant to subsection B, the Title IX coordinator or his
216 designee shall promptly report the information, including any personally identifiable
217 information, to a review committee established pursuant to subsection D. Nothing in this section
218 shall prevent the Title IX coordinator or any other responsible employee from providing any
219 information to law enforcement with the consent of the victim.

220 D. Each public institution of higher education—~~or and nonprofit~~ private—~~nonprofit~~
221 institution of higher education shall establish a review committee for the purposes of reviewing
222 information related to acts of sexual violence, including information reported pursuant to
223 subsection C. Such review committee shall consist of three or more persons and shall include
224 the Title IX coordinator or his designee, a representative of law enforcement, and a student
225 affairs representative. If the institution has established a campus police department pursuant to
226 [Chapter 17 Article 3](#) (§ ~~23-232~~ [23.1-809](#) et seq.)—~~of this title~~, the representative of law
227 enforcement shall be a member of such department; ~~;~~ otherwise, the representative of law
228 enforcement shall be a representative of campus security. The review committee may be the
229 threat assessment team established under § ~~23-9.2:10~~ [23.1-805](#) or a separate body. The review
230 committee may obtain law-enforcement records, criminal history record information as provided
231 in §§ 19.2-389 and 19.2-389.1, health records as provided in § 32.1-127.1:03, available
232 institutional conduct or personnel records, and known facts and circumstances of the
233 information reported pursuant to subsection C or information or evidence known to the
234 institution or to law enforcement. The review committee shall be considered to be a threat
235 assessment team established pursuant to § ~~23-9.2:10~~ [23.1-805](#) for purposes of (i) obtaining
236 criminal history record information and health records and (ii) the Virginia Freedom of
237 Information Act (§ 2.2-3700 et seq.). The review committee shall conduct its review in
238 compliance with federal privacy law.

239 E. Upon receipt of information of an alleged act of sexual violence reported pursuant to
240 subsection C, the review committee shall meet within 72 hours to review the information and
241 shall meet again as necessary as new information becomes available.

242 F. If, based on consideration of all factors, the review committee, or if the committee
243 cannot reach a consensus, the representative of law enforcement on the review committee,
244 determines that the disclosure of the information, including personally identifiable information,
245 is necessary to protect the health or safety of the student or other individuals as set forth in 34
246 C.F.R. § 99.36, the representative of law enforcement on the review committee shall
247 immediately disclose such information to the law-enforcement agency that would be responsible
248 for investigating the alleged act of sexual violence. Such disclosure shall be for the purposes of
249 investigation and other actions by law enforcement. Upon such disclosure, the Title IX
250 coordinator or his designee shall notify the victim that such disclosure is being made. The
251 provisions of this subsection shall not apply if the law-enforcement agency responsible for
252 investigating the alleged act of sexual violence is located outside the United States.

253 G. In cases in which the alleged act of sexual violence would constitute a felony
254 violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, the representative of law
255 enforcement on the review committee shall inform the other members of the review committee
256 and shall within 24 hours consult with the attorney for the Commonwealth or other prosecutor
257 responsible for prosecuting the alleged act of sexual violence and provide to him the
258 information received by the review committee without disclosing personally identifiable
259 information, unless such information was disclosed pursuant to subsection F. In addition, if such
260 consultation does not occur and any other member of the review committee individually
261 concludes that the alleged act of sexual violence would constitute a felony violation of Article 7
262 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, that member shall within 24 hours consult with the
263 attorney for the Commonwealth or other prosecutor responsible for prosecuting the alleged act
264 of sexual violence and provide to him the information received by the review committee without
265 disclosing personally identifiable information, unless such information was disclosed pursuant
266 to subsection F.

267 H. At the conclusion of the review, the Title IX coordinator and the law-enforcement
268 representative shall each retain (i) the authority to proceed with any further investigation or

269 adjudication allowed under state or federal law and (ii) independent records of the review team's
270 considerations, which shall be maintained under applicable state and federal law.

271 I. No responsible employee shall be required to make a report pursuant to subsection B
272 if:

273 1. The responsible employee obtained the information through any communication
274 considered privileged under state or federal law or the responsible employee obtained the
275 information in the course of providing services as a licensed health care professional, an
276 employee providing administrative support for such health care professionals, a professional
277 counselor, an accredited rape crisis or domestic violence counselor, a campus victim support
278 personnel, a member of clergy, or an attorney; or

279 2. The responsible employee has actual knowledge that the same matter has already been
280 reported to the Title IX coordinator or to the attorney for the Commonwealth or the law-
281 enforcement agency responsible for investigating the alleged act of sexual violence.

282 J. Any responsible employee who makes a report required by this section or testifies in a
283 judicial or administrative proceeding as a result of such report shall be immune from any civil
284 liability alleged to have resulted therefrom unless such person acted in bad faith or with
285 malicious intent.

286 K. The provisions of this section shall not require a person who is the victim of an
287 alleged act of sexual violence to report such violation.

288 L. The institution shall ensure that a victim of an alleged act of sexual violence is
289 informed of (i) the available law-enforcement options for investigation and prosecution; (ii) the
290 importance of collection and preservation of evidence; (iii) the available options for a protective
291 order; (iv) the available campus options for investigation and adjudication under the institution's
292 policies; (v) the victim's rights to participate or decline to participate in any investigation to the
293 extent permitted under state or federal law; (vi) the applicable federal or state confidentiality
294 provisions that govern information provided by a victim; (vii) the available on-campus
295 resources and any unaffiliated community resources, including sexual assault crisis centers,

296 domestic violence crisis centers, or other victim support services; and (viii) the importance of
297 seeking appropriate medical attention.

298 **Drafting note: Technical changes.**

299 § ~~23-9.2-16~~ 23.1-807. Sexual assault; memorandum of understanding; policies.

300 A. ~~Each Richard Bland College and each baccalaureate~~ public institution of higher
301 education ~~or and nonprofit~~ private ~~nonprofit~~ institution of higher education shall establish, and
302 the State Board ~~for Community Colleges~~ shall adopt a policy requiring each comprehensive
303 community college to establish, a written memorandum of understanding with a sexual assault
304 crisis center or other victim support service in order to provide sexual assault victims with
305 immediate access to a confidential, independent advocate who can provide a trauma-informed
306 response that includes an explanation of options for moving forward.

307 B. Each public institution of higher education ~~or and nonprofit~~ private ~~nonprofit~~
308 institution of higher education shall adopt policies to provide to sexual assault victims
309 information on contacting such sexual assault crisis center or other victim support service.

310 **Drafting note: Technical changes.**

311 § ~~23-9.2-17~~ 23.1-808. Sexual violence policy review.

312 By October 31 of each year, the System, Richard Bland College, each baccalaureate
313 public institution of higher education ~~or, and each nonprofit~~ private ~~nonprofit~~ institution of
314 higher education ~~and the State Board for Community Colleges~~ shall certify to the ~~State~~ Council
315 ~~of Higher Education for Virginia~~ that it has reviewed its sexual violence policy and updated it as
316 appropriate. The ~~State~~ Council ~~of Higher Education for Virginia~~ and the Department of
317 Criminal Justice Services shall establish criteria for the certification process and may request
318 information relating to the policies for the purposes of sharing best practices and improving
319 campus safety. The ~~State~~ Council ~~of Higher Education for Virginia~~ and the Department of
320 Criminal Justice Services shall report to the Secretary of Education on the certification status of
321 each such institution ~~and the Virginia Community College System~~ by November 30 of each
322 year.

323 **Drafting note: Technical changes.**

324 ~~CHAPTER 17.~~

325 ~~CAMPUS POLICE DEPARTMENTS.~~

326 Article 3.

327 Campus Safety; Campus Police Departments.

328 **Drafting note: Existing Chapter 17 is logically reorganized as proposed Article 3 of**
329 **Chapter 8, and technical changes are made.**

330 § ~~23-232~~ 23.1-809. Establishment Public institutions of higher education; establishment
331 of campus police departments authorized; employment of officers.

332 A. The governing board of each public institution of higher ~~learning named in § 23-14,~~
333 ~~hereafter sometimes referred to in this chapter as "institution," is authorized to~~ education may
334 establish a campus police department and ~~to~~ employ campus police officers and auxiliary police
335 forces upon appointment as provided in §§ ~~23-233~~ 23.1-811 and ~~23-233.1~~ 23.1-812. Such
336 employment shall be governed by the Virginia Personnel Act, ~~as set forth in Chapter 29~~ (§ 2.2-
337 2900 et seq.) ~~of Title 2.2,~~ except that the governing body board of a public institution of higher
338 education may direct that the employment of the chief of the campus police department is not
339 governed by the Virginia Personnel Act.

340 B. The Virginia Commonwealth University Health System Authority ~~shall be authorized~~
341 ~~to~~ may employ police officers and auxiliary forces as provided in this ~~chapter article~~ and in §
342 ~~23-50.16:10~~ 23.1-2406, except that the employment of such officers and forces shall not be
343 governed by the Virginia Personnel Act (§ 2.2-2900 et seq.).

344 **Drafting note: Technical changes.**

345 § ~~23-232.1~~ 23.1-810. Authorization for campus police departments in private institutions
346 of higher education.

347 The governing board of each private institution of higher education ~~is authorized to~~ may
348 establish, in compliance with the provisions of this ~~chapter article~~, a campus police department
349 and ~~to~~ employ campus police officers upon appointment as provided in § ~~23-233~~ 23.1-812.

350 Except as such provisions apply exclusively to public institutions of higher education or
351 employees, the provisions of this ~~chapter article~~ shall apply to the appointment and employment
352 of officers, and the operation, powers, duties, and jurisdiction of ~~private~~ campus police
353 departments at private institutions of higher education, and such departments shall be subject to
354 and enjoy the benefits of this ~~chapter article~~. However, to be qualified to use the word "police"
355 to describe the department or its officers, any private ~~college or university which~~ institution of
356 higher education that establishes a campus police department shall require ~~that~~ each officer to
357 comply with the training or other requirements for law-enforcement officers established by the
358 Department of Criminal Justice Services pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1.

359 **Drafting note: Technical changes.**

360 § ~~23-233.1~~ 23.1-811. Establishment of auxiliary police forces; ~~powers, authority and~~
361 ~~immunities generally~~.

362 The governing ~~boards~~ board of each public institution of higher education and private
363 institution of higher education, for the further preservation of public peace, safety, and good
364 order of the campus community, ~~shall have the power to~~ may establish, equip, and maintain an
365 auxiliary police ~~forces~~ force. When called into service pursuant to procedures established by the
366 governing board, members of ~~these such~~ auxiliary forces shall have all the powers, authority,
367 and immunities of ~~public institutions of higher education~~ campus police officers at public
368 institutions of higher education.

369 **Drafting note: Technical changes.**

370 § ~~23-236~~ 23.1-812. ~~Investigation of prospective officers; terms of employment;~~
371 ~~uniforms, etc~~ Appointment of campus police officers and members of an auxiliary force.

372 A. Prior to appointment as a campus police officer or member of an auxiliary force, each
373 ~~person~~ individual shall be investigated by the campus police department of the institution
374 applying for the order of appointment or, if none has been established, by the police department
375 of the ~~county, city or town~~ locality in which such institution is located. Such investigation shall

376 determine whether the ~~person~~ individual is responsible, honest, and in all ways capable of
377 performing the duties of a campus police officer.

378 ~~§ 23-233. Appointment of officers.~~

379 B. Upon application of the governing board of ~~an a public~~ institution of higher education
380 or private institution of higher education, the circuit court of the ~~county or city wherein~~ locality
381 in which the institution is located, ~~in its discretion~~, may, by order, appoint the ~~persons~~
382 individuals named in the application to be campus police officers or members of an auxiliary
383 force at such institution.

384 ~~B. C.~~ Each campus police officer and member of an auxiliary force appointed and
385 employed pursuant to this ~~chapter shall be~~ article is a state employee of the institution named in
386 the order of appointment. Insofar as it is not inconsistent with the Virginia Personnel Act (§ 2.2-
387 2900 et seq.), the governing board of such institution shall provide for the conditions and terms
388 of employment and compensation and ~~provide~~ a distinctive uniform and badge of office for such
389 officers and members of an auxiliary force.

390 **Drafting note: Technical changes are made, including (i) changing a reference in**
391 **subsection A to "county, city or town" to "locality" pursuant to § 1-221, which states that**
392 **throughout the Code "locality" means a county, city, or town; (ii) incorporating existing §**
393 **23-233, Appointment of officers, as proposed subsection B of this section; and (iii)**
394 **changing subsection B of § 23-236 to subsection C.**

395 ~~§ 23-235~~ 23.1-813. Officers and members to comply with requirements of Department
396 of Criminal Justice Services.

397 All ~~persons~~ individuals appointed and employed as campus police officers or ~~as~~
398 members of an auxiliary ~~forces~~ force pursuant to this ~~chapter~~ article shall comply with the
399 requirements for law-enforcement officers as established by the Department of Criminal Justice
400 Services pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1.

401 **Drafting note: Technical changes.**

402 § ~~23-237~~ 23.1-814. Termination of employment of campus police officers and members
403 of auxiliary police forces.

404 ~~A person~~ An individual appointed as a campus police officer or a member of an auxiliary
405 police force shall exercise his powers only as long as he remains employed or activated, as the
406 case may be, by the institution named in the order of the appointment. The appointment order
407 entered by the circuit court shall automatically be revoked upon the termination of the ~~officer's~~
408 employment of the officer or member at the institution and may be revoked by the court for
409 malfeasance, misfeasance, or nonfeasance. The institution shall notify the court upon
410 termination of the ~~officer's~~ employment of the officer or member at the institution.

411 **Drafting note: Technical changes.**

412 § ~~23-234~~ 23.1-815. ~~Powers~~ Campus police forces and auxiliary police forces; powers
413 and duties; jurisdiction.

414 A. As used in this section:

415 "Campus" means (i) any building or property owned or controlled by an institution of
416 higher education located within the same reasonably contiguous geographic area of the
417 institution and used by the institution in direct support of, or in a manner related to, the
418 institution's educational purposes, including residence halls, and (ii) any building or property
419 that is within or reasonably contiguous to the area described in clause (i) that is owned by the
420 institution but controlled by another person, is frequently used by students, and supports
421 institutional purposes, such as a food or other retail vendor.

422 "Noncampus building or property" means (i) any building or property owned or
423 controlled by a student organization that is officially recognized by an institution of higher
424 education or (ii) any building or property owned or controlled by an institution of higher
425 education that is used in direct support of, or in relation to, the institution's educational
426 purposes, is frequently used by students, and is not within the same reasonably contiguous
427 geographic area of the institution.

428 "Public property" means all public property, including thoroughfares, streets, sidewalks,
429 and parking facilities, that is within the campus, or immediately adjacent to and accessible from
430 the campus.

431 B. A campus police officer appointed as provided in § ~~23-233~~ 23.1-812 or a member of
432 an auxiliary police force appointed and activated pursuant to § ~~23-233.1~~ § 23.1-811 and 23.1-
433 812 shall be deemed police officers of localities who may exercise the powers and duties
434 conferred by law upon such police officers ~~of cities, towns, or counties, and shall be so deemed,~~
435 including ~~but not limited to~~ the provisions of Chapters 5 (§ 19.2-52 et seq.), 7 (§ 19.2-71 et
436 seq.), and 23 (§ 19.2-387 et seq.) of Title 19.2, (i) upon any property owned or controlled by the
437 ~~relevant~~ public institution of higher education or private institution of higher education, or, upon
438 request, any property owned or controlled by another public institution of higher education or
439 private institution of higher education, and upon the streets, sidewalks, and highways,
440 immediately adjacent ~~thereto, to any such property;~~ (ii) pursuant to a mutual aid agreement (a)
441 as provided for in § 15.2-1727 or (b) between the governing board of a public institution of
442 higher education or private institution of higher education and ~~such other another public or~~
443 private institution of higher education, ~~public or private,~~ in the Commonwealth or an adjacent
444 political ~~subdivisions, subdivision;~~ (iii) in close pursuit of a person as provided in § 19.2-77;
445 and (iv) upon approval by the appropriate circuit court of a petition by the local governing body
446 for concurrent jurisdiction in designated areas with the police officers of the ~~county, city, or~~
447 town locality in which the institution, its satellite campuses, or other properties are located. The
448 local governing body may only petition the circuit court for such concurrent jurisdiction
449 pursuant ~~only~~ to a request by the local law-enforcement agency ~~for concurrent jurisdiction.~~

450 ~~B. All public or~~ C. Each public institution of higher education and private ~~institutions~~
451 institution of higher education that ~~have~~ establishes a campus police ~~forces established in~~
452 ~~accordance with the provisions of force pursuant to this chapter article~~ shall enter into and
453 become a party to a mutual aid ~~agreements~~ agreement with ~~one or more of the following:~~ (i) an
454 adjacent local law-enforcement agency or ~~(ii)~~ the Department of State Police, for the use of their

455 ~~regular and auxiliary~~ joint forces, ~~both regular and auxiliary~~, equipment, and materials when
456 needed in the investigation of any felony criminal sexual assault or medically unattended death
457 occurring on property owned or controlled by ~~the such~~ institution ~~of higher education~~ or any
458 death resulting from an incident occurring on such property. Such mutual aid agreements shall
459 include provisions requiring either the campus police force or the agency with which it has
460 established a mutual aid agreement pursuant to this subsection, in the event that such police
461 force or agency conducts an investigation that involves a felony criminal sexual assault as set
462 forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 occurring on campus, in or on a
463 noncampus building or property, or on public property, to notify the local attorney for the
464 Commonwealth of such investigation within 48 hours of beginning such investigation. ~~Such No~~
465 ~~such~~ notification provision shall ~~not~~ require a campus police force or the agency with which it
466 has established a mutual aid agreement to disclose identifying information about the victim. ~~The~~
467 ~~provisions of Nothing in~~ this section ~~shall not prohibit~~ prohibits a campus police force or
468 auxiliary police force from requesting assistance from any appropriate law-enforcement agency
469 of the Commonwealth, ~~even though a with which the institution has not entered into a~~ mutual
470 aid agreement ~~has not been executed with that agency~~.

471 ~~C. All public or~~ D. Each public institution of higher education and private ~~institutions~~
472 institution of higher education that (i) ~~do not have~~ has not established a campus police ~~forces~~
473 ~~established in accordance with the provisions of~~ force or auxiliary police force pursuant to this
474 ~~chapter article~~ and (ii) ~~have~~ has a security ~~departments department,~~ rely relies on ~~municipal,~~
475 ~~county, local~~ or state police forces, or ~~contract contracts~~ for security services from private
476 parties pursuant to § ~~23-238~~ 23.1-819 shall enter into and become a party to a memorandum of
477 understanding with an adjacent local law-enforcement agency or the Department of State Police
478 (the Department) to require either such local law-enforcement agency or the Department, in the
479 event that such agency or the Department conducts an investigation that involves a felony
480 criminal sexual assault as set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2
481 occurring on campus, in or on a noncampus building or property, or on public property, to notify

482 the local attorney for the Commonwealth of such investigation within 48 hours of beginning
483 such investigation. ~~Such~~ No such notification provision shall ~~not~~ require the law-enforcement
484 agency or the Department to disclose identifying information about the victim.

485 ~~D. For purposes of this section:~~

486 ~~"Campus" means (i) any building or property owned or controlled by an institution of~~
487 ~~higher education located within the same reasonably contiguous geographic area of the~~
488 ~~institution and used by the institution in direct support of, or in a manner related to, the~~
489 ~~institution's educational purposes, including residence halls, and (ii) any building or property~~
490 ~~that is within or reasonably contiguous to the area described in clause (i) that is owned by the~~
491 ~~institution but controlled by another person, is frequently used by students, and supports~~
492 ~~institutional purposes, such as a food or other retail vendor.~~

493 ~~"Noncampus building or property" means (i) any building or property owned or~~
494 ~~controlled by a student organization that is officially recognized by an institution of higher~~
495 ~~education or (ii) any building or property owned or controlled by an institution of higher~~
496 ~~education that is used in direct support of, or in relation to, the institution's educational~~
497 ~~purposes, is frequently used by students, and is not within the same reasonably contiguous~~
498 ~~geographic area of the institution.~~

499 ~~"Public property" means all public property, including thoroughfares, streets, sidewalks,~~
500 ~~and parking facilities, that is within the campus, or immediately adjacent to and accessible from~~
501 ~~the campus.~~

502 **Drafting note: Technical changes are made, including moving definitions to the**
503 **beginning of the proposed section.**

504 ~~§ 23-234.1~~ 23.1-816. Extending police power of public institutions of higher education
505 beyond boundaries ~~thereof~~; jurisdiction of general district courts; duty of attorneys for the
506 Commonwealth.

507 A. The governing board of any public institution of higher education that leases, rents, or
508 owns satellite campuses, public buildings, and other property located beyond the limits of such

509 institution ~~shall have and~~ has and may exercise full police power over ~~these properties such~~
510 property and ~~over persons individuals~~ using ~~the same such property~~. The governing board may
511 prescribe ~~rules policies~~ and regulations for the operation and use of ~~these such~~ properties and ~~for~~
512 the conduct of ~~all persons individuals~~ using ~~them such property~~ and may provide appropriate
513 administrative penalties for the violation of ~~these rules such policies~~ and regulations.

514 B. The general district court for the ~~county, city, or town where~~ locality in which
515 violations of law or ~~approved policies or~~ regulations established by the governing board of the
516 institution ~~occurs shall have pursuant to subsection A has~~ jurisdiction ~~of over~~ all cases ~~arising~~
517 within the county, city, or town involving such violations.

518 C. It ~~shall be~~ is the duty of ~~the each local~~ attorney for the Commonwealth ~~for the county,~~
519 ~~city, or town where the offense occurs~~ to prosecute all violators of the laws pertaining to the
520 provisions enumerated in this ~~chapter article that occur in such locality~~.

521 **Drafting note: Technical changes are made, including changing references to**
522 **"counties, cities, and towns" to "localities" pursuant to § 1-221, which states that**
523 **throughout the Code "locality" means a county, city, or town.**

524 § ~~23-232.2~~ 23.1-817. Inspection of criminal incident information.

525 A. ~~Criminal incident information, as described in subsection B,~~ of any campus police
526 department established pursuant to § ~~23-232.1~~ 23.1-810, including (i) the date, time, and general
527 location of the alleged crime; (ii) a general description of injuries suffered or property damaged
528 or stolen; and (iii) the name and address of any individual arrested as a result of felonies
529 committed against persons or property or misdemeanors involving assault, battery, or moral
530 turpitude reported to the campus police, shall be open to inspection and copying by any ~~(i)~~
531 citizen of the Commonwealth, ~~(ii)~~ currently registered student of the institution, or ~~(iii)~~ parent of
532 a registered student; during the regular office hours of the custodian of such information-

533 B. ~~Criminal incident information shall include (i) the date, time, and general location of~~
534 ~~the alleged crime; (ii) a general description of injuries suffered or property damaged or stolen;~~
535 ~~and (iii) the name and address of any individual arrested as a result of felonies committed~~

536 ~~against persons or property or misdemeanors involving assault, battery, or moral turpitude~~
537 ~~reported to the campus police, except where~~ unless such disclosure is prohibited by law;
538 ~~however, where.~~ If the release of such information is likely to jeopardize an ongoing criminal
539 investigation or the safety of an individual, cause a suspect to flee or evade detection, or result
540 in the destruction of evidence, such information may be withheld until ~~the above referenced~~
541 such damage is no longer likely to occur from the release of such information.

542 **Drafting note: Technical changes.**

543 § ~~23-238~~ 23.1-818. Security departments and other security services.

544 Nothing in this ~~chapter~~ article shall abridge the authority of the governing board of ~~an a~~
545 public institution of higher education or private institution of higher education to establish
546 security departments, whose officers and employees shall not have the powers and duties set
547 forth in § ~~23-234~~ 23.1-815, in place of or ~~supplemental~~ in addition to campus police
548 departments ~~or to~~, rely upon ~~municipal, county~~ local or state police forces, ~~or to~~ contract for
549 security services from private parties.

550 **Drafting note: Technical changes.**

551

552

553

554

555

556

557

558

559

560

561

562

563

CHAPTER 9.

564

ACADEMIC POLICIES.

565

566

567

Drafting note: Provisions in existing Chapters 1 and 1.1 relating to academic policies that apply to certain institutions of higher education in the Commonwealth are consolidated in proposed Chapter 9, and technical changes are made.

568

Article 1.

569

General Provisions.

570

571

572

Drafting note: Provisions in existing Chapter 1 relating to academic policies in general are consolidated in proposed Article 1 of Chapter 9, and technical changes are made.

573

§ ~~23-9.2-18~~ 23.1-900. Academic transcripts; suspension, permanent dismissal, or withdrawal from institution.

574

575

A. As used in this section, "sexual violence" means physical sexual acts perpetrated against a person's will or against a person incapable of giving consent.

576

577

B. The registrar of each (i) private institution of higher education that is eligible to participate in the Tuition Assistance Grant Program or to receive project financing from the Virginia College Building Authority pursuant to ~~the Educational Facilities Authority Act of 1972~~ Article 2 (§ ~~23-30-39~~ 23.1-12xx et seq.) of Chapter 12 and (ii) public institution of higher education, or the other employee, office, or department of the institution that is responsible for maintaining student academic records, shall include a prominent notation on the academic transcript of each student who has been suspended for, has been permanently dismissed for, or withdraws from the institution while under investigation for an offense involving sexual violence under the institution's code, rules, or set of standards governing student conduct stating that such student was suspended for, was permanently dismissed for, or withdrew from the institution while under investigation for an offense involving sexual violence under the institution's code, rules, or set of standards. Such notation shall be substantially in the following form: "[Suspended, Dismissed, or Withdrew while under investigation] for a violation of [insert

589

590 name of institution's code, rules, or set of standards]." Each such institution shall (a) notify each
591 student that any such suspension, permanent dismissal, or withdrawal will be documented on the
592 student's academic transcript and (b) adopt a procedure for removing such notation from the
593 academic transcript of any student who is subsequently found not to have committed an offense
594 involving sexual violence under the institution's code, rules, or set of standards governing
595 student conduct. ~~For purposes of this section, "sexual violence" means physical sexual acts~~
596 ~~perpetrated against a person's will or against a person incapable of giving consent.~~

597 ~~B. C.~~ The institution shall remove from a student's academic transcript any notation
598 placed on such transcript pursuant to subsection ~~A. B~~ due to such student's suspension if the
599 student (i) completed the term and any conditions of the suspension ~~and any conditions thereof~~
600 and (ii) has been determined by the institution to be in good standing according to the
601 institution's code, rules, or set of standards governing such a determination.

602 ~~C. D.~~ The provisions of this section shall apply only to a student who is taking or has
603 taken a course at a campus of a public institution of higher education or private institution of
604 higher education ~~located in the Commonwealth described in subsection B~~; however, the
605 provisions of this section shall not apply to any public institution of higher education established
606 pursuant to Chapter ~~10.25~~ (§ ~~23-92~~ 23.1-2500 et seq.).

607 **Drafting note: Technical changes are made, including moving the definition of**
608 **"sexual violence" to the beginning of this proposed section.**

609 Article 2.

610 Programs of Instruction.

611 **Drafting note: Academic policy provisions of existing Chapter 1 relating to**
612 **programs of instruction are consolidated in proposed Article 2 of Chapter 9, and technical**
613 **changes are made.**

614 § ~~23-9.2:3.5~~ 23.1-901. ~~Education programs~~ Programs on ~~economic~~ economics education
615 and financial literacy.

616 ~~Virginia public colleges and universities~~ A. Public institutions of higher education shall
617 ~~make provisions for the promotion of the development of~~ promote the development of student
618 life skills ~~through the inclusion of~~ by including the principles of economics education and
619 financial literacy within an existing general education course, the freshman orientation process,
620 or ~~other~~ another appropriate venue. ~~These~~ Such principles may include, ~~but need not be limited~~
621 ~~to~~, instruction concerning personal finance, such as credit card use, opening and managing an
622 account in a financial institution, completing a loan application, managing student loans, savings
623 and investments, consumer rights and responsibilities, predatory lending practices and interest
624 rates, consumer fraud, identity theft and protection, and debt management.

625 B. ~~The State Council of Higher Education for Virginia~~ shall ~~also~~ encourage private
626 ~~colleges and universities~~ institutions of higher education to include such principles as part of
627 their student orientation programs.

628 **Drafting note: Technical changes are made, including removing "but need not be**
629 **limited to" when used in conjunction with "includes" in subsection A on the basis of § 1-**
630 **218, which states, "'Includes' means includes, but not limited to."**

631 § ~~23-9.2:3-6~~ 23.1-902. Education preparation programs offered by institutions of higher
632 education.

633 A. Education preparation programs offered by public institutions of higher education and
634 private institutions of higher education shall be required to meet the requirements for
635 accreditation and program approval as prescribed by the Board of Education in its regulations.

636 B. As provided in § 22.1-298.2, the Board of Education shall prescribe an assessment of
637 basic skills for individuals seeking entry into an approved education preparation program and
638 shall establish a minimum passing score for such assessment. The Board ~~also~~ of Education may
639 prescribe in its regulations other requirements for admission to ~~Virginia's~~ approved education
640 preparation programs ~~in its regulations in the Commonwealth~~.

641 C. ~~Candidates~~ Any candidate who ~~fail~~ fails to achieve the minimum score established by
642 the Board of Education may be denied entrance into ~~the relevant~~ an education preparation

643 program on the basis of such failure; ~~however, if enrolled in the program, they, but any such~~
644 ~~candidate who gains entrance and enrolls in an education preparation program~~ shall have the
645 opportunity to address ~~any~~ all deficiencies.

646 **Drafting note: Technical changes.**

647 § ~~23-9.2:7~~ 23.1-903. Distance learning.

648 ~~Effective January 1, 2005, each~~ Each public institution of higher education shall include
649 in its strategic plan information indicating to what extent, if any, it will use distance learning to
650 expand access to, improve the quality of, and minimize the cost of education at such institution.
651 For institutions ~~using that use distance learning~~ or ~~planning plan~~ to use distance learning in the
652 future, such information shall include the degree to which distance learning will be integrated
653 into the curriculum, benchmarks for measuring such integration, and a schedule for the
654 evaluation of ~~such~~ distance learning courses.

655 The ~~State~~ Council shall assist the governing ~~boards~~ board of each public institution of
656 higher education in the development of such information.

657 **Drafting note: The January 1, 2005, effective date is stricken as obsolete. Technical**
658 **changes are made.**

659 Article 3.

660 Course Credit.

661 **Drafting note: Academic policy provisions of existing Chapter 1 relating to course**
662 **credit are consolidated in proposed Article 3 of Chapter 9, and technical changes are**
663 **made.**

664 § ~~23-9.2:3.7~~ 23.1-904. Course credit; veterans; active duty military students.

665 A. The governing ~~boards~~ board of each public institution of higher education shall
666 implement policies that provide students called to active military duty during an academic
667 semester with the opportunity to earn full course credit. Such policies shall ~~include~~ provide, as
668 one option, that such students who have completed 75 percent of the course requirements at the
669 time of activation and who meet other specified requirements receive full course credit.

670 B. The governing ~~boards~~ board of each public institution of higher education shall, in
671 accordance with guidelines developed by the ~~State Council of Higher Education for Virginia~~,
672 implement policies for the purpose of awarding academic credit to students for educational
673 experience gained from service in the armed forces of the United States.

674 C. The governing ~~boards~~ board of each public institution of higher education shall, in
675 accordance with guidelines developed by the ~~State Council of Higher Education for Virginia~~,
676 implement policies that recognize the scheduling difficulties and obligations encountered by
677 active duty members of the armed forces of the United States ~~armed forces~~.

678 **Drafting note: Technical changes.**

679 ~~§ 23-9.2-3.8.~~

680 **Drafting note: Repealed by Acts 2015, c. 578, effective July 1, 2016.**

681 ~~§ 23-9.2-3.9~~ 23.1-905. Academic credit for American Sign Language.

682 ~~Aademic~~ Each public institution of higher education shall count credit received for
683 successful completion of American Sign Language courses either in a secondary school or
684 another institution of higher education ~~institution shall be counted~~ toward satisfaction of the
685 foreign language entrance requirements of ~~a~~ the public institution of higher education.

686 **Drafting note: Technical changes.**

687 ~~§ 23-9.2-3.10~~ 23.1-906. (Effective July 1, 2016) Course credit; Advanced Placement,
688 Cambridge Advanced, College-Level Examination Program, and International Baccalaureate
689 examinations.

690 A. The ~~State Council of Higher Education for Virginia (Council)~~, in consultation with
691 the governing board of each public institution of higher education, shall establish a policy for
692 granting undergraduate course credit to entering freshman students who have taken one or more
693 Advanced Placement, Cambridge Advanced (A/AS), College-Level Examination Program
694 (CLEP), or International Baccalaureate examinations. The policy shall:

695 1. Outline the conditions necessary for each public institution of higher education to
696 grant course credit, including the minimum required scores on such examinations;

697 2. Identify ~~each public institution of higher education's~~ the course credit or other
698 academic requirements of each public institution of higher education that the student satisfies by
699 achieving the minimum required scores on such examinations; and

700 3. Ensure, to the extent possible, that the grant of course credit is consistent across each
701 public institution of higher education and each such examination.

702 B. The Council and each public institution of higher education shall make the policy
703 available to the public on its website.

704 **Drafting note: Existing § 23-9.2:3.10 was enacted by Chapter 578 of the Acts of**
705 **Assembly of 2015 to become effective July 1, 2016. Technical changes are made.**

706 **Note to drafters: Remove effective date in final bill.**

707 Article 4.

708 Articulation, Transfer, and Dual Enrollment.

709 **Drafting note: Academic policy provisions of existing Chapters 1 and 1.1 relating to**
710 **articulation, transfer, and dual enrollment are consolidated in proposed Article 4 of**
711 **Chapter 9, and technical changes are made.**

712 § ~~23-9.2:3.02~~ 23.1-907. Articulation, dual admissions, and guaranteed admissions
713 agreements; admission of certain community college graduates.

714 A. The governing board of each ~~four-year baccalaureate~~ public institution of higher
715 education shall develop, consistent with ~~the State Council of Higher Education Guidelines~~
716 guidelines and the institution's six-year plan as set forth in § ~~23-38.87:17~~ 23.1-306, articulation,
717 dual admissions, and guaranteed admissions agreements with ~~all institutions within the Virginia~~
718 Community College System and any two-year public institution of higher education Richard
719 Bland College and all comprehensive community colleges.

720 B. ~~A Uniform Certificate of General Studies shall be developed by the State~~ The Council
721 of Higher Education, the Virginia Community College System, and the each public ~~institutions~~
722 institution of higher education shall develop a one-year uniform certificate of general studies
723 program as set forth in subdivision 20 of § ~~23-9.6:1~~ 23.1-203. All credits earned in academic

724 subject coursework by students attending ~~a two-year college~~ an associate-granting public
725 institution of higher education who complete ~~an approved the~~ one-year uniform certificate of
726 general studies program shall be transferrable to a ~~four-year~~ baccalaureate public institution of
727 higher education in accordance with Council guidelines.

728 C. The ~~State Council of Higher Education for Virginia~~ shall prepare an annual report on
729 the pertinent aspects of the pipeline of students transferring from ~~institutions within the Virginia~~
730 Community College System comprehensive community colleges to ~~four-year~~ baccalaureate
731 public institutions of higher education.

732 D. The ~~State Council of Higher Education~~, consistent with its responsibility to facilitate
733 the development of articulation, dual admissions, and guaranteed admissions agreements set
734 forth in §§ ~~23-9.6:1~~ 23.1-203 and ~~23-9.14:2~~ 23.1-908, shall develop guidelines for such
735 agreements.

736 E. Each ~~institution within the Virginia Community College System comprehensive~~
737 community college shall develop agreements for postsecondary degree attainment with the
738 public high schools in the school divisions that ~~they serve; such comprehensive community~~
739 college serves specifying the options for students to complete an associate's degree or a one-year
740 Uniform Certificate of General Studies concurrent with a high school diploma. Such agreements
741 shall specify the credit available for dual enrollment courses and Advanced Placement courses
742 with qualifying exam scores of three or higher. ~~Agreements shall be submitted by the~~
743 ~~institutions to the Chancellor of the Virginia Community College System and the~~
744 Superintendent of Public Instruction by April 15, 2013.

745 **Drafting note: A 2013 deadline for submission of agreements in subsection E is**
746 **stricken as obsolete. Technical changes are made, including replacing "institutions within**
747 **the Virginia Community Colleges System" with "comprehensive community colleges," a**
748 **term that has the same meaning and is defined title-wide in proposed § 23.1-100.**

749 § ~~23-9.14:2~~ 23.1-908. State Transfer Tool.

750 A. The Council shall develop, in cooperation with ~~the each~~ public ~~two-year and four-~~
751 ~~year institutions~~ institution of higher education, a State Transfer Tool that designates ~~those each~~
752 general education ~~courses~~ course that ~~are~~ is offered ~~within various in an~~ associate degree
753 ~~programs~~ program at ~~the an associate-granting~~ public ~~two-year institutions that are~~ institution of
754 higher education and transferable for course credit to ~~the a baccalaureate~~ public ~~four-year~~
755 ~~institutions~~ institution of higher education.

756 In developing the State Transfer Tool, the Council shall also seek the participation of
757 private institutions of higher education ~~in the Commonwealth~~.

758 B. The Council shall develop guidelines to govern the development and implementation
759 of articulation, dual admissions, and guaranteed admissions agreements between ~~the~~
760 Commonwealth's public two-year associate-granting public institutions of higher education and
761 ~~four-year baccalaureate public~~ institutions of higher education. Dual admissions agreements
762 shall set forth (i) the obligations of ~~the students each student~~ accepted ~~in to~~ such ~~programs a~~
763 program, including grade point average requirements, acceptable associate degree majors, and
764 completion timetables, and (ii) the ~~student's extent to which each student accepted to such a~~
765 program may access ~~to~~ the privileges of enrollment ~~in at~~ both institutions ~~during the time while~~
766 he is enrolled ~~in at~~ either institution. Such agreements shall be subject to the admissions
767 requirements of the ~~four-year baccalaureate public~~ institutions of higher education.

768 C. The Council shall develop and make available to the public information identifying
769 all general education courses offered at associate-granting public ~~two-year~~ institutions of higher
770 education and designating those that are ~~accepted for purposes of transfer~~ transferable for course
771 credit at ~~four-year baccalaureate~~ public institutions of higher education and baccalaureate
772 private institutions of higher education ~~in Virginia~~.

773 **Drafting note: Technical changes.**

774 § 23-8.

775 **Drafting note: Repealed by Acts 2014, c. 6.**

776 § 23-9.2:3.4.

777 **Drafting note: Repealed by Acts 2006, cc. 27 and 349, cl. 2.**

778 [§ 23-9.2:6.](#)

779 **Drafting note: Repealed by Acts 1990, c. 800.**

780

781

782

783

784

785

786

787

788

789

790

791

792

793

794

795

796

797

798

799

800

801

802

803

804 CHAPTER ~~10~~ 25.

805 VIRGINIA MILITARY INSTITUTE.

806 **Drafting note: Existing Chapter 10 of Title 23 is logically reorganized as proposed**
807 **Chapters 13 and 25 of Title 23.1. Existing provisions that apply generally to governing**
808 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
809 **Existing provisions relating to the incorporation, membership and meetings, and powers**
810 **and duties of the governing board that are unique to the Virginia Military Institute are**
811 **retained in proposed Chapter 25.**

812 § ~~23-92~~ 23.1-2500. ~~Virginia Military Institute continued~~ Corporate name; name of the
813 Institute.

814 A. The military school established in the County of Rockbridge, at the Town of
815 Lexington, shall be continued, and the board of visitors ~~thereof and their successors shall be and~~
816 remain of the Virginia Military Institute (the board) is a corporation under the name and style of
817 "Virginia Military Institute;" and has, in addition to its other powers, all the corporate powers
818 given to corporations by the provisions of Title 13.1 except those powers that are confined to
819 corporations created pursuant to Title 13.1. The board shall ~~be~~ at all times ~~subject to~~ be under
820 the control of the General Assembly.

821 B. The institution shall be known as the Virginia Military Institute (the Institute).

822 ~~For the support of the school there~~ C. There shall be paid out of the public treasury, ~~from~~
823 ~~time to time,~~ such sums as shall be appropriated ~~therefor~~ by the General Assembly for the
824 support of the school.

825 **Drafting note: Technical changes are made to conform the language in this section**
826 **to that of each other four-year public institution of higher education.**

827 § ~~23-93~~ 23.1-2501. ~~Appointment of visitors generally~~ Membership.

828 A. The board ~~of visitors~~ shall consist of ~~sixteen visitors to be appointed by the Governor~~
829 ~~and the Adjutant General, ex officio~~ 17 members, of whom 16 shall be appointed by the
830 Governor and one shall be the Adjutant General, who shall serve ex officio. Of the ~~visitors~~ 16

831 members appointed by the Governor, ~~twelve~~ (i) 12 shall be alumni of the Institute, of whom
832 eight shall be residents of the Commonwealth and four shall be nonresidents, and (ii) four shall
833 ~~not be alumni of the Institute~~ be nonalumni residents of the Commonwealth. ~~The four visitors~~
834 ~~appointed by the Governor who are not alumni of the Institute shall be residents of the~~
835 ~~Commonwealth. Until June 30, 1985, nine of the twelve alumni visitors shall be residents of the~~
836 ~~Commonwealth. Thereafter eight of the twelve alumni visitors shall be residents of the~~
837 ~~Commonwealth. The remaining alumni visitors shall be nonresidents.~~

838 B. ~~Each appointive visitor in office on July 1, 1980, shall continue in office until the~~
839 ~~expiration of the term for which he was appointed. Of the visitors to be appointed for terms~~
840 ~~commencing July 1, 1980, four shall be appointed for terms of three years and four for terms of~~
841 ~~four years. One of such visitors appointed for a four year term and one appointed for a three-~~
842 ~~year term shall not be alumni of the Institute. One of such visitors appointed for a four year term~~
843 ~~and one appointed for a three year term shall be nonresident alumni. Thereafter all appointments~~
844 ~~shall be for terms of four years and one visitor appointed each year shall not be an alumnus of~~
845 ~~the Institute. Beginning in 1985 and thereafter, one visitor appointed each year shall be a~~
846 ~~nonresident alumnus.~~

847 ~~All appointments for full terms, as well as to fill vacancies, shall be made by the~~
848 ~~Governor subject to confirmation by the General Assembly.~~ The alumni association of the
849 Institute may submit to the Governor a list of not more than three nominees for each vacancy on
850 the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may
851 appoint a member from the list of nominees.

852 **Drafting note: Existing provisions relating to the membership of the board of**
853 **visitors are logically combined in this proposed section, existing provisions relating to the**
854 **terms and removal of members of the board are stricken and incorporated instead into**
855 **proposed § 23.1-1300, and technical changes are made to conform the language to that of**
856 **each other baccalaureate public institution of higher education.**

857 ~~§ 23-94. Appointment of visitors from nominees of alumni association; nonalumni~~
858 ~~visitors.~~

859 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him~~
860 ~~by the alumni association of the Virginia Military Institute, on or before the first day of April of~~
861 ~~any year in which the terms of any visitors will expire.~~

862 ~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall~~
863 ~~certify this fact to the association and nominations may be submitted of qualified persons and~~
864 ~~the Governor may fill the vacancy, if his discretion so dictates, from among the eligible~~
865 ~~nominees of the association.~~

866 ~~(c) Every list shall contain not more than three names for each vacancy to be filled.~~

867 ~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

868 ~~(e) [Repealed.]~~

869 **Drafting note: The provisions of existing § 23-94 are stricken and incorporated**
870 **instead into proposed § 23.1-2501.**

871 ~~§ 23-95. Eligibility to serve more than two successive terms.~~

872 ~~No person except ex officio members shall be eligible to serve for or during more than~~
873 ~~two successive four-year terms; but after the expiration of the remainder of an unexpired term to~~
874 ~~which appointed, two additional four-year terms may be served by such a member if appointed~~
875 ~~thereto.~~

876 **Drafting note: The provisions of existing § 23-95 are stricken and incorporated**
877 **instead into proposed § 23.1-1300.**

878 ~~§ 23-96. Quorum.~~

879 ~~Six visitors shall constitute a quorum for business.~~

880 **Drafting note: The provisions of existing § 23-96 are stricken and incorporated**
881 **instead as subsection B of proposed § 23.1-2502.**

882 ~~§ 23-97. Suits by and against board.~~

883 ~~The board of visitors may sue and be sued for any cause or matters which have~~
884 ~~heretofore arisen, or which hereafter arise.~~

885 **Drafting note: The provisions of existing § 23-97 are stricken here: the board's**
886 **power to sue and be sued is a corporate power that is already contemplated in the first**
887 **section of this proposed chapter.**

888 ~~§ 23-98 23.1-2502. Meetings of board; president and secretary; superintendent of~~
889 ~~Institute; officers; committees.~~

890 A. ~~The board of visitors shall meet at the Institute at least once a year or more often and~~
891 ~~at any other times and places, when, in its opinion, or that of the superintendent of the Institute,~~
892 ~~or president of the board of visitors, it shall be necessary to do so as determined by the board,~~
893 ~~the superintendent of the Institute, or the president of the board. It shall appoint a superintendent~~
894 ~~of the Institute with such duties as may be prescribed by the board. Special meetings may also~~
895 ~~be called at any time by the superintendent of the Institute, or the president of the board of~~
896 ~~visitors, when either may deem it advisable; and the board may adjourn from time to time.~~
897 Notice of the time and place of each meeting shall be provided to each member.

898 B. Six members shall constitute a quorum.

899 C. ~~The board shall appoint from its own body membership a president, and shall also~~
900 ~~appoint a secretary to the board.~~

901 ~~D. The board may appoint a president pro tempore or secretary pro tempore to preside~~
902 ~~in the absence of the president or secretary at any meeting, the board may appoint a president or~~
903 ~~secretary pro tempore, and vacancies.~~

904 E. Vacancies in the offices of president ~~or and~~ secretary may be filled by the board for
905 the unexpired term. ~~Notice of the time and place of meeting shall be given to every member of~~
906 ~~the board.~~

907 ~~§ 23-95.1. Executive committee.~~

908 F. ~~The board of visitors may appoint an executive committee from its own body for the~~
909 ~~purpose of transacting transaction of~~ business during the recess of the board. ~~Such executive~~

910 ~~committee shall consist, consisting~~ of ~~not less than at least~~ three ~~nor and not~~ more than five
911 members, one of whom shall be the president.

912 **Drafting note: Existing provisions relating to meetings, officers, and committees of**
913 **the board of visitors are logically combined in this proposed section, including**
914 **incorporating existing § 23-95.1 as subsection F. Technical changes are made to conform**
915 **the language to that of each other baccalaureate public institution of higher education.**

916 ~~§ 23-99. Bylaws and regulations.~~

917 ~~The board may make bylaws and regulations for their own government and the~~
918 ~~management of the affairs of the Institute, and may, for the purpose of transacting such business~~
919 ~~as, in its opinion, can be properly transacted by a less number than the majority, authorize not~~
920 ~~less than four members to constitute a quorum.~~

921 **Drafting note: The quorum provisions of existing § 23-99 are stricken as**
922 **inconsistent with subsection B of proposed § 23.1-2502, which was derived from existing §**
923 **23-96. The provisions on bylaws and regulations are stricken here and incorporated**
924 **instead into proposed §§ 23.1-1303 and 23.1-1301, respectively.**

925 ~~§ 23-100. Power to borrow money and secure its payment.~~

926 ~~The act entitled "an act to authorize the Virginia Military Institute to borrow money and~~
927 ~~to secure the same by creating a lien on real estate," approved December 19, 1874; and the third~~
928 ~~and fourth sections of the act entitled "an act for the relief of the Virginia Military Institute,"~~
929 ~~approved March 15, 1884, shall continue in force until all the objects of the acts shall have been~~
930 ~~fully accomplished.~~

931 **Drafting note: Existing § 23-100 is recommended for repeal as obsolete.**

932 ~~§ 23-100.~~ 23.1-2503. Power to receive gifts, grants, devises and bequests.

933 The ~~Virginia Military~~ Institute, or ~~its~~ the board ~~of visitors~~ on its behalf, ~~upon with~~ the
934 prior written consent of the Governor ~~is empowered to,~~ may receive, take, hold, and enjoy any
935 ~~and every~~ gift, grant, devise, or bequest ~~heretofore or hereafter~~ made to the Institute or its board
936 ~~of visitors~~ for charitable or educational purposes; and ~~to~~ use and administer ~~same~~ any such gift,

937 [grant, devise, or bequest](#) for the uses and purposes designated by the donor ~~if designation be~~
938 ~~made~~, or for the general purposes of the Institute if no [such](#) designation ~~be is~~ made.

939 **Drafting note: Technical changes.**

940 ~~§§ 23-101, 23-102.~~

941 **Drafting note: Repealed by Acts 2005, c. 633, cl. 2.**

942 ~~§ 23-103 23.1-2504. Appointment, Powers;~~ removal ~~and salaries~~ of professors.

943 ~~The A majority of the~~ board ~~of visitors shall appoint professors to give instruction in~~
944 ~~military science and in such other branches of knowledge as they may deem proper. The board~~
945 ~~shall fix the salaries of professors, and~~ may remove ~~them~~ [professors](#) for good cause; ~~but no~~
946 ~~order to remove a professor shall be made without the concurrence therein of a majority of the~~
947 ~~whole number of visitors, and the board shall forthwith communicate to the Governor a full~~
948 ~~statement of the reasons for making the removal.~~

949 **Drafting note: The provisions of existing § 23-103 related to appointment and**
950 **salaries of professors are stricken here and incorporated instead into proposed § 23.1-**
951 **1301. The provisions of existing § 23-103 related to communicating to the Governor the**
952 **removal of professors for good cause are recommended for repeal as obsolete. Technical**
953 **changes are made.**

954 ~~§ 23-104 23.1-2505. Admission of pay~~ [Pay](#) cadets; ~~course of instruction, etc.~~

955 The board ~~of visitors~~ shall prescribe the terms upon which [pay](#) cadets may be admitted,
956 their number, the course of their instruction, ~~and~~ the nature ~~and duration~~ of their service, ~~and the~~
957 ~~duration thereof.~~

958 **Drafting note: Technical changes.**

959 ~~§ 23-105 23.1-2506. Admission of state~~ [State](#) cadets.

960 ~~A.~~ The board shall admit annually as state cadets upon evidence of fair moral character,
961 ~~a~~ [sufficient young men and women number of individuals](#) selected from the Commonwealth at
962 large, who ~~shall be not less than sixteen nor are at least 16 but not~~ more than ~~twenty five~~ [25](#)
963 years of age.

964 ~~§ 23-106. Financial assistance for state cadets.~~

965 B. The board shall provide financial assistance equal to ~~the~~ a state cadet applicant's
966 demonstrated need up to the Institute's prevailing charges for tuition ~~and board, fees, and other~~
967 necessary charges.

968 ~~§ 23-107. Service requirement.~~

969 C. Each state cadet ~~received on state account and~~ who ~~shall have remained~~ remains
970 enrolled in the Institute ~~during the period of for~~ two years or more, shall ~~act in the capacity of~~
971 teacher (i) teach in ~~some~~ a public elementary or secondary school in ~~this the~~ Commonwealth for
972 two years, ~~and such cadet shall be required to discharge his obligation as teacher~~ within the
973 three years immediately after leaving the Institute, and ~~he shall~~ report in writing to the
974 superintendent of the Institute on or before the first day of June of each year succeeding the date
975 of his leaving the Institute until he ~~shall have~~ has discharged fully such obligation to the
976 Commonwealth; ~~or, at his option, such cadet may, (ii) serve an enlistment in the National Guard~~
977 of the Commonwealth, ~~or (iii) serve for a period of~~ two years as an engineer for the
978 Commonwealth Transportation Board ~~or for a period of, (iv) serve for~~ two years as an engineer
979 with the State Department of Health, ~~or (v) serve on active duty for a period of~~ two years as a
980 member of some component of the armed services of the United States ~~of America~~, or, (vi) with
981 the approval of the board ~~of visitors~~, serve ~~for a period of~~ two years in any capacity as an
982 employee of the Commonwealth ~~of Virginia.~~

983 D. Any cadet ~~failing who fails~~ to fulfill his ~~or her~~ obligation pursuant to subsection C
984 shall repay all funds received from the Commonwealth. The board ~~of visitors~~ may excuse such
985 cadet from any ~~and or~~ all of these obligations in such cases as ~~they deem proper it determines is~~
986 appropriate.

987 **Drafting note: The provisions of existing §§ 23-105, 23-106, and 23-107 are logically**
988 **combined into this single section on state cadets. The term "young men and women" is**
989 **stricken in favor of the more general "individuals." Technical changes are made.**

990 ~~§ 23-107.1 23.1-2507. Admission of military~~ Military scholarship cadets.

991 A. The board ~~shall~~ may admit annually as military scholarship cadets, up to 40 ~~young~~
992 ~~men and women, individuals~~ who shall be ~~not less than~~ at least 16 ~~nor~~ but not more than 25
993 years of age.

994 B. The board shall provide financial assistance to such military scholarship cadets for
995 tuition, fees, ~~room and board and other necessary charges~~ entirely from federal funds, Virginia
996 National Guard funds, or private gifts. The federal funds, Virginia National Guard funds, or
997 private gifts shall have no matching requirement.

998 ~~§ 23-107.2. Military scholarship cadet to serve as a commissioned officer in the Virginia~~
999 ~~National Guard.~~

1000 C. Each military scholarship cadet shall agree to serve as a commissioned officer in the
1001 Virginia National Guard for a term in accordance with Guard policy and regulation. Any cadet
1002 failing to fulfill his ~~or her~~ obligation to serve shall repay all funds received in support of his ~~or~~
1003 ~~her~~ cost of education. The board ~~of visitors~~, in consultation with the Virginia National Guard,
1004 may excuse such cadet from any ~~and or~~ all of these obligations in such cases as ~~they deem~~
1005 proper it determines is appropriate.

1006 **Drafting note: The provisions of existing §§ 23-107.1 and 23-107.2 are logically**
1007 **combined into this single section on military scholarship cadets. The term "young men and**
1008 **women" is stricken in favor of the more general "individuals." Technical changes are**
1009 **made.**

1010 ~~§ 23-108. Commissioned officers may become students.~~

1011 ~~Any commissioned officer of the organized militia and Governor's military staff of the~~
1012 ~~Commonwealth may become a student at any state institution of higher education for a period~~
1013 ~~not exceeding 10 months, and receive instruction in any or all the departments of military~~
1014 ~~science, emergency management, emergency services, public safety, and disaster management~~
1015 ~~taught therein without being required to pay any fee or charge for tuition.~~

1016 **Drafting note: The provisions of existing § 23-108 are stricken here and**
1017 **incorporated instead into proposed § 23.1-605 of Chapter 6.**

1018 § ~~23-109~~ 23.1-2508. Cadets a military corps; arsenal.

1019 A. The cadets shall be a military corps under the command of the superintendent, and
1020 constitute the guard of the Institute.

1021 B. The arsenal and all its grounds and buildings shall ~~be considered as belonging belong~~
1022 to the Institute, and the board shall ~~cause the same and all the~~ guard and preserve the arsenal, all
1023 its grounds and buildings, and all arms and other property ~~therein, or belonging thereto, to be~~
1024 guarded and preserved in its grounds and buildings.

1025 **Drafting note: Technical changes.**

1026 § ~~23-110~~ 23.1-2509. Conferring of degrees.

1027 A. The Governor ~~and~~, the board ~~of visitors~~, and the faculty of the Institute may confer a
1028 degree upon any qualified graduate ~~found qualified to receive it, after examination upon such of~~
1029 ~~the branches of the arts and sciences and of literature taught at the Institute as the board may~~
1030 deem requisite.

1031 B. The board may ~~also, in its discretion~~, confer honorary degrees or diplomas of
1032 distinguished merit.

1033 **Drafting note: Technical changes.**

1034 § ~~23-111~~.

1035 **Drafting note: Repealed by Acts 1984, c. 734.**

1036 § ~~23-112~~ 23.1-2510. Musicians, ~~how enlisted and paid~~.

1037 The superintendent may enlist musicians for service at the Institute, to be paid out of the
1038 annual appropriation provided for in § ~~23-92~~ 23.1-2500.

1039 **Drafting note: Technical changes.**

1040 § ~~23-113~~ 23.1-2511. Supply of water.

1041 ~~To enable the~~ The Institute ~~to procure a supply of water, it shall have authority to~~
1042 ~~proceed under the provisions of Title 25.1 to~~ may acquire pursuant to Title 25.1 such springs,
1043 lands, and rights-of-way as may be necessary to procure a supply of water.

1044 **Drafting note: Technical changes.**

CHAPTER ~~11~~ 26.

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY.

Drafting note: Existing Chapter 11 of Title 23 is logically reorganized as proposed Chapters 13 and 26 of Title 23.1. Existing provisions that apply generally to governing boards of public institutions of higher education are consolidated in proposed Chapter 13. Existing provisions relating to the incorporation, membership and meetings, and powers and duties of the governing board that are unique to the University are retained in proposed Chapter 26.

Article 1.

General Provisions.

Drafting note: Existing provisions relating to the incorporation, membership and meetings, and powers and duties of the board of visitors are consolidated in Article 1 and technical changes are made.

~~§ 23-114 23.1-2600. Board of visitors a corporation and under control of General Assembly~~ Corporate name; name of the University.

A. The board of visitors of Virginia Polytechnic Institute and State University (the board) shall be ~~and remain~~ a corporation under the name and style of the "Virginia Polytechnic Institute and State University" and shall have, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1. The board shall at all times be under the control of the General Assembly.

B. The institution shall be known as the Virginia Polytechnic Institute and State University (the University).

C. ~~All acts and parts of acts and statutes laws~~ relating to Virginia Polytechnic Institute, its predecessors ~~by whatever name known, or to, its board of visitors, or the boards board~~ of visitors ~~thereof, of each of its predecessors~~ shall be construed as relating to the ~~Virginia Polytechnic Institute and State~~ University.

1072 **Drafting note: Technical changes are made to conform the language in this section**
1073 **to that of each other four-year public institution of higher education.**

1074 ~~§ 23-115 23.1-2601. Appointment of visitors generally; number and eligibility~~
1075 ~~Membership.~~

1076 A. The board of visitors is to shall consist of ~~fourteen~~ 14 members, ~~thirteen~~ of whom 13
1077 shall be appointed by the Governor, and one ~~of whom~~ shall be the ~~President~~ president of the
1078 Board of Agriculture and Consumer Services, who shall serve ex officio. Of the 13 members
1079 appointed by the Governor, ~~three may be nonresidents~~ at least 10 members shall be residents of
1080 the Commonwealth and at least six members shall be alumni of the University. ~~The visitors in~~
1081 ~~the office on April 9, 1945, are continued in office until the end of their respective terms, or~~
1082 ~~until June 30, 1945, whichever last occurs.~~

1083 ~~As soon as practicable after April 9, 1945, the Governor shall appoint four members to~~
1084 ~~fill the unexpired portions of the terms which began on July 1, 1944, and shall appoint three~~
1085 ~~additional members for new terms of two years and two for new terms of four years, each term~~
1086 ~~beginning July 1, 1945. He shall, in addition, appoint the President of the State Board of~~
1087 ~~Agriculture and Consumer Services as an ex officio member for a term of four years to begin~~
1088 ~~July 1, 1945; provided that, if the tenure in office as President of such ex officio member expires~~
1089 ~~within that time, the Governor shall appoint such member's successor to fill the unexpired term.~~
1090 ~~Such President shall remain eligible for appointment as an ex officio member so long as he~~
1091 ~~continues in office as President. All appointments for full terms, as well as to fill vacancies,~~
1092 ~~shall be made~~ by the Governor are subject to confirmation by the Senate.

1093 B. The alumni association of the University may submit to the Governor a list of three
1094 nominees for each vacancy on the board, whether it occurs by expired term or otherwise. The
1095 Governor may appoint a member from the list of nominees.

1096 **Drafting note: Existing provisions relating to the membership of the board of**
1097 **visitors are logically combined in this proposed section, existing provisions relating to the**
1098 **terms and removal of members of the board are stricken and incorporated into proposed §**

1099 **23.1-1300, and technical changes are made to conform the language to that of each other**
1100 **four-year public institution of higher education. Obsolete language is recommended for**
1101 **repeal.**

1102 ~~§ 23-116. Appointment of visitors from nominees of alumni association.~~

1103 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him~~
1104 ~~by the alumni association of the University on or before the first day of April of any year in~~
1105 ~~which the terms of any visitors will expire.~~

1106 ~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall~~
1107 ~~certify this fact to the association and nominations may be submitted of qualified persons and~~
1108 ~~the Governor may fill the vacancy, if his discretion so dictates, from among the eligible~~
1109 ~~nominees of the association, whether or not alumni or alumnae.~~

1110 ~~(c) Every list shall contain at least three names for each vacancy to be filled.~~

1111 ~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

1112 ~~(e) At no time shall less than six of the appointive visitors be alumni or alumnae of the~~
1113 ~~University.~~

1114 **Drafting note: The provisions of existing § 23-116 are stricken and incorporated**
1115 **into proposed § 23.1-2601.**

1116 ~~§ 23-117. Eligibility to serve for more than two successive terms.~~

1117 ~~No person, except the ex-officio member, shall be eligible to serve for or during more~~
1118 ~~than two successive four-year terms; but after the expiration of a term of two years or less, or~~
1119 ~~after the expiration of the remainder of a term to which appointed to fill a vacancy, two~~
1120 ~~additional four-year terms may be served by such a member if appointed thereto. Incumbents on~~
1121 ~~April 5, 1945, appointed for full terms prior to June 1, 1944, shall be deemed to be serving their~~
1122 ~~first terms.~~

1123 **Drafting note: The provisions of existing § 23-117 are stricken and incorporated**
1124 **into proposed § 23.1-1300.**

1125 § ~~23-118 23.1-2602.~~ ~~Officers and committees of the board; officers of the University~~
1126 Meetings; officers; committees.

1127 A. The board shall meet in Blacksburg, in the County of Montgomery, at least once a
1128 year and at such other times and places as it determines. Special meetings of the board may be
1129 called by the Governor, the rector, or any three members. Notice of the time and place of each
1130 meeting shall be provided to each member.

1131 B. A majority of the board shall constitute a quorum. A majority of each committee shall
1132 constitute a quorum.

1133 C. The board ~~of visitors~~ shall appoint from ~~their own body~~ its membership a rector, ~~who~~
1134 shall to preside at ~~their~~ its meetings, and, ~~in his absence,~~ a president pro tempore to preside at its
1135 meetings in the absence of the rector. ~~The board may appoint a vice president of the University~~
1136 ~~and, by appropriate regulations, prescribe his authority, duties, and compensation, if any, and he~~
1137 ~~shall hold office at the pleasure of the board.~~

1138 D. The board shall appoint a secretary.

1139 E. The board shall also appoint from its membership an executive committee of ~~not less~~
1140 than at least three ~~nor~~ but not more than six, ~~which, during the interim between board meetings,~~
1141 members that shall be empowered during the interim between board meetings to exercise ~~all or~~
1142 ~~such part of the~~ such powers of the board as the board may ~~by resolution~~ prescribe by
1143 resolution.

1144 F. The board may ~~likewise~~ appoint special committees and prescribe their duties and
1145 powers.

1146 ~~The executive~~ G. Each committee, ~~and other committees~~ shall ~~make reports~~ report its
1147 actions to the board, at ~~its~~ the board's annual meeting ~~or oftener if required,~~ ~~of the acts~~
1148 ~~performed by them from time to time and at such other times as the board may require.~~ The
1149 board shall also appoint a treasurer of the University and may appoint a secretary thereof, and
1150 also a clerk to the board, and such other officers, assistants and deputies as they deem advisable
1151 to conduct the business and affairs of the University.

1152 **Drafting note: Technical changes are made to conform provisions relating to**
1153 **meetings, officers, and committees of the board of visitors to those of each other four-year**
1154 **public institution of higher education.**

1155 ~~§ 23-119. Quorum of board and of committees.~~

1156 ~~A majority of the board and also of all committees appointed pursuant to § 23-118 shall~~
1157 ~~constitute a quorum.~~

1158 **Drafting note: The provisions of existing § 23-119 are stricken and incorporated**
1159 **into proposed § 23.1-2602.**

1160 ~~§ 23-120.~~

1161 **Drafting note: Repealed by Acts 2015, c. 560.**

1162 ~~§ 23-121. Meetings of board.~~

1163 ~~The board shall meet at Blacksburg, in the County of Montgomery, at least once a year,~~
1164 ~~and at such other times or places as they shall determine, the days of meeting to be fixed by~~
1165 ~~them. Special meetings of the board may be called by the Governor, the rector, or any three~~
1166 ~~members. In either of such cases, notice of the time and place of meeting shall be given to every~~
1167 ~~other member.~~

1168 **Drafting note: The provisions of existing § 23-121 are stricken and incorporated**
1169 **into proposed § 23.1-2602.**

1170 ~~§ 23-122 23.1-2603. Powers and duties of board generally; expenses.~~

1171 ~~A. The board shall be is~~ charged with the care ~~and,~~ preservation, and improvement of the
1172 property belonging to the University; and with the protection and safety of students and other
1173 persons residing on ~~the such~~ property, ~~and in pursuance thereof shall be empowered to.~~ Pursuant
1174 ~~to such duties, the board may~~ change roads or driveways on the property ~~belonging to the~~
1175 ~~University~~ or entrances ~~thereto to such property,~~ ~~or to~~ close temporarily or permanently the
1176 roads, ~~and~~ driveways ~~on such property~~ and entrances; ~~to to such property,~~ prohibit ~~entrance to~~
1177 ~~the property of~~ undesirable and disorderly persons ~~from entering such property,~~ ~~or to~~ eject such

1178 persons from ~~the such~~ property, and ~~to~~ prosecute under ~~the laws of the~~ state law trespassers and
1179 persons committing offenses on ~~the such~~ property.

1180 B. The board shall regulate the government and discipline of the students; ~~and,~~
1181 ~~generally, in respect to the government of the University, may make such regulations as they~~
1182 ~~deem expedient, not contrary to law. Such reasonable expenses as the visitors may incur in the~~
1183 ~~discharge of their duties shall be paid out of the funds of the University.~~

1184 **Drafting note: Several provisions of existing the second paragraph of § 23-122 are**
1185 **stricken and incorporated into proposed §§ 23.1-1301 and 23.1-1307. Technical changes**
1186 **are made.**

1187 ~~§ 23-122.1~~ 23.1-2604. Investment of endowment funds, endowment income, ~~and gifts;~~
1188 ~~standard of care; liability; exemption from the Virginia Public Procurement Act etc.~~

1189 A. As used in this section:

1190 "Derivative" means a contract or financial instrument or a combination of contracts and
1191 financial instruments, including any contract commonly known as a "swap," that gives the
1192 University the right or obligation to deliver, receive delivery of, or make or receive payments
1193 based on changes in the price, value, yield, or other characteristic of a tangible or intangible
1194 asset or group of assets or changes in a rate, index of prices or rates, or other market indicator
1195 for an asset or group of assets.

1196 "Option" means an agreement or contract whereby the University may grant or receive
1197 the right to purchase, sell, or pay or receive the value of any personal property asset, including
1198 any agreement or contract that relates to any security, contract, or agreement.

1199 "Financial security" means any note, stock, treasury stock, bond, debenture, evidence of
1200 indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of
1201 subscription, transferable share, investment contract, voting-trust certificate, certificate of
1202 deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; any put,
1203 call, straddle, option, or privilege on any security, certificate of deposit, or group or index of
1204 securities (including any interest therein or based on the value thereof); any put, call, straddle,

1205 option, or privilege entered into on a national securities exchange relating to foreign currency; in
1206 general, any interest or instrument commonly known as a "security;" or any certificate of
1207 interest or participation in, temporary or interim security for, receipt for, guarantee of, or
1208 warrant or right to subscribe to or purchase any financial security.

1209 B. The board ~~of visitors~~ shall invest and manage the endowment funds, endowment
1210 income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the
1211 University in accordance with this section and the provisions of the Uniform Prudent
1212 Management of Institutional Funds Act (§ 64.2-1100 et seq.).

1213 B-C. No member of the board ~~of visitors~~ shall be personally liable for losses suffered by
1214 ~~an~~ any endowment fund, endowment income, ~~gifts gift,~~ all other nongeneral fund ~~reserves~~
1215 reserve and ~~balances balance,~~ or local funds of or held by the University, arising from
1216 investments made pursuant to the provisions of subsection A.

1217 C-D. The investment and management of endowment funds, endowment income, gifts,
1218 all other nongeneral fund reserves and balances, or local funds of or held by the University shall
1219 not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

1220 D-E. In addition to the investment practices authorized by the Uniform Prudent
1221 Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board ~~of visitors~~ may ~~also~~
1222 invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund
1223 reserves and balances, and local funds of or held by the University in derivatives, options, and
1224 financial securities.

1225 1. In this section, "derivative" means a contract or financial instrument or a combination
1226 of contracts and financial instruments, including, without limitation, any contract commonly
1227 known as a "swap," which gives the University the right or obligation to deliver or receive
1228 delivery of, or make or receive payments based on, changes in the price, value, yield or other
1229 characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index
1230 of prices or rates, or other market indicator for an asset or a group of assets.

1231 ~~2. In this section, an "option" means an agreement or contract whereby the University~~
1232 ~~may grant or receive the right to purchase or sell, or pay or receive the value of, any personal~~
1233 ~~property asset including, without limitation, any agreement or contract that relates to any~~
1234 ~~security, contract, or agreement.~~

1235 ~~3. In this section, "financial security" means any note, stock, treasury stock, bond,~~
1236 ~~debenture, evidence of indebtedness, certificate of interest, collateral trust certificate,~~
1237 ~~preorganization certificate of subscription, transferable share, investment contract, voting trust~~
1238 ~~certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other~~
1239 ~~mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit,~~
1240 ~~or group or index of securities (including any interest therein or based on the value thereof), or~~
1241 ~~any put, call, straddle, option, or privilege entered into on a national securities exchange relating~~
1242 ~~to foreign currency, or in general, any interest or instrument commonly known as a "security,"~~
1243 ~~or any certificate of interest or participation in, temporary or interim security for, receipt for,~~
1244 ~~guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

1245 ~~E.F.~~ The authority ~~as~~ provided in this section ~~as it relates~~ to invest and reinvest
1246 nongeneral fund reserves and balances of or held by the University is predicated upon an
1247 approved management agreement between the University and the Commonwealth ~~of Virginia~~.

1248 **Drafting note: Technical changes.**

1249 ~~§ 23-123.~~

1250 **Drafting note: Repealed by Acts 1981, c. 319.**

1251 ~~§ 23-124. Appointment of professors; removal of professors and officers.~~

1252 ~~The board shall appoint as many professors as they deem proper, and, with the assent of~~
1253 ~~two-thirds of the members of the board, may remove any professor or, subject to the provisions~~
1254 ~~of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, any other officer of the University.~~

1255 **Drafting note: The provisions of existing § 23-124 related to the appointment of**
1256 **professors are stricken and incorporated into proposed § 23.1-1301. The provisions of**

1257 existing § 23-124 related to the removal of professors are stricken and incorporated into
1258 proposed § 23.1-2605.

1259 ~~§ 23-125. Prescribing duties of professors and course of instruction.~~

1260 ~~The board shall prescribe the duties of each professor and the course and mode of~~
1261 ~~instruction.~~

1262 **Drafting note: The provisions of existing § 23-125 are stricken and incorporated**
1263 **into proposed § 23.1-2605.**

1264 ~~§ 23-126. 23.1-2605. Appointment of president; employment of agents or servants~~
1265 ~~Employees.~~

1266 ~~The board shall appoint a president of the University and~~ A. The board shall appoint a
1267 treasurer of the University. The treasurer or the officer who controls the funds of the University
1268 shall give bond in the sum of \$50,000, payable to the Commonwealth, with condition for the
1269 faithful discharge of the duties of his office. The bond shall be approved by the board, entered
1270 on the board's journal, and transmitted to the Comptroller and shall remain filed in the
1271 Comptroller's office.

1272 B. The board may appoint a vice-president of the University and prescribe his authority,
1273 duties, and compensation, if any. The vice-president shall hold office at the pleasure of the
1274 board.

1275 C. The board may employ a secretary of the University, a clerk to the board, and such
1276 other agents or servants, officers, assistants, and deputies as may be necessary to conduct the
1277 business and affairs of the University.

1278 D. The board may remove any officer of the University with the assent of two-thirds of
1279 its members, subject to such human resources programs as may be established by the board
1280 pursuant to § 23-38.116.

1281 E. The board shall prescribe the duties of professors and the course and mode of
1282 instruction. The board may remove any professor with the assent of two-thirds of its members.

1283 **Drafting note: Provisions related to specific employees and officers of the**
1284 **University contained in existing §§ 23-124, 23-125, and 23-127 are consolidated in**
1285 **proposed § 23.1-2605. Subsection D makes necessary reference to the board's power to**
1286 **establish an alternative human resources program pursuant to § 23-38.116. Technical**
1287 **changes are made.**

1288 ~~§ 23-127. Bond of treasurer.~~

1289 ~~The board shall require the treasurer, or the officer in whose hands the funds of the~~
1290 ~~University may be placed, to give bond in the sum of \$50,000, payable to the Commonwealth,~~
1291 ~~with condition for the faithful discharge of the duties of his office, which bond being approved~~
1292 ~~by the board and entered at large on its journal, shall be transmitted to the Comptroller, and~~
1293 ~~remain filed in his office.~~

1294 **Drafting note: The provisions of existing § 23-127 are stricken and incorporated**
1295 **into proposed § 23.1-2605.**

1296 ~~§ 23-128. Professors' salaries; fees of students.~~

1297 ~~Each professor shall receive a stated salary, to be fixed by the board of visitors. The~~
1298 ~~board shall fix the fees to be charged for tuition of students, other than those allowed~~
1299 ~~scholarships under § 23-31, which shall be a credit to the fund of the University.~~

1300 **Drafting note: The provisions of existing § 23-128 are stricken and incorporated**
1301 **into proposed § 23.1-1301.**

1302 ~~§ 23-129.~~

1303 **Drafting note: Repealed by Acts 1981, c. 319.**

1304 ~~§ 23-130, 23.1-2606. Curriculum.~~

1305 The curriculum of the ~~Virginia Polytechnic Institute and State~~ University shall embrace
1306 such branches of learning as relate to agriculture and the mechanic arts; without excluding other
1307 scientific and classical studies; and ~~including~~ military tactics.

1308 **Drafting note: Technical changes.**

1309 ~~§ 23-131. School of mines continued.~~

1310 ~~The school of mines now established at the Virginia Polytechnic Institute and State~~
1311 ~~University is continued, and shall receive for its support such sums as may be appropriated by~~
1312 ~~law for the purpose.~~

1313 **Drafting note: The provisions of existing § 23-131 are recommended for repeal as**
1314 **obsolete.**

1315 ~~§ 23-132.~~

1316 **Drafting note: Repealed by Acts 1972, c. 48.**

1317 ~~§ 23-155.05 23.1-2607. Purchase of electric power and energy; duration of contracts;~~
1318 ~~source of payments.~~

1319 A. For purposes of this section:

1320 "Other party" means any other entity, including ~~but not limited to any~~ (i) ~~another~~
1321 ~~municipality or~~ public institution of higher education, ~~or any~~ political subdivision, public
1322 authority, agency, or instrumentality of the Commonwealth, ~~another or~~ state, or the United
1323 States ~~of America~~ or (ii) ~~a~~ partnership, limited liability company, not-for-profit corporation,
1324 electric cooperative, or investor-owned utility, whether created, incorporated, or otherwise
1325 organized and existing under the laws of the Commonwealth or ~~another~~ state or the United
1326 States ~~of America~~.

1327 "Project" means any (i) system or facilities for the generation, transmission,
1328 transformation, or supply of electrical power and energy by any means whatsoever, including
1329 ~~but not limited to~~ fuel, fuel transportation, and fuel supply resources ~~and other related facilities,~~
1330 ~~any one or more;~~ (ii) electric generating ~~units~~ unit situated at a particular site, in the continental
1331 United States ~~of America, or any;~~ (iii) interest in ~~the foregoing such system, facilities, or unit,~~
1332 whether an undivided interest as a tenant in common or otherwise,; or ~~any~~ (iv) right to the
1333 output, capacity, or services ~~thereof of such system, facilities, or unit.~~

1334 B. ~~Virginia Polytechnic Institute and State~~ The University may contract with any other
1335 party to buy power and energy ~~required for to meet~~ its present or future requirements. ~~Such~~
1336 ~~contracts~~ Any such contract may provide that (i) the source of such power and energy is limited

1337 to a specified project ~~or may include provision for; (ii)~~ replacement power and energy. ~~Any such~~
1338 ~~contract may provide that shall be provided; or (iii)~~ the University shall be obligated to make
1339 payments required by the contract whether ~~or not a the~~ project is completed, operable, or
1340 operating and notwithstanding the suspension, interruption, interference, reduction, or
1341 curtailment of the output of a project or the amount of power and energy contracted for, ~~and that~~
1342 ~~such; (iv)~~ payments ~~under required by~~ the contract (a) shall not be subject to any reduction,
1343 whether by offset or otherwise, ~~and (b)~~ shall not be conditioned upon the performance or
1344 nonperformance ~~by of~~ any other party. ~~Such contracts, with respect to any project, may also~~
1345 ~~provide, in the event of default by the University or any other party to any such contract for such~~
1346 ~~project in the performance of its obligations thereunder, for the University or other party to any~~
1347 ~~such contract for such project to succeed to the rights and interests and assume the obligations~~
1348 ~~of the defaulting party, pro rata or otherwise as may be agreed upon in such contracts. Such~~
1349 ~~contracts may provide that the other party is not obligated to provide power and energy in the~~
1350 ~~event that the project specified to be the source of power and energy to be purchased and sold~~
1351 ~~under such contracts is inoperable or in the case of the suspension, interference, reduction or~~
1352 ~~curtailment of the output of such project or in events of force majeure.~~

1353 ~~Notwithstanding the provisions of any other law or charter provision to the contrary, any~~
1354 ~~such contract, with respect to the sale or purchase of capacity, output, power, or energy from a~~
1355 ~~project, may extend for a period not exceeding 50 years from the date a project is estimated to~~
1356 ~~be placed in normal continuous operation; and the execution and effectiveness thereof shall not~~
1357 ~~be subject to any authorizations or approvals by the Commonwealth or any agency, commission,~~
1358 ~~or instrumentality or political subdivision thereof except as specifically required by law.~~

1359 ~~Any such contract shall provide that payments by the University under any such~~
1360 ~~contract, (c) shall~~ be made solely from, ~~and may be secured by a pledge of and lien upon,~~ the
1361 revenues derived by the University from the ownership and operation of the electric system of
1362 the University, (d) may be secured by a pledge of and ~~such payments lien upon the electric~~
1363 system of the University, and (e) shall constitute an operating expense of ~~such the~~ electric

1364 system of the University; (v) in the event of default by the University or any other party to the
1365 contract in the performance of its obligations for any project, the University or any other party
1366 to the contract for such project shall succeed to the rights and interests and assume the
1367 obligations of the defaulting party, either pro rata or as may be otherwise agreed upon in the
1368 contract; or (vi) no other party shall be obligated to provide power and energy in the event that
1369 (a) the project is inoperable, (b) the output of the project is subject to suspension, interference,
1370 reduction or curtailment, or (c) a force majeure occurs.

1371 C. Notwithstanding any other charter or provision of law to the contrary, no such
1372 contract, with respect to the sale or purchase of capacity, output, power, or energy from a
1373 project, shall exceed 50 years from the date that the project is estimated to be placed in normal
1374 continuous operation.

1375 D. The execution and effectiveness of any such contract shall not be subject to any
1376 authorizations and approvals by the Commonwealth or any agency, commission,
1377 instrumentality, or political subdivision of the Commonwealth except as specifically required by
1378 law.

1379 E. No obligation under any such contract shall constitute a legal or equitable pledge,
1380 charge, lien, or encumbrance upon any property of the University or upon any of its income,
1381 receipts, or revenues, except the revenues of its electric system, and the faith and credit of the
1382 University ~~are not, or may shall~~ not be, pledged for the payment of any obligation under any
1383 such contract.

1384 F. The University shall ~~be obligated to~~ fix, charge, and collect rents, rates, fees, and
1385 charges for electric power and energy and other services, facilities, and commodities sold,
1386 furnished, or supplied through its electric system sufficient to provide revenues adequate to
1387 meet its obligations under any such contract and to pay any and all other amounts payable from
1388 or constituting a charge and lien upon such revenues, including amounts sufficient to pay the
1389 principal of and interest on bonds of the University ~~heretofore or hereafter~~ issued for purposes

1390 related to its electric system. Any pledge made by the University pursuant to this ~~paragraph~~
1391 [subsection](#) shall be governed by the laws of the Commonwealth.

1392 **Drafting note: The provisions of the single section in existing Article 7 (§ 23-155.05)**
1393 **of Chapter 11 are logically relocated as proposed § 23.1-2607 of Article 1 of Chapter 26.**
1394 **Technical changes are made.**

1395 Article ~~1.1.2.~~

1396 Virginia Cooperative Extension and Agricultural Experiment Station Division; [Hampton Roads](#)
1397 [Agricultural Research and Extension Center](#).

1398 **Drafting note: Article 2 logically combines provisions on the closely related**
1399 **Virginia Cooperative Extension and Agricultural Experiment Station Division and**
1400 **Hampton Roads Agricultural Research and Extension Center. Technical changes are**
1401 **made.**

1402 § ~~23-132.1~~ [23.1-2608](#). Virginia Cooperative Extension and Agricultural Experiment
1403 Station Division established; Cooperative Extension Service recognized.

1404 A. There is hereby established within the ~~Virginia Polytechnic Institute and State~~
1405 University a division to be known as the Virginia Cooperative Extension and Agricultural
1406 Experiment Station Division, ~~hereinafter referred to as~~ (the Division), which shall encompass
1407 and administer the Virginia Cooperative Extension ~~Service~~ and the Agricultural Experiment
1408 Station with appropriate supporting programs.

1409 ~~Further, the~~ B. The Cooperative Extension Service ~~Program~~ within Virginia State
1410 University, ~~hereinafter referred to as~~ "(the Service ~~Program,~~)" is hereby recognized. The
1411 ~~Cooperative Extension~~ Service ~~Program~~ shall be operated cooperatively by ~~Virginia Polytechnic~~
1412 ~~Institute and State~~ the University and Virginia State University, with ~~agreed upon~~ agreed upon
1413 areas of program and service emphasis as set forth in the unified plan submitted by the two
1414 institutions to the U.S. Department of Agriculture.

1415 **Drafting note: Technical changes.**

1416 § ~~23-132.2~~ [23.1-2609](#). Administration of the Division.

1417 The board ~~of visitors of the Virginia Polytechnic Institute and State University~~ shall
1418 provide for the administration of ~~such~~ the Division through the regular administrative and fiscal
1419 officers of the ~~Virginia Polytechnic Institute and State~~ University and shall make appointments
1420 to the administrative and research staff on recommendation of the president of the ~~Virginia~~
1421 ~~Polytechnic Institute and State~~ University.

1422 **Drafting note: Technical changes.**

1423 § ~~23-132.3~~ 23.1-2610. Duties of the Division; ~~how work to be performed and the~~
1424 Service.

1425 A. The ~~Virginia Cooperative Extension Division and the~~ Service shall provide the people
1426 of the Commonwealth with useful and practical information and knowledge on ~~subjects related~~
1427 ~~to~~ agriculture, including horticulture and silviculture, agribusiness, home economics,
1428 community resource development, 4-H Clubs, and related subjects ~~relating thereto~~, through
1429 instruction and the dissemination of useful and practical information through demonstrations,
1430 conferences, courses, workshops, publications, meetings, ~~and~~ mass media, and other educational
1431 programs. The necessary printing and distribution of information in connection with ~~the~~
1432 ~~foregoing and~~ this work shall be ~~carried on~~ performed in such manner as may be mutually
1433 agreed upon by ~~Virginia Polytechnic Institute and State University for the work of the Division,~~
1434 ~~the Virginia State University for the work of the Service Program;~~ (i) the Governor or his
1435 designated representative designee, the ~~United States~~ U.S. Secretary of Agriculture, the ~~United~~
1436 ~~States~~ U.S. Secretary of Commerce, ~~and~~ other participating bodies, and the University for the
1437 work of the Division and (ii) the Governor or his designee, the U.S. Secretary of Agriculture,
1438 the U.S. Secretary of Commerce, other participating bodies, and Virginia State University for
1439 the work of the Service.

1440 B. ~~The Cooperative Extension Service Program shall also conduct educational programs~~
1441 ~~and disseminate useful and practical information to the people of the Commonwealth.~~

1442 § ~~3.2-503~~. Duties of ~~Extension Division of Virginia Polytechnic Institute and State~~
1443 ~~University~~.

1444 ~~A.~~ Personnel of the ~~Extension~~ Division ~~of Virginia Polytechnic Institute and State~~
1445 ~~University~~ shall inform local governing bodies of the Commonwealth whenever agricultural
1446 conditions are present in such localities that would warrant the declaration of a disaster pursuant
1447 to Section 301 of Public Law 93-288, 42 U.S.C. § 5141.

1448 ~~B.C.~~ Personnel of the ~~Extension~~ Division ~~of Virginia Polytechnic Institute and State~~
1449 ~~University~~ shall provide farmers and local governing bodies with such assistance and
1450 information as is available concerning federal and state disaster relief programs.

1451 ~~C.D.~~ The Agricultural Experiment Station shall conduct research and investigations and
1452 establish, publish, and distribute results in such forms as will tend to increase the economy,
1453 efficiency, and safety of the various enterprises and activities of interest to the Commonwealth
1454 and the nation, and promote the conservation and economic utilization of its natural and human
1455 resources.

1456 **Drafting note: Subsections B and C logically incorporate the provisions of existing**
1457 **§ 3.2-503. Technical changes are made.**

1458 ~~§ 23-132.4 23.1-2611. Selection of personnel; rules and regulations; work may be~~
1459 ~~conducted with both adults and youth~~ Personnel; local units.

1460 ~~It shall be the duty of the Virginia Polytechnic Institute and State~~ A. The University and
1461 ~~of the~~ Virginia State University, in cooperation with the departments and agencies of the federal
1462 government, ~~to~~ shall exercise great care in the selection of personnel to carry out and supervise
1463 the work ~~and to supervise the work to see that it is properly done throughout the Commonwealth~~
1464 of the Division and the Service. The work shall be conducted under such ~~rules and~~ regulations
1465 as may be adopted by the ~~Virginia Polytechnic Institute and State~~ University for the work of the
1466 Division and ~~by the~~ Virginia State University, in cooperation with the U.S. Department of
1467 Agriculture, for the work of the Service ~~in cooperative relation to the United States Department~~
1468 of Agriculture Program.

1469 ~~B.~~ The ~~Virginia Polytechnic Institute and State University through the~~ Division and the
1470 ~~Virginia State University through the~~ Service are authorized to ~~conduct~~ work with both adults

1471 and youth through local units to be known as "departments of extension and continuing
1472 education."

1473 **Drafting note: Technical changes are made, including use of "regulations" rather**
1474 **than "rules and regulations" per recommendation of the Code Commission.**

1475 ~~§ 23-132.5 23.1-2612. Sources from which moneys may be received; disposition of~~
1476 ~~receipts~~ Division; funding sources.

1477 The Division may receive moneys from the Commonwealth, the federal government ~~or,~~
1478 and private sources ~~and all.~~ All receipts of the Division shall be deposited to the credit of the
1479 general fund of the state treasury and ~~are hereby~~ appropriated to the ~~Virginia Polytechnic~~
1480 ~~Institute and State~~ University to be used exclusively for the purposes of the Division.

1481 **Drafting note: Technical changes.**

1482 ~~§ 23-132.6 23.1-2613. Appropriations~~ The Division and the Service; appropriations by
1483 the General Assembly.

1484 ~~There is hereby authorized to be appropriated for the purposes of this chapter such sums~~
1485 ~~as the~~ A. The General Assembly may ~~from time to time determine to be~~ appropriate such funds
1486 to the Division and the Service as it deems necessary. Any ~~money that may be appropriated~~
1487 ~~from the general fund of the state treasury, or received and appropriated~~ general funds and funds
1488 received from any agency or department of the federal government for the purposes of carrying
1489 out this ~~chapter article~~ shall be expended by the ~~Virginia Polytechnic Institute and State~~
1490 University through the Division and by the Virginia State University through the Service;
1491 Program and shall be accounted for in the manner prescribed by applicable law or regulations.

1492 B. Funds appropriated by the General Assembly shall be used by the University or
1493 Virginia State University for the purpose of conducting cooperative extension services in the
1494 Commonwealth. Such funds may be used to defray all necessary expenses, including salaries,
1495 travel expenses, equipment, supplies, or other authorized expenses.

1496 **Drafting note: Subsection B incorporates the provisions of existing § 23-132.7 with**
1497 **the exception of the explanatory provisions contained in that section. Technical changes**
1498 **are made.**

1499 ~~§ 23-132.7. For what purposes funds may be used.~~

1500 ~~The funds appropriated by the General Assembly as provided in § 23-132.6 shall be used~~
1501 ~~by the Virginia Polytechnic Institute and State University and by the Virginia State University~~
1502 ~~for the purpose of conducting cooperative extension services in the Commonwealth of Virginia~~
1503 ~~and in cooperation with the several counties, cities, and other participating bodies therein so far~~
1504 ~~as said funds will permit. "Cooperative extension service" is the function traditionally associated~~
1505 ~~with the term "extension," which is the joint federal, state, and local program designed to aid~~
1506 ~~transfer of information and research capabilities of land grant universities to citizens.~~
1507 ~~Traditionally, the cooperative extension services focus on agriculture, including horticulture and~~
1508 ~~silviculture, agribusiness, home economics, community resource development, and 4 H Clubs.~~
1509 ~~These funds may be used for defraying all necessary expenses, including the payment of salaries~~
1510 ~~and travel expenses, buying of equipment and supplies, and for other authorized expenses in~~
1511 ~~connection with carrying out the work.~~

1512 **Drafting note: With the exception of explanatory statements, the provisions of**
1513 **existing § 23.1-132.7 are stricken and incorporated into proposed § 23.1-2613. Explanatory**
1514 **statements are stricken.**

1515 ~~§ 23-132.8 23.1-2614. Appropriations The Division; appropriations by local governing~~
1516 ~~bodies.~~

1517 ~~The Any local governing bodies of the several counties and cities body of the~~
1518 ~~Commonwealth are hereby authorized and empowered to may appropriate out of the county or~~
1519 ~~city funds for the support of such, to be supplemented by funds appropriated by the General~~
1520 ~~Assembly to the University for the Division and such other funds as the University may~~
1521 ~~allocate, to support the activities of the Division such sums as said governing bodies may deem~~
1522 ~~proper; the sums so appropriated are to be used in cooperation with the Virginia Polytechnic~~

1523 ~~Institute and State University for paying such portions of the expenses of the Division and~~ in
1524 such manner as may be agreed upon by the ~~Virginia Polytechnic Institute and State~~ University
1525 and the local governing body. ~~Funds appropriated by the governing bodies of the county or city~~
1526 ~~are to be supplemented by a sum or sums to be paid out of funds appropriated by the General~~
1527 ~~Assembly to the Virginia Polytechnic Institute and State University for the Division and such~~
1528 ~~funds as may be allotted from funds under its control.~~

1529 **Drafting note: Technical changes.**

1530 § ~~23-132.9~~ 23.1-2615. ~~Soil~~ Agricultural Experiment Station; soil survey.

1531 For the purpose of continuing a survey of the soils of the Commonwealth ~~which that~~ was
1532 begun by the ~~United States~~ U.S. Department of Agriculture, ~~there is hereby authorized and~~
1533 ~~directed to be made under the direction and supervision of such agricultural experiment station,~~
1534 the Agricultural Experiment Station shall direct and supervise a comprehensive soil survey of
1535 the Commonwealth of such a character and along such lines as to obtain an inventory of the soil
1536 resources of the Commonwealth and to determine their adaptability to various crops, forestry,
1537 and livestock enterprises ~~in order~~ to promote the utilization of the lands of the Commonwealth
1538 in the most practical and economical way. It is contemplated that the ~~experiment station~~
1539 Agricultural Experiment Station will make ~~this such soil~~ survey in cooperation with the ~~United~~
1540 States U.S. Department of Agriculture.

1541 **Drafting note: Technical changes.**

1542 § ~~23-132.10~~ 23.1-2616. Agricultural Experiment Station; agricultural survey.

1543 ~~There is authorized to be made under the direction and supervision of such agricultural~~
1544 ~~experiment station, The Agricultural Experiment Station may direct and supervise~~ a thorough
1545 and comprehensive agricultural survey of the Commonwealth according to the most approved
1546 methods in practice, ~~or which may be devised, for the purpose of gathering to gather~~ facts and
1547 information ~~in regard to~~ on existing agricultural conditions in ~~Virginia, the Commonwealth~~
1548 data upon which to base a study of agricultural economics and a constructive program for the
1549 development of agriculture and agricultural resources, ~~which survey shall include matters~~

1550 ~~pertaining to.~~ The survey shall examine (i) soils and soil fertility and management; (ii) soil
1551 erosion and drainage problems affecting soil fertility and productivity; (iii) the adaptation of
1552 various soil types, elevations, and seasonable conditions to crops produced or ~~which that~~ may
1553 suitably be produced; (iv) farm layout and selection ~~and;~~ (v) arrangement of fields for the use of
1554 labor-saving machinery, ~~and;~~ (vi) economy and convenience in cultivation and farm operations;
1555 (vii) methods of cultivation, production, and handling of crops, ~~and;~~ (viii) general farm
1556 management; (ix) the various crops produced on farms, and their yield and gross value
1557 compared with the cost of production and courses of low yield; (x) farm labor, and its
1558 distribution and efficiency; (xi) labor incomes of the various classes of farm labor; (xii) the
1559 relation of various farm products to public needs and local and general supply and demand;
1560 (xiii) farm incomes and income sources; (xiv) capital investment and return; (xv) distribution of
1561 capital investment; (xvi) the character and extent of idle lands and their suitability for
1562 cultivation or other agricultural purposes in the various localities and what, if any, profitable use
1563 may be made of them through the introduction of livestock or crops adapted to such soils, by
1564 individuals or on a community plan, with notations of elevation, topography, temperatures, and
1565 seasonal conditions ~~as~~ affecting ~~fruit~~ production of fruit, cotton ~~or,~~ and other crops; and (xvii)
1566 any other information or studies ~~which that~~ may seem advisable in determining methods for the
1567 betterment of agricultural conditions and the development of the agricultural resources of the
1568 Commonwealth.

1569 ~~It is contemplated that in making the foregoing survey that the agricultural experiment~~
1570 ~~station will, and is hereby authorized to,~~ The Agricultural Experiment Station is authorized to
1571 and it is contemplated that the Agricultural Experiment Station will work in conjunction with
1572 and cooperate with similar agencies of the federal government to make such agricultural survey
1573 whenever a suitable and satisfactory arrangement can be made for such cooperation.

1574 **Drafting note: Technical changes.**

1575 Article 6.

1576 Virginia Truck and Ornamentals Research Station.

1577 **Drafting note: Existing Article 6 (§ 23-155.01 et seq.) of Chapter 11 is stricken and**
1578 **its four sections are relocated to proposed Article 2 of this chapter with technical changes**
1579 **to reflect its name in current use.**

1580 § ~~23-155.01~~ 23.1-2617. ~~Established~~ Hampton Roads Agricultural Research and
1581 Extension Center established.

1582 The ~~Virginia Truck and Ornamentals~~ Hampton Roads Agricultural Research ~~Station is~~
1583 ~~hereby abolished as a permanent state institution and is reestablished~~ and Extension Center is
1584 established as a component of the Virginia Agricultural Experiment Station ~~which is, by the~~
1585 ~~provisions of § 23-132.1, part of the Research Division at the Virginia Polytechnic Institute and~~
1586 ~~State University.~~

1587 **Drafting note: Existing § 23-155.01 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is**
1588 **logically relocated as proposed § 23.1-2617. Technical changes are made, including**
1589 **updating the name of the Hampton Roads Agricultural Research and Extension Center.**

1590 § ~~23-155.02~~ 23.1-2618. ~~Function~~ Hampton Roads Agricultural Research and Extension
1591 Center; function.

1592 The ~~Virginia Truck and Ornamentals~~ Hampton Roads Agricultural Research ~~Station, at~~
1593 ~~times hereafter referred to as the "Station,"~~ and Extension Center shall conduct basic and
1594 applied research in the fields of horticulture, plant breeding and variety testing, entomology,
1595 nematology, plant pathology, plant physiology, and soil science which may bear directly on the
1596 interests of commercial growers of vegetable and ornamental crops in the Tidewater ~~Virginia~~
1597 region of the Commonwealth. The ~~station~~ Hampton Roads Agricultural Research and Extension
1598 Center shall coordinate its research with related work of the Virginia Agricultural Experiment
1599 Station to avoid unnecessary duplication of effort. The ~~information acquired~~ Hampton Roads
1600 Agricultural Research and Extension Center shall disseminate the results of its research
1601 conducted pursuant to this section ~~shall be disseminated~~. The Norfolk and Eastern Shore
1602 branches of the ~~station will~~ Hampton Roads Agricultural Research and Extension Center shall
1603 be retained as active research stations.

1604 **Drafting note: Existing § 23-155.02 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is**
1605 **logically relocated as proposed § 23.1-2618. Technical changes are made.**

1606 § ~~23-155.03~~ 23.1-2619. Board ~~of Directors~~ directors.

1607 A. A ~~Board~~ board of ~~Directors~~ directors shall serve as an advisory body ~~representing to~~
1608 the Hampton Roads Agricultural Research and Extension Center that represents local
1609 agricultural interests. The ~~Board will~~ shall consist of five members, ~~all~~ appointed by the ~~Dean~~
1610 dean of the College of Agriculture and Life Sciences. Three ~~of the appointive~~ appointed
1611 members shall be ~~selected from the membership~~ members of the Association of Virginia Potato
1612 and Vegetable Growers, Incorporated. ~~Two of the appointive and two appointed~~ members shall
1613 be ~~selected from the membership~~ members of the Virginia ~~Nurseryman's Nursery and~~
1614 Landscape Association, ~~Incorporated~~.

1615 ~~The term of office of the appointive members~~ B. Members of the board shall ~~be serve for~~
1616 terms of four years.

1617 C. The members of the ~~Board~~ board shall name one of its members chairman ~~and three~~.

1618 D. Three members of the ~~Board~~ board shall constitute a quorum for the transaction of
1619 business.

1620 E. The ~~Board~~ board shall hold at least one meeting annually at either the Norfolk or
1621 Eastern Shore branch research stations and such other meetings as may be necessary at such
1622 times and places as the chairman or any three members may designate.

1623 **Drafting note: Technical changes.**

1624 § ~~23-155.04~~ 23.1-2620. ~~Executive Director~~ Hampton Roads Agricultural Research and
1625 Extension Center; executive director.

1626 An ~~Executive Director~~ executive director shall be appointed to administer the Norfolk
1627 and Eastern Shore branches of the ~~station~~ Hampton Roads Agricultural Research and Extension
1628 Center and ~~to~~ carry out ~~the station's~~ its research program ~~of research~~. The ~~Executive Director~~
1629 executive director shall serve at the pleasure of and be answerable to the Dean of the College of
1630 Agriculture and Life Sciences of the University.

1631 **Drafting note: Existing § 23-155.04 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is**
1632 **logically relocated as proposed § 23.1-2620. Technical changes are made.**

1633 ~~§ 23-132.11 23.1-2621. Reports The Division and the Service; reports.~~

1634 ~~A. The Virginia Polytechnic Institute and State University shall file such reports on the~~
1635 ~~activities of the Division; the Virginia State University shall file such reports on the activities of~~
1636 ~~the Service Program as may be required by law or requested by the Governor; and the two~~
1637 ~~institutions.~~

1638 ~~B. Virginia State University shall file such reports on the activities of the Service as may~~
1639 ~~be required by law or requested by the Governor.~~

1640 ~~C. The University and Virginia State University shall file such reports on the unified~~
1641 ~~plan as may be required by law or requested by the Governor.~~

1642 **Drafting note: Technical changes.**

1643 ~~§ 23-132.12 23.1-2622. Construction of acts relating to the Virginia Cooperative~~
1644 ~~Extension Service and Agricultural Experiment Station Division of Virginia Polytechnic~~
1645 ~~Institute and State University.~~

1646 All acts ~~and parts of acts~~ relating to the ~~Virginia Cooperative Extension Service and~~
1647 ~~Agricultural Experiment Station Division of the Virginia Polytechnic Institute and State~~
1648 ~~University~~ shall be construed as relating to the Division as established by this article; and no
1649 such act ~~or part of an act~~ shall be construed as limiting the provisions of this article.

1650 **Drafting note: Technical changes.**

1651 ~~Article 2.~~

1652 ~~Research Division.~~

1653 ~~§§ 23-133 through 23-135.7.~~

1654 **Drafting note: Repealed by Acts 1994, c. 433.**

1655 ~~Article 2.01 3.~~

1656 Virginia Center for Coal and Energy Research.

1657 **Drafting note: Technical changes.**

1658 § ~~23-135.7:1~~ 23.1-2623. ~~Created Virginia Center for Coal and Energy Research~~
1659 established.

1660 The Virginia Center for Coal and Energy Research (the Center) is ~~hereby created to be~~
1661 ~~located at Virginia Polytechnic Institute and State University, hereinafter referred to as the~~
1662 Center.

1663 § ~~23-135.7:2~~. Function.

1664 The Center shall be established as an interdisciplinary study, research, information, and
1665 resource facility for the Commonwealth ~~of Virginia utilizing and shall utilize~~ the full
1666 capabilities of faculty, staff, libraries, and laboratories for the benefit of Virginians and the
1667 expansion of knowledge pertaining to coal and energy research and development. The Center
1668 shall be located at the University.

1669 **Drafting note: Existing §§ 23-135.7:1 and 23-135.7:2 are logically combined in**
1670 **proposed § 23.1-2623. Technical changes are made.**

1671 § ~~23-135.7:3~~ 23.1-2624. Control and supervision.

1672 The Center shall be subject to the control and supervision of the board ~~of visitors of~~
1673 Virginia Polytechnic Institute and State University.

1674 **Drafting note: Technical changes.**

1675 § ~~23-135.7:4~~ 23.1-2625. ~~Appointment of executive~~ Executive director.

1676 The board ~~of visitors of Virginia Polytechnic Institute and State University~~ shall appoint
1677 an executive director for the Center.

1678 § ~~23-135.7:5~~. ~~Powers and duties of executive director.~~

1679 The executive director with who, subject to the approval of the board ~~of visitors of~~
1680 Virginia Polytechnic Institute and State University, shall ~~have the following powers and duties:~~

- 1681 1. Exercise all powers and perform all duties imposed upon him by law; ~~and~~
1682 2. Carry out the specific duties imposed upon him by the board ~~of visitors of Virginia~~
1683 Polytechnic Institute and State University; and

1684 3. Employ such personnel and contract for such services as may be required to carry out
1685 the purposes of this article.

1686 **Drafting note: Existing §§ 23-135.7:4 and 23-135.7:5 are logically combined in this**
1687 **proposed § 23.1-2625. Technical changes are made.**

1688 § ~~23-135.7:6~~ 23.1-2626. Powers and duties of the Center.

1689 The Center, under the direction of the executive director, shall ~~have the following~~
1690 ~~powers and duties~~:

1691 1. ~~To develop~~ Develop a degree program in energy production and conservation research
1692 at the master's level in conjunction with the State Council ~~on Higher Education~~;

1693 2. ~~To develop~~ Develop and provide programs of continuing education and in-service
1694 training for persons who work in the ~~field~~ fields of coal or other energy research, development,
1695 or production;

1696 3. ~~To operate in conjunction~~ Collaborate with other departments of ~~Virginia Polytechnic~~
1697 ~~Institute and State~~ the University, including ~~but not limited to~~ the Department of Mining and
1698 Minerals Engineering;

1699 4. ~~To conduct~~ Conduct research in the fields of coal, coal utilization, migrating natural
1700 gases such as methane and propane, and other ~~energy-related~~ energy-related work;

1701 5. ~~To collect~~ Collect and maintain data on energy production, development, and
1702 utilization;

1703 6. ~~To foster~~ Foster the utilization of research information, discoveries, and data;

1704 7. ~~To coordinate~~ Coordinate the functions of the Center with each of the Center's energy
1705 research facilities to prevent duplication of effort;

1706 8. ~~To apply~~ Apply for and accept grants from the ~~United States~~ federal government ~~and~~
1707 ~~the~~, state government ~~and agencies and instrumentalities thereof~~, and ~~from~~ any other source ~~in~~
1708 ~~carrying to carry~~ out the purposes of this article. ~~To these ends, the~~ The Center ~~shall have the~~
1709 ~~power to may~~ comply with such conditions and execute such agreements as may be necessary to
1710 accept such grants;

1711 9. ~~To accept~~ Accept gifts, bequests, and any other thing of value to ~~be used for carrying~~
1712 carry out the purposes of this article;

1713 10. ~~To receive~~ Receive, administer, and expend all funds and other assistance made
1714 available to the Center ~~for to carry out~~ the purposes of ~~carrying out~~ this article;

1715 11. ~~To consult~~ Consult with the Division of Energy of the Department of Mines,
1716 Minerals and Energy in the preparation of the Virginia Energy Plan pursuant to § 67-201; and

1717 12. ~~To do~~ Do all things necessary or convenient for the proper administration of this
1718 article.

1719 **Drafting note: Technical changes.**

1720 § ~~23-135.7:7~~ 23.1-2627. ~~Advisory Committee continued as~~ Virginia Coal Research and
1721 Development Advisory Board.

1722 The ~~Virginia Coal Research and Development Advisory Committee is continued and~~
1723 ~~shall hereafter be known as the~~ Virginia Coal Research and Development Advisory Board. ~~The~~
1724 ~~(the~~ Advisory Board) shall serve in an advisory capacity to the ~~Executive Director~~ executive
1725 director of the ~~Virginia~~ Center ~~for Coal and Energy Research~~.

1726 ~~1. The Advisory Board shall be authorized to advise on those matters set forth in § 23-~~
1727 ~~135.7:2.~~

1728 ~~2. Representatives to the Advisory Board shall be appointed by the~~ ~~Board of Visitors of~~
1729 ~~Virginia Polytechnic Institute and State University~~ board.

1730 ~~3. The Board of Visitors of Virginia Polytechnic Institute and State University board~~
1731 shall ~~also~~ appoint such other individuals as ~~they deem it deems~~ necessary to the work of the
1732 Advisory Board.

1733 ~~4. Representatives~~ Members shall include representatives from the Department of
1734 Conservation and ~~Historic Resources~~ Recreation; the Department of Small Business and
1735 Supplier Diversity; the Department of Mines, Minerals and Energy; the Department of Labor
1736 and Industry; the Virginia Port Authority, ~~the institutions~~, and each public institution of higher

1737 education, excluding ~~Virginia Polytechnic Institute and State the~~ University, ~~and the~~
1738 ~~Community College System shall serve as the Advisory Board.~~

1739 **Drafting note: Technical changes are made, including correcting the name of the**
1740 **Department of Conservation and Recreation.**

1741 Article ~~2.02~~ 4.

1742 Virginia Water Resources Research Center.

1743 **Drafting note: Technical changes.**

1744 § ~~23-135.7:8.~~ 23.1-2628. ~~Established~~ Virginia Water Resources Research Center
1745 established.

1746 The Virginia Water Resources Research Center, ~~which came into existence as the result~~
1747 ~~of the Water Resources Research Act of 1964 (P.L. 88-379), (the Water Center)~~ is hereby
1748 established ~~as the Virginia Water Resources Research Center, hereinafter referred to as the~~
1749 ~~Water Center, to be located at Virginia Polytechnic Institute and State University, for the~~
1750 ~~purposes of developing, implementing and coordinating to develop, implement, and coordinate~~
1751 water and related land research programs in the Commonwealth and ~~transferring transfer~~ the
1752 results of research and new technology to potential users. The Water Center shall be located at
1753 the University.

1754 **Drafting note: Technical changes.**

1755 § ~~23-135.7:10~~ 23.1-2629. Control and supervision.

1756 The Water Center ~~shall be~~ is a unit of ~~Virginia Polytechnic Institute and State the~~
1757 University under the supervision and control of the ~~University's Board of Visitors~~ board.

1758 **Drafting note: Technical changes.**

1759 § ~~23-135.7:9~~ 23.1-2630. Functions, powers, and duties ~~of the Water Center.~~

1760 A. The Water Center shall: (i) consult with the General Assembly; federal, state, and
1761 local agencies; water user groups; private industry; and other potential users of research; (ii)
1762 establish and administer agreements with other ~~universities of~~ institutions of higher education in
1763 the Commonwealth ~~for the to~~ conduct of research projects; (iii) ~~[Repealed.]~~ ~~(iv)~~ disseminate

1764 new information and facilitate the transfer and application of new technology; ~~(v)~~ (iv) be a
1765 liaison between ~~Virginia~~ the Commonwealth and the federal research funding agencies ~~as an~~
1766 and advocate for ~~Virginia's~~ the Commonwealth's water research needs; ~~(vi)~~ and (v) encourage
1767 the development of academic programs in water resources management in conjunction with the
1768 State Council on Higher Education.

1769 B. ~~In addition, the~~ The Water Center shall facilitate and stimulate research that: (i) deals
1770 with policy issues facing the General Assembly; (ii) supports the state water resource agencies;
1771 and (iii) provides water planning and management organizations with tools to increase
1772 efficiency and effectiveness of water planning and management.

1773 **Drafting note: Technical changes.**

1774 § ~~23-135.7:11~~ 23.1-2631. ~~Appointment of an executive~~ Executive director.

1775 A. The principal administrative officer of the Water Center shall be an executive
1776 director, who shall be appointed by the ~~President~~ president of ~~Virginia Polytechnic Institute and~~
1777 State ~~the~~ University ~~with, subject to~~ the approval of the ~~Board of Visitors, and who~~ board. ~~The~~
1778 executive director shall be under the supervision of the ~~President~~ president of ~~Virginia~~
1779 ~~Polytechnic Institute and State~~ the University.

1780 § ~~23-135.7:12~~. ~~Powers and duties of the Executive Director.~~

1781 B. ~~The Executive Director~~ executive director shall exercise all powers imposed upon
1782 him by law, carry out the specific duties imposed upon him by the ~~President~~ president of
1783 ~~Virginia Polytechnic Institute and State~~ the University, and develop appropriate policies and
1784 procedures, with the advice of the Virginia Water Resources Research Center Statewide
1785 Advisory Board, for (i) identifying priority research problems; (ii) collaborating with the
1786 General Assembly; federal, state, and local governmental agencies; and water user groups in the
1787 formulation of its research programs; (iii) selecting projects to be funded; and (iv) disseminating
1788 information and transferring technology designed to help resolve water and related land
1789 problems of the Commonwealth. He shall employ such personnel and secure such services as

1790 may be required to carry out the purposes of this article and expend appropriated funds and
1791 accept moneys for cost-sharing on projects funded with federal and private funds.

1792 **Drafting note: Existing §§ 23-135.7:11 and 23-135.7:12 are combined in proposed §**
1793 **23.1-2631. Technical changes are made.**

1794 § ~~23-135.7:13~~ 23.1-2632. ~~Statewide Advisory Committee continued as~~ Virginia Water
1795 Resources Research Center Statewide Advisory Board.

1796 The ~~Virginia Water Resources Research Center Statewide Advisory Committee is~~
1797 ~~continued and shall hereafter be known as the~~ Virginia Water Resources Research Center
1798 Statewide Advisory Board. ~~The~~ (the Statewide Advisory Board) shall serve in an advisory
1799 capacity to the ~~Executive Director~~ executive director of the Water Center. Representatives of the
1800 Statewide Advisory Board shall be appointed by the Governor, subject to confirmation by the
1801 General Assembly, and shall include balanced representation from industries; federal, state, and
1802 local agencies; water user groups; and concerned citizens. The Statewide Advisory Board shall
1803 (i) recommend policy guidelines for implementing the functions of the Water Center ~~and,~~ (ii)
1804 evaluate the programs of the Water Center; ~~and~~ (ii) (iii) ~~advise and counsel with the~~ Executive
1805 Director executive director of the Water Center and make recommendations to assist him in
1806 carrying out the purposes of this article.

1807 **Drafting note: Technical changes.**

1808 Article ~~2.03~~ 5.

1809 Virginia Center for Housing Research.

1810 **Drafting note: Technical changes.**

1811 § ~~23-135.7:14~~ 23.1-2633. Virginia Center for Housing Research established.

1812 The Virginia Center for Housing Research, ~~hereinafter referred to as~~ (the Housing
1813 Center;) is ~~hereby created to~~ established and shall be located at ~~Virginia Polytechnic Institute~~
1814 and State the University.

1815 **Drafting note: Technical changes.**

1816 § ~~23-135.7:15~~ 23.1-2634. Functions, powers, and duties ~~of the Housing Center~~.

1817 ~~A.~~The Housing Center shall serve as an interdisciplinary study, research, and
1818 information resource on housing for the Commonwealth ~~of Virginia~~. The Housing Center shall:
1819 (i) consult with the General Assembly; federal, state, and local agencies; nonprofit
1820 organizations; private industry; and other potential users of research; (ii) establish and
1821 administer agreements with other ~~universities of institutions of higher education in~~ the
1822 Commonwealth to carry out research projects; (iii) disseminate new information and research
1823 results; ~~and~~ (iv) facilitate the application and transfer of new technologies to housing.

1824 ~~B. In addition, the Housing Center shall; and (v)~~ stimulate and perform research that ~~(i)~~
1825 deals with housing policy issues facing the General Assembly and ~~(ii)~~ aids the Commonwealth's
1826 housing and housing finance agencies.

1827 **Drafting note: Technical changes.**

1828 § ~~23-135.7:16~~ 23.1-2635. Control and supervision.

1829 The Housing Center ~~shall be is~~ a unit of ~~Virginia Polytechnic Institute and State the~~
1830 University under the supervision and control of the ~~University's Board of Visitors board~~.

1831 **Drafting note: Technical changes.**

1832 § ~~23-135.7:17~~ 23.1-2636. ~~Appointment of a~~ Director.

1833 ~~A.~~ The ~~President president~~ of the ~~Virginia Polytechnic Institute and State~~ University,
1834 with the approval of the ~~Board of Visitors board~~, shall appoint a director to serve as the
1835 principal administrative officer of the Housing Center. The ~~Director director~~ shall be under the
1836 supervision of the ~~President president~~ of the ~~Virginia Polytechnic Institute and State~~ University
1837 or his designee.

1838 § ~~23-135.7:18. Powers and duties of the Director.~~

1839 ~~B.~~ The ~~Director director~~ shall exercise all powers imposed upon him by law, carry out
1840 the specific duties imposed on him by the ~~President president~~ of ~~Virginia Polytechnic Institute~~
1841 ~~and State the~~ University, and develop appropriate policies and procedures, with the advice of the
1842 ~~Research Advisory Board of Housing and Community Development~~, for (i) identifying priority
1843 research problems; (ii) cooperating with the General Assembly; federal, state, and local

1844 agencies; nonprofit organizations; and private industry in formulating its research programs; (iii)
1845 selecting research projects to be funded; and (iv) disseminating information and transferring
1846 technology related to housing and housing problems within the Commonwealth. The ~~Director~~
1847 director shall employ such personnel and secure such services as may be required to carry out
1848 the purposes of this article, expend appropriated funds, and accept moneys from federal or
1849 private sources for cost-sharing on projects.

1850 **Drafting note: Existing §§ 23-135.7:17 and 23-135.7:18 are combined as proposed §**
1851 **23.1-2636. Technical changes are made.**

1852 ~~§ 23-135.7:19.~~

1853 **Drafting note: Repealed by Acts 1992, c. 754.**

1854 ~~§ 23-135.7:20 23.1-2637. Board of Housing and Community Development to serve as~~
1855 ~~advisory~~ Advisory board.

1856 The Board of Housing and Community Development ~~established in § 36-135~~ shall ~~serve~~
1857 ~~in an advisory capacity to advise~~ the ~~Director~~ director of the Housing Center ~~for Housing~~
1858 ~~Research. The Board of Housing and Community Development shall be~~ and is authorized to
1859 advise the director on all matters set forth in § ~~23-135.7:15~~ 23.1-2634.

1860 **Drafting note: Technical changes.**

1861 ~~Article 2.1.~~

1862 ~~Roanoke Technical Institute.~~

1863 **Drafting note: Existing Article 2.1 (§ 23-135.8 et seq.) of Chapter 11 is**
1864 **recommended for repeal as obsolete.**

1865 ~~§ 23-135.8. Establishment and accreditation.~~

1866 ~~There is hereby established within the Virginia Polytechnic Institute and State University~~
1867 ~~a division to be known as the "Roanoke Technical Institute," hereinafter referred to as the~~
1868 ~~Institute. Such Institute shall be in all respects subject to the judgment, control and supervision~~
1869 ~~of the governing board of the Virginia Polytechnic Institute and State University in cooperation~~

1870 ~~with the State Board of Education, which said Institute shall offer courses appropriate to~~
1871 ~~establish accreditation practices in its field.~~

1872 **Drafting note: Existing § 23-135.8 is recommended for repeal as obsolete.**

1873 ~~§ 23-135.9. Purpose.~~

1874 ~~The purpose of the Institute shall be to train technicians in the industrial, scientific,~~
1875 ~~electrical and the mechanical arts and sciences in order to increase the economic efficiency and~~
1876 ~~safety of the manufacturing, engineering, and industrial enterprises of the Commonwealth and~~
1877 ~~to promote the economic utilization of its natural and human resources.~~

1878 **Drafting note: Existing § 23-135.9 is recommended for repeal as obsolete.**

1879 ~~§ 23-135.10. Administration.~~

1880 ~~The board of visitors of the Virginia Polytechnic Institute and State University in~~
1881 ~~cooperation with the State Board of Education shall provide for the administration of such~~
1882 ~~Institute through such persons as they determine proper and shall make such appointments to the~~
1883 ~~administrative and technical staff of the Institute as in their judgment appear best.~~

1884 **Drafting note: Existing § 23-135.10 is recommended for repeal as obsolete.**

1885 ~~§ 23-135.11. Contribution by City of Roanoke; gifts and donations.~~

1886 ~~The City of Roanoke shall provide a suitable site without cost to the Commonwealth and~~
1887 ~~assume an appropriate share of the cost of operation. For such purpose the city may accept and~~
1888 ~~expend gifts and donations from private individuals, firms, corporations and organizations,~~
1889 ~~which shall be considered for the purpose of this section as a contribution on the part of the city.~~

1890 **Drafting note: Existing § 23-135.11 is recommended for repeal as obsolete.**

1891 ~~Article 2.2.~~

1892 ~~Clifton Forge Covington Branch.~~

1893 **Drafting note: Existing Article 2.2 (§ 23-135.12 et seq.) of Chapter 11 is**
1894 **recommended for repeal as obsolete.**

1895 ~~§ 23-135.12. Establishment.~~

1896 ~~There is hereby established within the Virginia Polytechnic Institute and State University~~
1897 ~~a division to be known as the "Clifton Forge Covington Branch of the Virginia Polytechnic~~
1898 ~~Institute and State University," hereinafter referred to as the division. Such division shall be in~~
1899 ~~all respects subject to the judgment, control and supervision of the governing board of the~~
1900 ~~Virginia Polytechnic Institute and State University.~~

1901 **Drafting note: Existing § 23-135.12 is recommended for repeal as obsolete.**

1902 ~~§ 23-135.13. Administration.~~

1903 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall have~~
1904 ~~the same powers as to determining the fields of instruction to be offered; as to fixing tuition,~~
1905 ~~fees and other charges; as to the appointment and removal of administrative officers, professors,~~
1906 ~~agents and servants, and the making of rules and regulations as are now vested in said board~~
1907 ~~with respect to Virginia Polytechnic Institute and State University. The board of visitors shall~~
1908 ~~have the power of granting appropriate diplomas or certificates of successful completion of the~~
1909 ~~two-year curriculum of such division.~~

1910 **Drafting note: Existing § 23-135.13 is recommended for repeal as obsolete.**

1911 ~~§ 23-135.14. Courses of instruction.~~

1912 ~~The curriculum offered by the division shall be limited to courses of instruction which~~
1913 ~~are offered by the Virginia Polytechnic Institute and State University to resident students during~~
1914 ~~their first two years of enrollment and to such other terminal courses of no more than two years'~~
1915 ~~duration as may be authorized by the board of visitors to meet the post-high school educational~~
1916 ~~needs of the community.~~

1917 **Drafting note: Existing § 23-135.14 is recommended for repeal as obsolete.**

1918 ~~§ 23-135.15. Expenditure of appropriations.~~

1919 ~~Appropriations, directly or indirectly, from the Commonwealth to the division shall be~~
1920 ~~expended as directed by the board of visitors of the Virginia Polytechnic Institute and State~~
1921 ~~University.~~

1922 **Drafting note: Existing § 23-135.15 is recommended for repeal as obsolete.**

1923 ~~§ 23-135.16. Care and preservation of property; acquisition of site; gifts and donations.~~
1924 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall be~~
1925 ~~charged with the care and preservation of all property, real and personal, belonging to the~~
1926 ~~division. To this end, the board is authorized to acquire, by gift or purchase, a suitable site for~~
1927 ~~the division, and may accept and expend gifts and donations of any kind from individuals, firms,~~
1928 ~~corporations and organizations.~~

1929 **Drafting note: Existing § 23-135.16 is recommended for repeal as obsolete.**

1930 ~~Article 2.3.~~

1931 ~~Wytheville Branch.~~

1932 **Drafting note: Existing Article 2.3 (§ 23-135.17 et seq.) of Chapter 11 of Title 23 is**
1933 **recommended for repeal as obsolete.**

1934 ~~§ 23-135.17. Establishment.~~

1935 ~~There is hereby established within the Virginia Polytechnic Institute and State University~~
1936 ~~a division to be known as the "Wytheville Branch of the Virginia Polytechnic Institute and State~~
1937 ~~University," hereinafter referred to as the division. Such division shall be in all respects subject~~
1938 ~~to the judgment, control and supervision of the governing board of the Virginia Polytechnic~~
1939 ~~Institute and State University.~~

1940 **Drafting note: Existing § 23-135.17 is recommended for repeal as obsolete.**

1941 ~~§ 23-135.18. Administration.~~

1942 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall have~~
1943 ~~the same powers as to determining the fields of instruction to be offered; as to fixing tuition,~~
1944 ~~fees and other charges; as to the appointment and removal of administrative officers, professors,~~
1945 ~~agents and servants, and the making of rules and regulations as are now vested in said board~~
1946 ~~with respect to Virginia Polytechnic Institute and State University. The board of visitors shall~~
1947 ~~have the power of granting appropriate diplomas or certificates of successful completion of the~~
1948 ~~two-year curriculum of such division.~~

1949 **Drafting note: Existing § 23-135.18 is recommended for repeal as obsolete.**

1950 ~~§ 23-135.19. Courses of instruction.~~

1951 ~~The curriculum offered by the division shall be limited to courses of instruction which~~
1952 ~~are offered by the Virginia Polytechnic Institute and State University to resident students during~~
1953 ~~their first two years of enrollment and to such other terminal courses of no more than two years'~~
1954 ~~duration as may be authorized by the board of visitors to meet the post-high school educational~~
1955 ~~needs of the community.~~

1956 **Drafting note: Existing § 23-135.19 is recommended for repeal as obsolete.**

1957 ~~§ 23-135.20. Expenditure of appropriations.~~

1958 ~~Appropriations, directly or indirectly, from the Commonwealth to the college shall be~~
1959 ~~expended as directed by the board of visitors of the Virginia Polytechnic Institute and State~~
1960 ~~University.~~

1961 **Drafting note: Existing § 23-135.20 is recommended for repeal as obsolete.**

1962 ~~§ 23-135.21. Care and preservation of property; acquisition of site; gifts and donations.~~

1963 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall be~~
1964 ~~charged with the care and preservation of all property real and personal, belonging to the~~
1965 ~~college. To this end, the board is authorized to acquire, by gift or purchase, a suitable site for the~~
1966 ~~college, and may accept and expend gifts and donations of any kind from individuals, firms,~~
1967 ~~corporations and organizations.~~

1968 **Drafting note: Existing § 23-135.21 is recommended for repeal as obsolete.**

1969 ~~Article 3 6.~~

1970 ~~Governmental and Individual Donations.~~

1971 **Drafting note: Technical changes.**

1972 ~~§ 23-136 23.1-2638. Institutions receiving interest accruing on proceeds of land scrip.~~

1973 ~~The General Assembly having accepted the donation of lands proffered to Virginia by~~
1974 ~~the act of Congress of July 2, 1862; and,~~

1975 ~~The authorities of the Commonwealth having received the land scrip it was entitled to~~
1976 ~~under such act of Congress; and,~~

1977 ~~The Board of Education having, in conformity with the acts of February seventh, and~~
1978 ~~March 19, 1872, made sale of the scrip and invested the proceeds in state bonds, which were~~
1979 ~~directed to be set apart and to constitute an education fund:~~

1980 The annual accruing interest from ~~such fund~~ the education fund resulting from the
1981 donation of lands by act of Congress on July 2, 1862, and the sale of such lands and the
1982 investment of the proceeds from such sale in state bonds by the Board of Education on February
1983 7 and March 19, 1872, shall ~~henceforth until otherwise provided by law~~ be paid one-third
1984 ~~thereof to the~~ Virginia State University, and two-thirds to the ~~board of visitors of the Virginia~~
1985 ~~Polytechnic Institute and State~~ University.

1986 **Drafting note: Technical changes.**

1987 § ~~23-137~~ 23.1-2639. Institutions receiving money allotted to Commonwealth under act
1988 of Congress.

1989 The Comptroller shall receive from the U.S. Secretary of the Interior ~~of the United States~~
1990 such sums of money as shall be allotted to ~~Virginia~~ the Commonwealth under and in accordance
1991 with the act of Congress approved August 30, 1890, and shall pay ~~over the same as follows:~~
1992 one-third to the treasurer of ~~the~~ Virginia State University, and two-thirds to the treasurer of the
1993 ~~Virginia Polytechnic Institute and State~~ University, who shall receive and disburse the ~~same~~
1994 sums as required by section two of ~~the such~~ act of Congress ~~aforsaid~~.

1995 **Drafting note: Technical changes.**

1996 § ~~23-138~~ 23.1-2640. Experimental farms.

1997 A. A portion of the fund, not exceeding ~~ten per centum~~ 10 percent of ~~the proportion each~~
1998 sum assigned to Virginia State University and ~~Virginia Polytechnic Institute and State~~ the
1999 University, may be expended, in the discretion of the ~~governing boards~~ board of visitors of ~~the~~
2000 institutions, respectively each institution, in the purchase of lands for experimental farms ~~for~~
2001 each of them.

2002 B. The respective governing boards may use a portion of the accruing interest from such
2003 fund to purchase suitable and appropriate laboratories.

2004 **Drafting note: Existing §§ 23-138 and 23-139 are logically combined as proposed §**
2005 **23.1-2640. Technical changes are made.**

2006 ~~§ 23-139. Laboratories.~~

2007 ~~A portion of the accruing interest from such fund may be, from time to time, expended~~
2008 ~~by the respective governing boards of such institutions in the purchase of laboratories suitable~~
2009 ~~and appropriate for the institutions.~~

2010 **Drafting note: The provisions of existing § 23-139 are stricken and incorporated**
2011 **into proposed § 23.1-2640.**

2012 ~~§ 23-140~~ 23.1-2641. Reversion of property on withdrawal of annuity.

2013 If at any time such annuity should be withdrawn from the ~~Virginia Polytechnic Institute~~
2014 ~~and State~~ University, the property, real and personal, conveyed and appropriated to its use and
2015 benefit by the trustees of the Preston and Olin Institute, and ~~by~~ the County of Montgomery,
2016 under the provisions of Chapter 234 of the Acts of Assembly of 1871-1872, shall revert to the
2017 trustees and ~~to~~ the county, respectively, from which it was conveyed and appropriated.

2018 **Drafting note: Technical changes.**

2019 ~~§ 23-141~~ 23.1-2642. County subscriptions and individual donations.

2020 ~~It shall be lawful for the~~ The board ~~of visitors of the Institute to~~ may accept (i) the
2021 subscription of any county made under ~~an~~ the act to authorize subscriptions in aid of the
2022 Institute, University approved March 21, 1872, and ~~also the donation of any individual,~~ (ii)
2023 individual donations in aid of the purposes and objects of the ~~Institute, and such~~ University.
2024 Such donations and subscriptions, ~~when made,~~ shall be held by the board in trust for the benefit
2025 of the ~~Institute, on condition that the same~~ University and shall revert to the ~~several~~ donors ~~of~~
2026 and subscribers, ~~pari passu,~~ if ~~at any time~~ the Commonwealth ~~should withdraw~~ withdraws
2027 the use of the ~~Institute~~ University the interest accruing on the proceeds of the land scrip, as
2028 provided in § ~~23-136~~ 23.1-2638.

2029 **Drafting note: Technical changes.**

2030 Article 3.1.

2031 ~~Program on Food and Nutrition.~~

2032 ~~§§ 23-141.1 through 23-141.5. Expired.~~

2033 **Drafting note: Expired pursuant to Acts 1982, c. 283, cl. 2, effective June 30, 1986.**

2034 ~~Article 4.~~

2035 ~~Nautical School.~~

2036 **Drafting note: Existing Article 4 (§ 23-142 et seq.) of Chapter 11 is recommended**
2037 **for repeal as obsolete.**

2038 ~~§ 23-142. Establishment, management, etc.~~

2039 ~~There shall be established and maintained under the management, direction and control~~
2040 ~~of the board of visitors and faculty of the Virginia Polytechnic Institute and State University, a~~
2041 ~~nautical school for instruction in the science and practice of navigation, seamanship and~~
2042 ~~engineering and any such other subjects, to be prescribed by the proper authorities of the~~
2043 ~~University, as may be necessary for proper training for the position of deck or engine room~~
2044 ~~officers of the merchant marine. Such school shall be open to residents of the several counties~~
2045 ~~and cities of this Commonwealth, but the authorities of the University shall have the right to~~
2046 ~~limit the number of students attending the nautical school and to prescribe the necessary~~
2047 ~~physical and educational entrance requirements and standards of admission therefor, and the~~
2048 ~~government and discipline thereof, and to fix the terms and conditions upon which students shall~~
2049 ~~be received and instructed in the school and be graduated, discharged and suspended therefrom,~~
2050 ~~and to make all necessary requirements for its management.~~

2051 **Drafting note: Existing § 23-142 is recommended for repeal as obsolete.**

2052 ~~§ 23-143. Cost to students.~~

2053 ~~The students admitted to the nautical school shall have the privilege of attending the~~
2054 ~~same without charge for tuition, or for use of laboratories or public buildings, but the cost of~~
2055 ~~such students in the school for board, room, medical care and other necessary expenses shall be~~
2056 ~~the same as the cost to students in the engineering departments of the Institute.~~

2057 **Drafting note: Existing § 23-143 is recommended for repeal as obsolete.**

2058 ~~§ 23-144. Books and equipment; commander and instructors.~~

2059 ~~The authorities of the Institute shall provide the necessary books, charts, instruments,~~
2060 ~~apparatus and supplies required in the work of the nautical school or they may accept gifts or~~
2061 ~~loans of the same, and shall appoint and may remove a commander and all necessary instructors~~
2062 ~~and fix their duties and compensation, or they may appoint as commander or as instructors~~
2063 ~~therein such officers of the United States Navy as may be designated or detailed for that~~
2064 ~~purpose.~~

2065 **Drafting note: Existing § 23-144 is recommended for repeal as obsolete.**

2066 ~~§ 23-145. Governmental aid; donations, endowments, etc.~~

2067 ~~The authorities of the Institute shall likewise accept from the Commonwealth and from~~
2068 ~~the federal government, or either, such aid in the maintenance and conduct of the nautical school~~
2069 ~~as may be offered and which may be for the best interest of the school, including a suitable~~
2070 ~~vessel with her apparel, charts, books and instruments of navigation, and may receive from other~~
2071 ~~proper sources such funds, properties, donations and endowments as may be given, subscribed,~~
2072 ~~loaned or bequeathed for the support and maintenance of the nautical school, and all moneys so~~
2073 ~~appropriated or donated, subscribed or bequeathed shall be used or expended in accordance with~~
2074 ~~the provisions governing the same, provided such use or expenditures shall further the purpose~~
2075 ~~of the school and promote its usefulness and service.~~

2076 **Drafting note: Existing § 23-145 is recommended for repeal as obsolete.**

2077 ~~§ 23-146. Practical training aboard ship.~~

2078 ~~The authorities of the Institute shall, moreover, make provision for the necessary~~
2079 ~~practical training aboard ship or ships of students attending the nautical school in the science of~~
2080 ~~navigation, seamanship and engineering and such other subjects as may be prescribed, and no~~
2081 ~~student shall be received in the school until such provision has been made, nor shall any student~~
2082 ~~be graduated from the school who has not had such practical training in these and in such other~~
2083 ~~subjects as may be prescribed.~~

2084 **Drafting note: Existing § 23-146 is recommended for repeal as obsolete.**

2085 ~~Article 5.~~

2086 ~~Radford College, Woman's Division of the Virginia Polytechnic Institute.~~

2087 ~~§§ 23-147 through 23-155.~~

2088 **Drafting note: Repealed by Acts 1964, c. 50.**

2089 ~~Article 7.~~

2090 ~~Purchase of Electric Power and Energy.~~

2091 **Drafting note: Existing Article 7 (§ 23-155.05) of Chapter 11 is stricken. Its single**
2092 **section is relocated to proposed § 23.1-2607 in Article 1 with technical changes.**

2093 #

2094

2095

2096

2097

2098

2099

2100

2101

2102

2103

2104

2105

2106

2107

2108

2109

2110

2111

2112 CHAPTER ~~13~~ 27.

2113 VIRGINIA STATE UNIVERSITY.

2114 **Drafting note: Existing Chapter 13 of Title 23 is logically reorganized as proposed**
2115 **Chapters 13 and 27 of Title 23.1. Existing provisions that apply generally to governing**
2116 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
2117 **Existing provisions relating to the incorporation, membership and meetings, and powers**
2118 **and duties of the governing board that are unique to the University are retained in**
2119 **proposed Chapter 27.**

2120 ~~§ 23-165.~~

2121 **Drafting note: Repealed by Acts 1964, c. 70.**

2122 ~~§ 23-165.1 23.1-2700. Corporation composed of board of visitors created; style~~
2123 ~~Corporate name; name of the University.~~

2124 ~~A. The corporation composed of the board of visitors of Virginia State College,~~
2125 ~~heretofore established by law, is continued as the~~ board of visitors of Virginia State University
2126 ~~(the board) shall be a corporation~~ under the name and style of "The Visitors of Virginia State
2127 University" ~~in this chapter hereinafter referred to as the board~~ and shall have, in addition to its
2128 other powers, all the corporate powers given to corporations by the provisions of Title 13.1
2129 except those powers that are confined to corporations created pursuant to Title 13.1. The board
2130 shall at all times be under the control of the General Assembly.

2131 B. The institution shall be known as Virginia State University (the University).

2132 C. All laws relating to Virginia State College or the board of visitors of Virginia State
2133 College shall be construed as relating to ~~Virginia State~~ the University or the board, respectively.

2134 **Drafting note: Technical changes are made to conform the language in this section**
2135 **to that of each other baccalaureate public institution of higher education.**

2136 ~~§ 23-165.2. Name of University.~~

2137 ~~The University shall be known as Virginia State University.~~

2138 **Drafting note: Existing § 23-165.2 is stricken and its provisions incorporated into §**
2139 **23.1-2700.**

2140 ~~§ 23-165.3. Transfer of property.~~

2141 ~~All the real estate and personal property now existing and heretofore standing in the~~
2142 ~~name of the Visitors of Virginia State College shall be transferred to and be known and taken as~~
2143 ~~standing in the name, and to be under the control, of the Visitors of Virginia State University.~~
2144 ~~Such real estate and personal property shall be the property of the Commonwealth.~~

2145 **Drafting note: The provisions of existing § 23-165.3 are recommended for repeal as**
2146 **obsolete.**

2147 ~~§ 23-165.4~~ 23.1-2701. Membership. ~~Members of board; appointment; terms; vacancies~~

2148 A. The board shall consist of 15 members appointed by the Governor, of whom at least
2149 three shall be alumni of the ~~university,~~ University and at least 10 shall be residents of ~~Virginia~~
2150 the Commonwealth. ~~All appointments shall be for a term of four years. No member shall serve~~
2151 ~~for more than two consecutive four-year terms. Vacancies shall be filled in the same manner as~~
2152 ~~the original appointments. Appointments to fill vacancies, other than by expiration of a term,~~
2153 ~~shall be for the unexpired terms. The remainder of any term to which a member is appointed to~~
2154 ~~fill a vacancy shall not constitute a term in determining the member's eligibility for~~
2155 ~~reappointment. Of the four additional members appointed to the board on July 1, 2008, the~~
2156 ~~Governor shall appoint two members for an initial term of four years, and two members for an~~
2157 ~~initial term of two years. Thereafter, such members and their successors shall be appointed for a~~
2158 ~~term of four years, in accordance with the provisions of this section.~~

2159 B. ~~The Governor may appoint alumni visitors from a list of qualified persons submitted~~
2160 ~~to him upon the recommendation of the National Alumni Association of Virginia State~~
2161 ~~University on or before July 1 of any year in which the terms of such visitors shall expire. The~~
2162 ~~alumni association shall submit the names of at least three qualified alumni for each such~~
2163 ~~vacaney.~~ The alumni association of the University may submit to the Governor a list of three

2164 nominees for each vacancy on the board of visitors, whether the vacancy occurs by expiration of
2165 a term or otherwise. The Governor may appoint a member from the list of nominees.

2166 ~~C. All appointments shall be subject to the confirmation of the General Assembly.~~
2167 ~~Members shall continue to hold office until their successors have been appointed and have~~
2168 ~~qualified.~~

2169 **Drafting note: Existing provisions relating to the membership of the board of**
2170 **visitors are logically combined in this proposed section, existing provisions relating to the**
2171 **terms and removal of members of the board are stricken and incorporated into proposed §**
2172 **23.1-1300, and technical changes are made to conform the language to that of each other**
2173 **baccalaureate public institution of higher education.**

2174 ~~§ 23-165.5. Eligibility to serve more than two consecutive terms.~~

2175 ~~No person shall be eligible to serve more than two consecutive four year terms, except~~
2176 ~~that a member may be appointed to a term of less than four years immediately prior to or~~
2177 ~~between the four year terms.~~

2178 **Drafting note: The provisions of existing § 23-165.5 are stricken and incorporated**
2179 **into proposed § 23.1-1300.**

2180 ~~§ 23-165.6. Rights, powers and duties of board.~~

2181 ~~The board shall be vested with all the rights and powers conferred by the provisions of~~
2182 ~~this chapter insofar as the same are not inconsistent with the laws of the Commonwealth.~~

2183 ~~The board shall control and expend the funds of the University and any appropriation~~
2184 ~~hereafter provided, and shall make all needful rules and regulations concerning the University,~~
2185 ~~appoint the president, who shall be its chief executive officer, and all professors, teachers and~~
2186 ~~agents, and fix their salaries, and generally direct the affairs of the University.~~

2187 **Drafting note: Certain board duties set forth in existing § 23-165.6 are stricken and**
2188 **incorporated into proposed § 23.1-1301. Board duties related to appointing of professors,**
2189 **teachers, and agents and generally directing the affairs of the University are stricken here**
2190 **and incorporated instead into proposed § 23.1-2702.**

2191 ~~§ 23-165.7. Tuition, fees and charges.~~

2192 ~~The board may fix the rates charged the students of the University for tuition, fees and~~
2193 ~~other necessary charges.~~

2194 **Drafting note: The provisions of existing § 23-165.7 are stricken and incorporated**
2195 **into proposed § 23.1-1301.**

2196 ~~§ 23-165.8 23.1-2702. Degrees Powers and duties.~~

2197 ~~A. The board shall appoint all professors, teachers, and agents, fix their salaries, and~~
2198 ~~generally direct the affairs of the University.~~

2199 ~~B. The board shall have the right to may~~ confer degrees.

2200 **Drafting note: Subsection A incorporates board duties set forth in existing § 23-**
2201 **165.6. Subsection B incorporates the board's power to confer degrees set forth in existing §**
2202 **23-165.8. Technical changes are made.**

2203 ~~§ 23-165.9 23.1-2703. Curriculum.~~

2204 The curriculum of ~~Virginia State the~~ University shall ~~embrace branches of learning as~~
2205 ~~relate to include~~ agriculture, ~~home economics, commerce, industrial~~ education ~~and technology,~~
2206 the liberal arts and sciences, ~~teacher education, nursing education,~~ and ~~military science~~
2207 ~~engineering.~~

2208 **Drafting note: Obsolete branches of learning are recommended for repeal.**
2209 **Technical changes are made.**

2210 ~~§ 23-165.10. School of agriculture to be continued.~~

2211 ~~The school of agriculture at Virginia State University shall be continued. The State~~
2212 ~~Council of Higher Education and the institutions of higher education concerned shall execute~~
2213 ~~such administrative actions as are necessary to carry out the purposes of this section.~~

2214 **Drafting note: The provisions of existing § 23-165.10 are recommended for repeal**
2215 **as obsolete.**

2216 ~~§ 23-165.11 23.1-2704. Cooperative Extension Service Program recognized; funding~~
2217 ~~authority; unified plan; reports.~~

2218 As provided in Article ~~1.1 2~~ (§ ~~23-132.1~~ 23.1-2608 et seq.) of Chapter ~~11 of Title 23 26~~
2219 and subject to the federally required plan, the Cooperative Extension Service ~~Program~~ within
2220 ~~Virginia State the~~ University, ~~hereinafter referred to as "~~ (the Service ~~Program,"~~) is hereby
2221 recognized. The ~~Virginia State~~ University is ~~hereby~~ empowered to accept grants, gifts, or
2222 donations for the ~~Cooperative Extension~~ Service ~~Program~~ from the local governing bodies ~~of the~~
2223 ~~several counties and cities~~ of the Commonwealth, other public or private agencies, and
2224 individual donors. The ~~Cooperative Extension~~ Service ~~Program~~ shall be operated cooperatively
2225 by Virginia Polytechnic Institute and State University and ~~Virginia State the~~ University, with
2226 ~~agreed-upon~~ agreed-upon areas of program and service emphasis as set forth in the unified plan
2227 submitted by the two institutions to the U.S. Department of Agriculture. The ~~Virginia State~~
2228 University shall file such reports on the activities of the Service ~~Program~~ as may be required by
2229 law or requested by the Governor, and the two institutions shall file such reports on the unified
2230 plan as may be required by law or requested by the Governor.

2231 **Drafting note: Technical changes.**

2232 ~~§ 23-166. University a body corporate under control of board.~~

2233 ~~The institution shall continue to be a body corporate under the name and style of the~~
2234 ~~"Virginia State University." It shall be under the management, supervision and control of the~~
2235 ~~board.~~

2236 **Drafting note: The provisions of existing § 23-166 are stricken and incorporated**
2237 **into § 23.1-2700.**

2238 ~~§ 23-167. Further powers and duties of board.~~

2239 ~~The powers and duties of the board shall be to direct and do all things not inconsistent~~
2240 ~~with the laws of this Commonwealth which to the board shall seem best adapted to accomplish~~
2241 ~~the legitimate objects of the University; to designate depositories, provide for the proper~~
2242 ~~bonding of financial officers and depositories, and provide for the disbursing of the funds of the~~
2243 ~~University consistent with the laws of the Commonwealth; and to grant to such as excel in any~~
2244 ~~field of knowledge or complete a prescribed course of study, such certificates, diplomas or~~

2245 ~~degrees as shall be deemed expedient and proper. All of which several functions they shall be~~
2246 ~~free to exercise by rules, bylaws, resolutions, orders, instructions, or otherwise.~~

2247 **Drafting note: Certain powers set forth in § 23-167 are stricken and incorporated**
2248 **into proposed § 23.1-1301. The power to confer certificates, diplomas, and degrees is**
2249 **stricken as duplicative of subsection B of proposed § 23.1-2702.**

2250 ~~§ 23-168, 23-169.~~

2251 **Drafting note: Repealed by Acts 1979, c. 147.**

2252 ~~§ 23-170, 23.1-2705. Bequests and gifts. Gifts, grants, devises, and bequests;~~
2253 ~~governmental aid.~~

2254 The board ~~shall have power to~~ may take, hold, receive, and enjoy any gift, grant, devise,
2255 or bequest to the ~~Visitors of Virginia State University board~~ or to or for the benefit of the
2256 University. Any such gift, grant, devise, or bequest shall be used for the purposes designated by
2257 the donor, ~~if any,~~ or, if no purposes are so designated, for the general purposes of the board.

2258 The University shall receive the governmental aid designated in §§ ~~23-136 and 23-137~~
2259 ~~23.1-2637 and 23.1-2638.~~

2260 **Drafting note: Technical changes.**

2261 ~~§ 23-171, 23-172.~~

2262 **Drafting note: Repealed by Acts 1964, c. 70.**

2263 ~~§ 23-173.~~

2264 **Drafting note: Repealed by Acts 1979, c. 147.**

2265 ~~§ 23-174. Control by General Assembly.~~

2266 ~~The University, and all its property and funds, shall, at all times and in all things, be~~
2267 ~~under the control of the General Assembly.~~

2268 **Drafting note: Existing § 23-174 is stricken and incorporated into proposed § 23.1-**
2269 **2700.**

2270

2271

CHAPTER ~~5~~ 28.

THE COLLEGE OF WILLIAM AND MARY ~~AND IN VIRGINIA~~; RICHARD BLAND
COLLEGE.

Drafting note: Existing Chapter 5 of Title 23 is logically reorganized as proposed Chapters 13 and 28 of Title 23.1. Existing provisions that apply generally to governing boards of public institutions of higher education are consolidated in proposed Chapter 13. Existing provisions relating to the incorporation, membership and meetings, and powers and duties of the governing board that are unique to The College of William and Mary in Virginia and Richard Bland College are retained in proposed Chapter 28.

~~§ 23-39~~ 23.1-2800. Corporate name; name of the University.

A. The board of visitors of ~~the~~ The College of William and Mary in Virginia (the board) shall be a corporation under the name and style of "The College of William and Mary in Virginia-" and shall have, in addition to its other powers, (i) all the corporate powers given to corporations by the provisions of Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1 and (ii) all powers conferred by the ancient royal charter of The College of William and Mary in Virginia. The board shall at all times be under the control of the General Assembly.

B. The institution shall be known as The College of William and Mary in Virginia (the University).

Drafting note: Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.

~~§ 23-40. Property transferred to College of William and Mary and owned by State.~~

~~All the real estate and personal property relating to the College of William and Mary in Virginia, in Williamsburg, or relating to the Richard Bland College in Petersburg now existing and standing in the name of the corporate body designated "The Colleges of William and Mary" and all real estate and personal property standing in the name of or heretofore exclusively used by the Virginia Institute of Marine Science shall be transferred to and be known and taken as~~

2299 ~~standing in the name, and to be under the control of the corporate body designated "The College~~
2300 ~~of William and Mary in Virginia." Such real estate and personal property shall be the property~~
2301 ~~of the Commonwealth.~~

2302 **Drafting note: The provisions of existing § 23-40 are recommended for repeal as**
2303 **obsolete.**

2304 ~~§ 23-41.23.1-2801. Appointment of visitors generally; number and terms; vacancies~~
2305 ~~Membership.~~

2306 ~~A. The board of visitors is to shall~~ consist of 17 members ~~to be~~ appointed by the
2307 Governor, ~~four of whom may be nonresidents of Virginia of whom at least 13 shall be residents~~
2308 ~~of the Commonwealth.~~

2309 ~~B. The alumni association of The University may submit to the Governor a list of at least~~
2310 ~~three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a~~
2311 ~~term or otherwise. The Governor may appoint a member from the list of nominees.~~

2312 ~~All appointments shall be for terms of four years each, except appointments to fill~~
2313 ~~unexpired vacancies which shall be made by the Governor for the remainder of the unexpired~~
2314 ~~terms. However, the term of the member holding the office of Rector on March 1, 2005, shall be~~
2315 ~~extended for one year to June 30, 2006. The Governor may make an appointment for the~~
2316 ~~member whose term is so extended to June 30, 2006, as though this service extension had not~~
2317 ~~been granted and the term had expired as scheduled.~~

2318 ~~The board of visitors may be expanded to no more than 18 members from July 1, 2005,~~
2319 ~~to June 30, 2006. Thereafter, the membership shall revert to 17 members. Reappointment by the~~
2320 ~~Governor of any member eligible for the service extension shall be for the term of four years.~~

2321 ~~No person shall be eligible to serve more than two consecutive four-year terms, except~~
2322 ~~that a member may be appointed to a term of less than four years immediately prior to or~~
2323 ~~between the four-year terms. For the purpose of determining service eligibility, any term of~~
2324 ~~service extended to June 30 of the respective year pursuant to this section shall be treated as a~~

2325 ~~four-year term. Hereafter, all appointments shall expire June 30 of the year in which the term~~
2326 ~~expires.~~

2327 ~~All appointments are subject to confirmation by the General Assembly if in session~~
2328 ~~when such appointments are made, and if not in session, at its next succeeding session.~~

2329 **Drafting note: Existing provisions relating to the membership of the board of**
2330 **visitors are logically combined in this proposed section, existing provisions relating to the**
2331 **terms and removal of members of the board are stricken and incorporated into proposed §**
2332 **23.1-1300, and technical changes are made to conform the language to that of each other**
2333 **baccalaureate public institution of higher education. In addition, obsolete language is**
2334 **recommended for repeal.**

2335 ~~§ 23-42. Appointment of visitors from alumni.~~

2336 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him,~~
2337 ~~before or after induction into office, by the alumni association of the College of William and~~
2338 ~~Mary in Virginia, on or before the first day of December of any year next preceding a year in~~
2339 ~~which the terms of any visitors will expire.~~

2340 ~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall~~
2341 ~~certify this fact to the association and nominations may be submitted of qualified persons and~~
2342 ~~the Governor may fill the vacancy, if his discretion so dictates, from among the eligible~~
2343 ~~nominees of the association, whether or not alumni or alumnae.~~

2344 ~~(c) Every list shall contain at least three names for each vacancy to be filled.~~

2345 ~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

2346 **Drafting note: The provisions of existing § 23-42 are stricken and incorporated**
2347 **instead into proposed § 23.1-2801.**

2348 ~~§ 23-43.~~

2349 **Drafting note: Repealed by Acts 1975, c. 484.**

2350 ~~§ 23-44. Rights, powers and duties of board in general.~~

2351 ~~The board of visitors shall be vested with all the rights and powers conferred by the~~
2352 ~~provisions of this chapter and by the ancient royal charter of the College of William and Mary in~~
2353 ~~Virginia, insofar as the same are not inconsistent with the provisions of this chapter and the~~
2354 ~~general laws of the Commonwealth.~~

2355 ~~The board shall control and expend the funds of the colleges and any appropriation~~
2356 ~~hereafter provided, and shall make all needful rules and regulations concerning the colleges, and~~
2357 ~~generally direct the affairs of the colleges.~~

2358 **Drafting note: The provisions of existing § 23-44 are stricken and incorporated**
2359 **instead into proposed § 23.1-2802 and proposed § 23.1-1301.**

2360 ~~§ 23-46~~ 23.1-2802. Conferring of degrees Powers and duties.

2361 A. The board shall generally direct the affairs of the University and Richard Bland
2362 College.

2363 B. The board ~~of visitors shall have the right to~~ may confer degrees.

2364 **Drafting note: Subsection A incorporates the board's duty to generally direct the**
2365 **affairs of the University and College set forth in existing § 23-44 and subsection B**
2366 **incorporates the board's power to confer degrees set forth in existing § 23-46. Technical**
2367 **changes are made.**

2368 ~~§ 23-44.1~~ 23.1-2803. Investment of endowment funds, endowment income, ~~and gifts;~~
2369 ~~standard of care; liability; exemption from the Virginia Public Procurement Act etc.~~

2370 A. As used in this section:

2371 "Derivative" means a contract or financial instrument or a combination of contracts and
2372 financial instruments, including any contract commonly known as a "swap," that gives the
2373 University the right or obligation to deliver, receive delivery of, or make or receive payments
2374 based on changes in the price, value, yield, or other characteristic of a tangible or intangible
2375 asset or group of assets or changes in a rate, index of prices or rates, or other market indicator
2376 for an asset or group of assets.

2377 "Option" means an agreement or contract whereby the University may grant or receive
2378 the right to purchase, sell, or pay or receive the value of any personal property asset, including
2379 any agreement or contract that relates to any security, contract, or agreement.

2380 "Financial security" means any note, stock, treasury stock, bond, debenture, evidence of
2381 indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of
2382 subscription, transferable share, investment contract, voting-trust certificate, certificate of
2383 deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; any put,
2384 call, straddle, option, or privilege on any security, certificate of deposit, or group or index of
2385 securities (including any interest therein or based on the value thereof); any put, call, straddle,
2386 option, or privilege entered into on a national securities exchange relating to foreign currency; in
2387 general, any interest or instrument commonly known as a "security;" or any certificate of
2388 interest or participation in, temporary or interim security for, receipt for, guarantee of, or
2389 warrant or right to subscribe to or purchase any financial security.

2390 B. The board ~~of visitors~~ shall invest and manage the endowment funds, endowment
2391 income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the
2392 College University in accordance with this section and the provisions of the Uniform Prudent
2393 Management of Institutional Funds Act (§ 64.2-1100 et seq.).

2394 B.C. No member of the board ~~of visitors~~ shall be personally liable for losses suffered by
2395 ~~an~~ any endowment fund, endowment income, ~~gifts~~ gift, ~~all~~ other nongeneral fund ~~reserves~~
2396 reserve and ~~balances~~ balance, or local funds of or held by the ~~College, University~~ arising from
2397 investments made pursuant to the provisions of subsection A.

2398 C.D. The investment and management of endowment funds, endowment income, gifts,
2399 all other nongeneral fund reserves and balances, or local funds of or held by the ~~College~~
2400 University shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-
2401 4300 et seq.).

2402 D.E. In addition to the investment practices authorized by the Uniform Prudent
2403 Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board ~~of visitors~~ may ~~also~~

2404 invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund
2405 reserves and balances, and local funds of or held by the College University in derivatives,
2406 options, and financial securities.

2407 ~~1. In this section, "derivative" means a contract or financial instrument or a combination~~
2408 ~~of contracts and financial instruments, including, without limitation, any contract commonly~~
2409 ~~known as a "swap," which gives the College the right or obligation to deliver or receive delivery~~
2410 ~~of, or make or receive payments based on, changes in the price, value, yield or other~~
2411 ~~characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index~~
2412 ~~of prices or rates, or other market indicator for an asset or a group of assets.~~

2413 ~~2. In this section, an "option" means an agreement or contract whereby the College may~~
2414 ~~grant or receive the right to purchase or sell, or pay or receive the value of, any personal~~
2415 ~~property asset including, without limitation, any agreement or contract that relates to any~~
2416 ~~security, contract, or agreement.~~

2417 ~~3. In this section, "financial security" means any note, stock, treasury stock, bond,~~
2418 ~~debenture, evidence of indebtedness, certificate of interest, collateral trust certificate,~~
2419 ~~preorganization certificate of subscription, transferable share, investment contract, voting trust~~
2420 ~~certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other~~
2421 ~~mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit,~~
2422 ~~or group or index of securities (including any interest therein or based on the value thereof), or~~
2423 ~~any put, call, straddle, option, or privilege entered into on a national securities exchange relating~~
2424 ~~to foreign currency, or in general, any interest or instrument commonly known as a "security,"~~
2425 ~~or any certificate of interest or participation in, temporary or interim security for, receipt for,~~
2426 ~~guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

2427 E.F. The authority ~~as~~ provided in this section ~~as it relates~~ to invest and reinvest
2428 nongeneral fund reserves and balances of or held by the College University is predicated upon
2429 an approved management agreement between the College University and the Commonwealth ~~of~~
2430 Virginia.

2431 **Drafting note: Technical changes.**

2432 ~~§ 23-45. Board may fix tuition, fees and other charges.~~

2433 ~~The board of visitors may fix in their discretion, the rates charged the students of the~~
2434 ~~colleges for tuition, fees and other necessary charges.~~

2435 **Drafting note: The provisions of existing § 23-45 are stricken and incorporated**
2436 **instead into proposed § 23.1-1301.**

2437 ~~§ 23-47 23.1-2804. Courses for educating and training Program of instruction to educate~~
2438 ~~and train teachers to be maintained.~~

2439 ~~The College University shall maintain in connection with its courses a system a program~~
2440 ~~of instruction and training for the purpose of educating and training to educate and train~~ teachers
2441 for the public elementary and secondary schools of the Commonwealth without excluding other
2442 programs of instruction.

2443 **Drafting note: Technical changes.**

2444 ~~§ 23-48.~~

2445 **Drafting note: Repealed by Acts 1960, c. 180.**

2446 ~~§ 23-49 23.1-2805. Students Duties; student admissions; degrees.~~

2447 ~~The College University shall admit properly prepared men and women to its courses,~~
2448 and upon completion of the requirements shall grant them degrees.

2449 **Drafting note: Technical change.**

2450 ~~§ 23-49.1 23.1-2806. Constituent colleges; administration, bylaws, titles, etc Richard~~
2451 ~~Bland College.~~

2452 A. ~~The College of William and Mary in Virginia, in Williamsburg, and the Richard~~
2453 ~~Bland College, in Petersburg~~ shall be subject to the supervision, management and control of the
2454 board of visitors of the College of William and Mary in Virginia. Such colleges shall be separate
2455 from each other and each college shall report directly to the board of visitors through the
2456 president in the case of the College of William and Mary in Virginia, and as the board of visitors
2457 may direct in the case of the Richard Bland College a separate college under the supervision,

2458 management, and control of the board. Richard Bland College shall report to the board in such
2459 manner as the board may coordinate and direct.

2460 B. The board shall establish and publish bylaws for Richard Bland College that define
2461 the school's functions.

2462 C. All property, property rights, duties, contracts, and agreements of the colleges
2463 Richard Bland College are vested in the board of visitors of the College of William and Mary in
2464 Virginia. The chief executive officer of the College of William and Mary in Virginia shall be the
2465 president; the title of the

2466 D. The board shall designate a chief executive officer of the Richard Bland College shall
2467 be designated by the board of visitors.

2468 E. The board of visitors of the College of William and Mary in Virginia is charged with
2469 the care and preservation of shall care for and preserve all property belonging to the colleges
2470 Richard Bland College.

2471 ~~With respect to the Richard Bland College, the~~ F. The board of visitors shall have the
2472 same powers as to fixing tuitions (i) fix tuition, fees, and other necessary charges, as to the
2473 appointment and removal of administrative officers, professors, agents, and employees; (ii)
2474 appoint, remove, and define the responsibilities of the chief executive; and the making of (iii)
2475 make such rules and regulations, as are now vested in them with respect to the College of
2476 William and Mary in Virginia as it deems appropriate for Richard Bland College.

2477 C. ~~Appropriations directly and indirectly from the Commonwealth to the colleges shall~~
2478 ~~be expended as directed by the board of visitors of the College of William and Mary in Virginia.~~

2479 D. ~~The board of visitors of the College of William and Mary in Virginia is authorized~~
2480 ~~and directed to prepare the bylaws for the colleges and to publish the same and to define the~~
2481 ~~functions of the colleges, and to specify the responsibilities of the chief executive officers, all~~
2482 ~~professors, teachers and agents of the colleges, as the board may deem necessary.~~

2483 ~~E. The board of visitors of the College of William and Mary in Virginia shall designate~~
2484 ~~the organizational channel of coordination and supervision of the Richard Bland College for~~
2485 ~~administration by the board of visitors.~~

2486 ~~F. The use of the library of the College of William and Mary in Virginia, in~~
2487 ~~Williamsburg, shall be granted to the students and faculty of Christopher Newport University.~~

2488 ~~G. The board of visitors of the College of William and Mary in Virginia shall make~~
2489 ~~cooperative agreements with the board of visitors of Christopher Newport University for the~~
2490 ~~sharing of faculty and of laboratory and other facilities.~~

2491 **Drafting note: Subsections C, F, and G of existing § 23-49.1 are stricken as obsolete.**

2492 **Technical changes are made.**

2493 § ~~23-49.1-1~~ 23.1-2807. Virginia Institute of Marine Science ~~subject to board of visitors.~~

2494 The Virginia Institute of Marine Science (the Institute) shall be subject to the
2495 supervision, management, and control of the board ~~of visitors of the College of William and~~
2496 ~~Mary in Virginia.~~ The ~~board of visitors~~ University shall provide for the administration of the
2497 Institute and ~~shall~~ appoint and remove its administrative and professional staff.

2498 **Drafting note: Technical changes.**

2499 § ~~23-4.01~~ 23.1-2808. Approval for transfer of ~~property~~ College Woods.

2500 A. The property known as College Woods that includes Lake Matoaka and is possessed
2501 and controlled by ~~a college founded in 1693~~ the University, regardless of whether such property
2502 has been declared surplus property pursuant to § 2.2-1153, shall not be transferred or disposed
2503 of without the approval of the board ~~of visitors of such college~~ by a two-thirds vote of all ~~board~~
2504 members at a regularly scheduled board meeting. The General Assembly shall also approve
2505 such disposal or transfer.

2506 B. The provisions of subsection A shall not operate to prevent the transfer or dedication
2507 to the Virginia Department of Transportation (the Department) of a portion of the property
2508 described in subsection A, together with a temporary construction easement and a permanent

2509 easement for drainage, sufficient to permit the reconstruction of the intersection of Virginia
2510 Route 615 (Ironbound Road) and Virginia Route 321 (Monticello Avenue).

2511 C. In order for any transfer or dedication set forth in subsection B to the Department to
2512 occur:

2513 1. The Department shall remain within the boundaries or dedication area identified as a
2514 right-of-way addition of approximately 1.63 acres and easement areas as detailed on Exhibit A,
2515 labeled Proposed Right-of-Way and Easement Dedication by The College of William and Mary
2516 for Widening of the Intersection of Monticello Avenue and Ironbound Road and dated January
2517 9, 2004, drawn by AES Consulting Engineers of Williamsburg, Virginia, in completion of any
2518 reconstruction of such intersection;

2519 2. The Department shall employ and construct all required best management practices
2520 and erosion and sediment control measures to minimize and mitigate any impacts to College
2521 Woods and Lake Matoaka; and

2522 3. The Department shall vacate, subject to a reserved drainage easement, approximately
2523 3.22 acres of right-of-way and ~~re-designate~~ redesignate such to the ~~College University~~ so that
2524 the ~~College University~~ has confirmed encumbrances. This vacation shall create not less than a
2525 ~~78-foot~~ 78-foot right-of-way and shall not create or provide for any easements except for such
2526 reserved drainage easement from approximately 1,000 feet east of Virginia Route 615
2527 (Ironbound Road) to approximately 4,000 feet east of Virginia Route 615 (Ironbound Road)
2528 along Virginia Route 321 (Monticello Avenue) identified on Exhibit A, labeled Proposed Right-
2529 of-Way and Easement Dedication by The College of William and Mary for Widening of the
2530 Intersection of Monticello Avenue and Ironbound Road and dated January 9, 2004, drawn by
2531 AES Consulting Engineers of Williamsburg, Virginia, as right-of-way abandonment. This
2532 vacation to create a right-of-way width shall not allow for a ~~road-widening~~ road-widening to add
2533 additional travel lanes for the remainder of Virginia Route 321 (Monticello Avenue).

2534 D. The provisions of subsection A shall not operate to prevent the transfer or dedication
2535 to the Department of a portion of the property described in subsection A, together with

2536 easements for slope, drainage, and utilities, sufficient to permit the reconstruction and widening
2537 of Virginia Route 615 (Ironbound Road).

2538 E. For any transfer or dedication to the Department to occur pursuant to subsection D,
2539 the Department shall:

2540 1. ~~Shall remain~~ Remain within the boundaries identified as a proposed right-of-way
2541 dedication area of approximately 0.38 acres and easement areas as detailed on Exhibit B,
2542 labeled Proposed Right-of-Way and Easement Dedication by The College of William and Mary
2543 for Widening of Ironbound Road to Four Lanes and dated January 9, 2004, drawn by AES
2544 Consulting Engineers of Williamsburg, Virginia, in completion of the widening of Virginia
2545 Route 615 (Ironbound Road), except with respect to that portion of Virginia Route 615
2546 (Ironbound Road) to be widened in connection with the reconstruction of the intersection as
2547 described, and as provided for, in subsections B and C; and

2548 2. ~~Shall employ~~ Employ and construct all required best management practices and
2549 erosion and sediment control measures to minimize and mitigate any impacts to College Woods
2550 and Lake Matoaka.

2551 F. The provisions of subsections B and C shall not become effective until a
2552 reconstruction of the intersection has been designed and fully funded as required by the
2553 Department.

2554 G. The provisions of subsections D and E shall not become effective until the widening
2555 of the portion of Ironbound Road described therein has been designed and fully funded as
2556 required by the Department.

2557 **Drafting note: Technical changes.**

2558

2559

2560

2561

2562

2563

CHAPTER ~~16~~ 29.

2564

STATE BOARD FOR COMMUNITY COLLEGES AND COMMUNITY COLLEGE

2565

SYSTEM.

2566

2567

2568

2569

Drafting note: Existing Chapter 16 is reorganized as proposed Chapter 29. The article structure of the existing chapter is removed and the provisions of existing Article 2, relating to the Community College Incentive Scholarship Program, are removed as obsolete.

2570

Article 1.

2571

General Provisions.

2572

2573

Drafting note: The designation of Article 1 is removed because the article structure of existing Chapter 16 is not retained in proposed Chapter 29.

2574

§§ 23-192 through 23-213.

2575

Drafting note: Repealed by Acts 1966, c. 679.

2576

§ 23-214 23.1-2900. Definitions.

2577

As used in this chapter, unless the context requires a different meaning:

2578

2579

2580

2581

2582

2583

(a) "Career and technical education" means the training or retraining under public supervision and control that is (i) given in school classes, including field or laboratory work incidental to such training or retraining, exclusive of those career and technical education programs provided and administered by or through the public school system and (ii) conducted as part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations.

2584

"Chancellor" means the Chancellor of Community Colleges.

2585

2586

"Comprehensive community college" means an institution of higher education which offers instruction in one or more of the following fields:

2587

2588

2589

(1) Freshman and sophomore courses in arts and sciences acceptable for transfer in baccalaureate degree programs;

(2) Diversified technical curricula including programs leading to the associate degree;

2590 ~~(3) Career and technical education leading directly to employment;~~
2591 ~~(4) Courses in general and continuing education for adults in the above fields;~~
2592 ~~(5) Noncredit training and retraining courses and programs of varying lengths to meet~~
2593 ~~the needs of business and industry in the Commonwealth.~~

2594 ~~(b) "State Board" or "Board" means the State Board for Community Colleges.~~

2595 ~~(c) "Local community college board" means the board established to act in an advisory~~
2596 ~~capacity to the State Board and to perform such duties with respect to the operation of a single~~
2597 ~~comprehensive community college as may be delegated to it by the State Board.~~

2598 ~~(d) "Career and technical education" means the training, or retraining, which is given in~~
2599 ~~school classes (including field or laboratory work incidental thereto), under public supervision~~
2600 ~~and control, exclusive of those career and technical education programs provided and~~
2601 ~~administered by, or through, the public school system and is conducted as part of a program~~
2602 ~~designed to fit individuals for gainful employment as semiskilled or skilled, workers or~~
2603 ~~technicians in recognized occupations.~~

2604 ~~(e) "Area career and technical school" means a career or technical school used~~
2605 ~~exclusively, or principally, for providing career and technical education to persons who have~~
2606 ~~completed, or left, high school, or are recommended for transfer by the school last attended, and~~
2607 ~~who are available for full-time study in preparation for entering the labor market, or for part-~~
2608 ~~time study after entering the labor market.~~

2609 ~~(f) "System" means the Virginia Community College System.~~

2610 **Drafting note: Definitions are moved into alphabetical order and are no longer**
2611 **numbered, consistent with current Code style. A chapter-wide definition is added for**
2612 **"Chancellor." Definitions for "Board," "comprehensive community college," and**
2613 **"System" are stricken and incorporated into the proposed title-wide definitions section, §**
2614 **23.1-100. The term "area career and technical school" is no longer used in this proposed**
2615 **Chapter and as such, its definition is stricken.**

2616 **Note to work group: please confirm that "area career and technical school" is an**
2617 **obsolete term.**

2618 ~~§ 23-214.1. Meaning of statutory references to Department of Community Colleges.~~

2619 ~~Wherever the words "Virginia Community College System" are used in any law of this~~
2620 ~~State, they shall mean the State Board for Community Colleges.~~

2621 **Drafting note: Existing § 23-214.1 is recommended for repeal as obsolete.**

2622 ~~§ 23-215 23.1-2901. Responsibilities of State Board and System for Community~~
2623 ~~Colleges established; purpose; Virginia Community College System.~~

2624 ~~A. The State Board for Community Colleges heretofore established by law is continued.~~
2625 ~~The Board shall be is established as~~ a corporation under the style of "the State Board for
2626 Community Colleges." ~~The State Board shall be responsible, through the exercise of the powers~~
2627 ~~and performance of the duties set forth in this chapter, for the establishment, control, and~~
2628 ~~administration of to establish, control, and administer~~ a statewide system of publicly supported
2629 comprehensive community colleges, which shall be known as the Virginia Community College
2630 System.

2631 ~~B. The Virginia Community College System shall be the state agency with primary~~
2632 ~~responsibility for coordinating workforce training at the postsecondary to the associate degree~~
2633 ~~level, exclusive of the career and technical education programs provided through and~~
2634 ~~administered by the public school system. This responsibility shall not preclude other agencies~~
2635 ~~from also providing such services as appropriate, but these activities shall be coordinated with~~
2636 ~~the community colleges.~~

2637 ~~C. In addition to other responsibilities of the Virginia Community College System, the~~
2638 ~~community colleges shall (i) maximize noncredit course offerings made available to business~~
2639 ~~and industry at a time and place that meet current and projected workforce needs and minimize~~
2640 ~~the cost of noncredit offerings to business and industry to the extent feasible, (ii) deal directly~~
2641 ~~with employers in designing and offering courses to meet real, current, and projected workforce~~
2642 ~~training needs, and (iii) maximize the availability and use of distance learning courses~~

2643 ~~addressing workforce training needs. The Virginia Community College System shall report on~~
2644 ~~actions taken to meet the requirements of this subsection in its annual report to the General~~
2645 ~~Assembly on workforce development activities required by the appropriation act.~~

2646 **Drafting note: The provisions of subsection B and the last sentence of subsection C**
2647 **of existing § 23-215 are relocated to proposed § 23.1-2904. Technical changes are made.**

2648 ~~§ 23-216 23.1-2902. Number, terms and eligibility of members of State Board;~~
2649 ~~membership.~~

2650 ~~(a) A.~~ The State Board shall consist of ~~fifteen~~ 15 nonlegislative citizen members
2651 appointed by the Governor subject to confirmation by the General Assembly ~~if in session, and if~~
2652 ~~not, at its next succeeding session. The first appointments shall be four members for one year,~~
2653 ~~four members for two years, four members for three years and three members for four years,~~
2654 ~~and thereafter all such appointments shall be made for terms of four years each, except that~~
2655 ~~appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to~~
2656 ~~serve more than two consecutive four year terms, except that a member may be appointed to a~~
2657 ~~term of less than four years immediately prior to or between the four year terms. No person~~
2658 ~~shall be eligible for reappointment following two consecutive four year terms for two years~~
2659 ~~thereafter. Members shall continue to discharge their duties after their terms have expired until~~
2660 ~~their successors have been appointed and have qualified. Members who serve two consecutive~~
2661 ~~four-year terms shall be eligible for reappointment two years after the expiration of their second~~
2662 ~~term.~~

2663 ~~(b) The State Board shall be composed of persons selected from B. Each member shall~~
2664 ~~be a resident of the Commonwealth at large. No officer, employee, or member of the governing~~
2665 ~~board of any public institution of higher education; or of any school subject to the control of the~~
2666 ~~State Board, or any member of the General Assembly, or any and no member of the State Board~~
2667 ~~of Education; shall be eligible for appointment to the State Board. All members of the State~~
2668 ~~Board shall be deemed members at large charged with the responsibility of serving the best~~

2669 interests of the whole Commonwealth. ~~No, and no~~ member shall act as the representative of any
2670 particular region or ~~of any particular~~ institution of higher education.

2671 **Drafting note: Language establishing staggered terms for State Board members is**
2672 **recommended for repeal as obsolete. Current language in subsection A that establishes**
2673 **terms and conditions of membership in and reappointment to a State Board is stricken**
2674 **and incorporated into proposed § 23.1-1300 relating to the terms and removal of members**
2675 **of the board of visitors of each public institution of higher education generally. The**
2676 **prohibition on membership by a member of the General Assembly is removed because the**
2677 **section is amended to classify all members as nonlegislative citizen members, which are**
2678 **defined for the Code in § 1-225 as "any natural person who is not a member of the**
2679 **General Assembly of Virginia." Technical changes are made.**

2680 § ~~23-217~~ 23.1-2903. ~~Chairman and vice chairman of State~~ Board; ~~oath of members;~~
2681 ~~officers,~~ meetings; ~~quorum; rules and,~~ and regulations.

2682 A. The State Board shall ~~select~~ elect a chairman from its membership; and may provide
2683 for the election of one of its members as vice-chairman.

2684 B. ~~Before entering upon the discharge of his duties, each member of the Board shall take~~
2685 ~~an oath that he will faithfully and honestly execute the duties of his office during his~~
2686 ~~continuance therein.~~

2687 C. The State Board shall meet at least four times annually; and on call of the chairman
2688 when in his opinion additional meetings are expedient or necessary.

2689 D.C. Eight members of the State Board shall constitute a quorum for all purposes.

2690 E.D. The main office of the State Board shall be in the Commonwealth.

2691 F.E. The State Board is ~~empowered~~ authorized to promulgate necessary ~~rules and~~
2692 regulations for carrying out the purposes of this chapter.

2693 **Drafting note: Technical changes are made, including use of "regulations" rather**
2694 **than "rules and regulations" per recommendation of the Code Commission. Subsection B**
2695 **of existing § 23-217 is removed as duplicative of § 49-1, which states that "[e]very person**

2696 before entering upon the discharge of any function as an officer of this Commonwealth
2697 shall take and subscribe the following oath: 'I do solemnly swear (or affirm) that . . . I will
2698 faithfully and impartially discharge all the duties incumbent upon me''

2699 ~~§ 23-218 23.1-2904. Plan for comprehensive community colleges; appropriations; tuition~~
2700 ~~fees and charges; grants or contributions; apprenticeships~~ State Board; duties.

2701 ~~A. The~~ In addition to the duties set forth in § 23.1303, the State Board ~~is authorized and~~
2702 ~~directed to prepare shall:~~

2703 1. Be the state agency with primary responsibility for coordinating workforce training at
2704 the postsecondary through the associate degree level, exclusive of the career and technical
2705 education programs provided through and administered by the public school system. This
2706 responsibility shall not preclude other agencies from also providing such services as appropriate,
2707 but these activities shall be coordinated with the comprehensive community colleges;

2708 2. Report on actions that comprehensive community colleges have taken to meet the
2709 requirements of § 23.1-2906 in its annual report to the General Assembly on workforce
2710 development activities required by the appropriation act;

2711 3. Prepare and administer a plan providing standards and policies for the establishment,
2712 development, and administration of comprehensive community colleges under its authority. It
2713 shall determine the need for comprehensive community colleges; and develop a statewide plan
2714 for their location and a time schedule for their establishment. In the development of such plan, a
2715 principal objective shall be to provide and maintain a system of comprehensive community
2716 colleges ~~through which appropriate educational opportunities and programs to accomplish the~~
2717 ~~purposes set forth in subdivision (a) of § 23-214 shall be made available throughout the~~
2718 Commonwealth, as that term is defined in § 23.1-2900 to make appropriate educational
2719 opportunities and programs available throughout the Commonwealth. In providing these
2720 offerings, the State Board shall recognize the need for excellence in all curricula and shall
2721 endeavor to establish and maintain standards appropriate to the various purposes the respective
2722 programs are designed to serve.

2723 ~~B. The Board shall have the authority to control and expend funds appropriated by law,~~
2724 ~~and to fix tuition fees and charges. The Board may establish policies and guidelines providing~~
2725 ~~for reduced tuition rates at Virginia's community colleges for employees of the Virginia~~
2726 ~~Community College System. The Board may exercise the powers conferred by Chapter 3 (§ 23-~~
2727 ~~14 et seq.) as any other educational institution as defined in § 23-14.~~

2728 ~~C. The Board shall be authorized, with the approval of the Governor, to accept from any~~
2729 ~~government or governmental department or agency or any public or private body or from any~~
2730 ~~other source, grants or contributions of money or property which the Board may use for or in aid~~
2731 ~~of any of its purposes.~~

2732 ~~§ 23-220. Local community college boards.~~

2733 ~~The State Board shall establish~~ 4. Establish policies providing for the creation of a local
2734 community college board for each ~~institution~~ comprehensive community college established
2735 under this chapter and the procedures and regulations under which such local boards shall
2736 operate. ~~A local community college board as defined in § 23-214 shall be established for each~~
2737 ~~college.~~ These boards shall assist in ascertaining educational needs; and enlisting community
2738 involvement and support; and shall perform such other duties as may be prescribed by the State
2739 Board;

2740 5. Adhere to the policies of the Council for the coordination of higher education as
2741 required by law; and

2742 ~~§ 23-219.1. Mental health policies.~~

2743 ~~The Board shall develop~~ 7. Develop a mental health referral policy directing
2744 comprehensive community colleges to designate at least one individual at each college to serve
2745 as a point of contact with an emergency services system clinician at a local community services
2746 board, or another qualified mental health services provider, for the purposes of facilitating
2747 screening and referral of students who may have emergency or urgent mental health needs and
2748 of assisting the college in carrying out the duties specified by §§ ~~23-9.2:8~~ 23.1-802 and ~~23-~~
2749 ~~9.2:10~~ 23.1-805. ~~A~~ Each comprehensive community college may establish relationships with

2750 community services boards or other mental health providers for referral and treatment of
2751 persons with less serious mental health needs.

2752 **Drafting note: Existing § 23-218 is logically reorganized as follows: Provisions in**
2753 **existing subsections B and C relating to State Board powers are stricken and incorporated**
2754 **into proposed § 23.1-2905. Provisions relating exclusively to State Board duties are**
2755 **retained as proposed § 23.1-2904, into which is incorporated the provisions of subsection B**
2756 **of existing § 23-215 as proposed subdivision 1; the last sentence of subsection C of existing**
2757 **§ 23-215 as proposed subdivision 2; the provisions of existing § 23-220 as proposed**
2758 **subdivision 4; the provisions of the first paragraph of existing § 23-221 as subdivision 5;**
2759 **and the provisions of existing § 23-219.1 as proposed subdivision 6. Technical changes are**
2760 **made.**

2761 [§ 23.1-2905. State Board powers.](#)

2762 [In addition to the powers set forth in subsection B of § 23.1-1301, State Board may:](#)

2763 [1. With the approval of the Governor, accept from any government or governmental](#)
2764 [department or agency or any public or private body or from any other source grants or](#)
2765 [contributions of money or property that the State Board may use for or in aid of any of its](#)
2766 [purposes;](#)

2767 [2. Control and expend funds appropriated by law;](#)

2768 [3. Fix tuition, fees, and other necessary charges;](#)

2769 [4. Establish policies and guidelines providing for reduced tuition rates at comprehensive](#)
2770 [community colleges for employees of the System; and](#)

2771 [§ 23-219. Diplomas, certificates and associate degrees.](#)

2772 ~~The Board shall have the right to confer~~ [5. Confer](#) diplomas, certificates, and associate
2773 degrees.

2774 **Drafting note: Proposed § 23.1-2905 is created to consolidate provisions relating**
2775 **exclusively to State Board powers. Subdivisions 1 through 4 are derived from subsections**

2776 **B and C of existing § 23-218, and existing § 23-219 is incorporated as subdivision 5.**

2777 **Technical changes are made.**

2778 [§ 23.1-2906. Comprehensive community colleges; duties; workforce.](#)

2779 [Each comprehensive community college shall:](#)

2780 [1. Maximize noncredit course offerings made available to business and industry at a time](#)

2781 [and place that meet current and projected workforce needs and minimize the cost of noncredit](#)

2782 [offerings to business and industry to the extent feasible;](#)

2783 [2. Deal directly with employers in designing and offering courses to meet real, current,](#)

2784 [and projected workforce training needs; and](#)

2785 [3. Maximize the availability and use of distance learning courses addressing workforce](#)

2786 [training needs.](#)

2787 **Drafting note: The provisions of all but the last sentence of subsection C of existing**

2788 **§ 23-215 are logically reorganized as proposed § 23.1-2906. Technical changes are made.**

2789 [§ 23-220.1. Expired.](#)

2790 **Drafting note: Expired pursuant to Chapter 875 of the Acts of Assembly of 1996.**

2791 [Article 2.](#)

2792 [Community College Incentive Scholarship Program.](#)

2793 **Drafting note: The provisions of existing Article 2 are recommended for repeal as**

2794 **obsolete.**

2795 [§ 23-220.2. Incentive scholarships program; Board to administer; promulgation of](#)
2796 [regulations.](#)

2797 [There is hereby created the Community College Incentive Scholarship Program to](#)

2798 [provide incentive scholarships to eligible students attending comprehensive community colleges](#)

2799 [in Virginia. Funds may be paid to any comprehensive community college on behalf of students](#)

2800 [who have been awarded such scholarships pursuant to § 23-220.4.](#)

2801 **Drafting note: The provisions of existing § 23-220.2 are recommended for repeal as**

2802 **obsolete.**

2803 ~~§ 23-220.3. Community College Incentive Scholarship Fund created.~~

2804 ~~A. From such funds as are appropriated for this purpose and from such gifts, donations,~~
2805 ~~grants, bequests, and other funds as may be received on its behalf, there is hereby created in the~~
2806 ~~state treasury a special nonreverting fund to be known as the Community College Incentive~~
2807 ~~Scholarship Fund, hereafter referred to as "the Fund." The Fund shall be established on the~~
2808 ~~books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and~~
2809 ~~be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of~~
2810 ~~each fiscal year shall not revert to the general fund but shall remain in the Fund. Funds may be~~
2811 ~~paid to any comprehensive community college on behalf of students who have been awarded~~
2812 ~~scholarships pursuant to § 23-220.4. The first such scholarships shall be awarded after July 1,~~
2813 ~~1998.~~

2814 ~~Expenditures and disbursements from the Fund shall be made by the State Treasurer on~~
2815 ~~warrants issued by the Comptroller upon written request signed by the State Board for~~
2816 ~~Community Colleges.~~

2817 ~~B. The Board shall promulgate regulations for the implementation of the provisions of~~
2818 ~~this article and shall award scholarships to eligible students meeting the criteria established~~
2819 ~~pursuant to § 23-220.4.~~

2820 **Drafting note: The provisions of existing § 23-220.3 are recommended for repeal as**
2821 **obsolete.**

2822 ~~§ 23-220.4. Eligible students; criteria for award of scholarships.~~

2823 ~~A. Only students who (i) are domiciled residents of Virginia as defined by § 23-7.4, (ii)~~
2824 ~~are enrolled as second-year students on a full-time basis in a designated technical training~~
2825 ~~program at a comprehensive community college in Virginia, and (iii) have a cumulative grade~~
2826 ~~point average of at least 3.0 on a scale of 4.0 or its equivalent upon the completion of one year~~
2827 ~~as a full-time student at a comprehensive community college in Virginia shall be eligible to~~
2828 ~~receive such scholarships.~~

2829 ~~B. The Board, in consultation with the Virginia Economic Development Partnership,~~
2830 ~~shall designate those technical training programs for which scholarships may be awarded. The~~
2831 ~~selected programs shall reflect current and projected workforce training needs in the~~
2832 ~~Commonwealth.~~

2833 ~~C. Scholarships awarded pursuant to this article shall provide for the payment in full of~~
2834 ~~tuition and fees for enrollment for one year as a full-time, second-year student.~~

2835 **Drafting note: The provisions of existing § 23-220.4 are recommended for repeal as**
2836 **obsolete.**

2837 ~~Article 2.1.~~

2838 ~~Award of Academic Credit for Military Training Applicable to the Student's Certificate of~~
2839 ~~Degree Requirements.~~

2840 **Drafting note: The designation of Article 2.1 is removed because the article**
2841 **structure of existing Chapter 16 is not retained in proposed Chapter 29.**

2842 ~~§ 23-220.5~~ 23.1-2907. Policy for the award of academic credit for military training.

2843 A. The State Board shall adopt a policy for the award of academic credit to any student
2844 enrolled in a comprehensive community college who has successfully completed a military
2845 training course or program as part of his military service that is applicable to the student's
2846 certificate of degree requirements and is:

2847 1. Recommended for academic credit by a national higher education association that
2848 provides academic credit recommendations for military training courses or programs;

2849 2. Noted on the student's military transcript issued by any of the armed forces of the
2850 United States; or

2851 3. Otherwise documented in writing by any of the armed forces of the United States.

2852 B. The State Board shall:

2853 1. Develop a procedure for each comprehensive community college to receive the
2854 documentation necessary to identify and verify the military training course or program for
2855 which the student has applied for academic credit; and

2856 2. Develop, maintain, and disseminate to each comprehensive community college a list
2857 of military training courses and programs that it has deemed qualified for the award of academic
2858 credit.

2859 C. Each comprehensive community college shall provide a copy of the State Board's
2860 policy for the award of academic credit for military training courses or programs to each student
2861 applicant.

2862 **Drafting note: No change.**

2863 ~~Article 3.~~

2864 ~~Administration Generally.~~

2865 **Drafting note: The designation of Article 3 is removed because the article structure**
2866 **of existing Chapter 16 is not retained in proposed Chapter 29.**

2867 ~~§ 23-221.1.~~

2868 **Drafting note: Repealed by Chapter 728 of the Acts of Assembly of 1980.**

2869 ~~§ 23-222. Transfer of facilities, assets and programs.~~

2870 ~~(a) Effective July 1, 1967, all physical facilities, assets and programs of instruction in the~~
2871 ~~fields specified in subdivision (a) of § 23-214 of the following institutions shall be transferred to~~
2872 ~~and placed under the control and administration of the State Board for Community Colleges.~~

2873 ~~Eastern Shore Branch of the School of General Studies of the University of Virginia;~~

2874 ~~Lynchburg Branch of the School of General Studies of the University of Virginia;~~

2875 ~~Patrick Henry College of the University of Virginia;~~

2876 ~~Clifton Forge Covington Branch of the Virginia Polytechnic Institute and State~~
2877 ~~University;~~

2878 ~~Roanoke Technical Institute of the Virginia Polytechnic Institute and State University;~~

2879 ~~Roanoke Center of the School of General Studies of the University of Virginia; and~~

2880 ~~Wytheville Branch of the Virginia Polytechnic Institute and State University.~~

2881 ~~Provided, however, that no such transfer shall take place with respect to any individual~~
2882 ~~institution specified in the next preceding paragraph until (1) the Advisory Committee on~~

~~2883 Community Colleges certifies to the State Board and the Governor that such individual
2884 institution has demonstrated the requirements necessary for accreditation by the Southern
2885 Association of Colleges and Schools and (2) the Governor signifies in writing his approval of
2886 such transfer. If such certification by the Advisory Committee is not made with respect to any
2887 individual institution prior to July 1, 1967, then certification shall only be made between July
2888 one and August one of any succeeding year, and such transfer shall take place, if the Governor
2889 signifies in writing his approval of such transfer, on July one next following the date on which
2890 such certification is made.~~

~~2891 The college or university of which any individual institution is a part shall cooperate in
2892 obtaining certification for such institution. As soon as practicable, the State Board shall request
2893 individual accreditation of the institutions specified in this section by the Southern Association
2894 of Colleges and Schools.~~

~~2895 Notwithstanding any provision of this subsection or any other provision of this chapter,
2896 it is further provided that by agreement between the State Board and the governing body of the
2897 college or university of which any such individual institution is a part, and with the approval of
2898 the Governor, such transfer may take place prior to July 1, 1967, or any date subsequent thereto.~~

~~2899 (b) Effective July 1, 1966, the physical facilities, assets and programs of existing
2900 technical colleges and all assets of the existing State Board and Department of Technical
2901 Education shall be transferred to and placed under the control and administration of the State
2902 Board for Community Colleges.~~

~~2903 (c) Effective July 1, 1966, all educational programs for post-high school age youth and
2904 adults in existing area career and technical schools under the State Board of Education shall be
2905 transferred to and placed under the control and government of the State Board for Community
2906 Colleges.~~

~~2907 (d) All the real estate and personal property now existing and heretofore [before July 1,
2908 1966] standing in the name of institutions or boards included in subsections (a) and (b) of this~~

2909 ~~section shall, on the dates set forth in such subsections, be transferred to and taken as standing in~~
2910 ~~the name of the State Board for Community Colleges.~~

2911 ~~(e) In effecting the transfers specified in this section, the State Board for Community~~
2912 ~~Colleges shall respect any existing financial investment of local communities in these~~
2913 ~~institutions by establishing policies which will insure an equitable method of financing future~~
2914 ~~developments.~~

2915 **Drafting note: The provisions of existing § 23-222 are recommended for repeal as**
2916 **obsolete.**

2917 ~~§ 23-223 23.1-2908. Chancellor of Community Colleges generally.~~

2918 ~~(a) A. The State Board shall appoint a Chancellor of Community Colleges, hereinafter~~
2919 ~~sometimes called the Chancellor, shall be appointed by the State Board for Community~~
2920 ~~Colleges. Any vacancy shall be filled by the Board. The Chancellor shall to be the chief~~
2921 ~~executive officer of the System. The Chancellor shall, without additional compensation, serve as~~
2922 ~~and secretary to the State Board for Community Colleges, fix his salary, and prescribe his duties~~
2923 ~~in addition to those duties set forth in subsection C.~~

2924 ~~(b) The salary of the Chancellor shall be fixed by the Board.~~

2925 ~~(e) B. Before entering upon the discharge of the duties of his office, the Chancellor shall~~
2926 ~~qualify by taking and subscribing the oath required of all officers of the Commonwealth~~
2927 ~~pursuant to § 49-1.~~

2928 ~~§ 23-224. Duties of Chancellor generally.~~

2929 ~~A.C. The Chancellor of Community Colleges shall formulate:~~

2930 ~~1. Formulate such rules policies and regulations and provide for such assistance in his~~
2931 ~~office as shall be necessary for the proper performance of the duties prescribed by the provisions~~
2932 ~~of this chapter.;~~

2933 ~~B. The State Board shall prescribe the duties of the Chancellor, in addition to those~~
2934 ~~duties otherwise prescribed for him by law, and, in its discretion, approve the appointment by~~
2935 ~~the Chancellor of such agents and employees as may be needed by the Chancellor in the~~

2936 ~~exercise of the functions, duties and powers conferred and imposed by law and in order to effect~~
2937 ~~a proper organization to carry out his duties.~~

2938 ~~C. The Chancellor shall designate~~ 2. Designate an employee of the State Board to serve
2939 as its liaison to the Board of Education;

2940 ~~§ 23-225. Agents and employees generally.~~

2941 ~~The functions, duties, powers and titles of the agents and employees provided for in §~~
2942 ~~23-224, their salaries and remunerations, not in excess provided therefor by law, shall be fixed~~
2943 ~~by the Chancellor with the approval of the State Board and subject to~~

2944 3. Appoint agents and employees and fix their functions, powers, duties, titles, and
2945 salaries, subject to the approval of the State Board and the provisions of ~~Chapter 29~~ the Virginia
2946 Personnel Act (§ 2.2-2900 et seq.) ~~of Title 2.2;~~

2947 ~~§ 23-227. Annual report.~~

2948 ~~The Chancellor shall submit~~ 4. Submit an annual report to the Governor and General
2949 Assembly on or before November 1 of each year. Such report shall contain, at a minimum, the
2950 annual financial statements for the year ending the preceding June 30 and the accounts and
2951 status of any ongoing capital projects;

2952 ~~§ 23-228. Forms.~~

2953 ~~The Chancellor shall prescribe~~ 5. Prescribe the forms of applications, reports, affidavits,
2954 and such other forms as ~~shall~~ may be required in the administration of ~~the~~ this chapter;

2955 ~~§ 23-229. Cooperation with federal agencies; federal grants-in-aid generally.~~

2956 ~~(a) Subject to the direction of the Board, the Chancellor shall cooperate~~ 6. Cooperate
2957 with agencies of the United States in relation to matters set forth in this chapter; and in any
2958 reasonable manner that may be necessary for the Commonwealth to qualify for and to receive
2959 grants or aid from such federal agencies, subject to the direction of the State Board;

2960 ~~(b) Nothing in this chapter shall preclude any other agency, board or officer of the~~
2961 ~~Commonwealth from being designated as the directing or allocating agency, board or officer for~~
2962 ~~the distribution of federal grants-in-aid or the performance of other duties to the extent~~

2963 ~~necessary to qualify for and to receive grants-in-aid for programs and institutions under the~~
2964 ~~administration of the State Board for Community Colleges; and~~

2965 ~~§ 23-231. Enforcement of standards for personnel.~~

2966 ~~The Chancellor shall enforce~~ 7. Enforce the standards established by the State Board for
2967 personnel employed in the administration of this chapter and remove or cause to be removed
2968 each employee who does not meet such standards.

2969 ~~§ 23-230. Chancellor authorized to receive grants-in-aid and gifts; payment of funds into~~
2970 ~~state treasury.~~

2971 D. The Chancellor is authorized to receive, for and on behalf of the Commonwealth and
2972 its subdivisions, from the United States and agencies ~~thereof, and from~~ of the United States and
2973 ~~any and all other sources, source~~ grants-in-aid and gifts, made for the purpose of providing, or ~~to~~
2974 ~~assist~~ assisting in providing, any career and technical, or other, education or educational
2975 programs authorized by this chapter, including expenses of administration. All such funds shall
2976 be paid into the state treasury. However, nothing in this chapter shall preclude any other agency,
2977 board, or officer of the Commonwealth from being designated as the directing or allocating
2978 agency, board, or officer for the distribution of federal grants-in-aid or the performance of other
2979 duties to the extent necessary to qualify for and to receive grants-in-aid for programs and
2980 institutions under the administration of the State Board.

2981 **Drafting note: Existing § 23-223, relating to the Chancellor of Community Colleges**
2982 **generally, is expanded as proposed § 23.1-2908 to incorporate the Chancellor's powers and**
2983 **duties from multiple existing sections as follows:**

- 2984 **1. Subsection A of existing § 23-224 is relocated as proposed subdivision C 1;**
2985 **2. Subsection C of existing § 23-224 is relocated as proposed subdivision C 2;**
2986 **3. Subsection B of existing § 23-224 and existing § 23-225 are combined to create**
2987 **proposed subdivision C 3;**
2988 **4. Existing § 23-227 is relocated as proposed subdivision C 4;**
2989 **4. Existing § 23-228 is relocated as proposed subdivision C 5;**

2990 **5. Subsection (a) of existing § 23-229 is relocated as proposed subdivision C 6, and**
2991 **subsection (b) of existing § 23-229 is relocated as the second sentence of proposed**
2992 **subsection D;**

2993 **6. Existing § 23-231 is relocated as proposed subdivision C 7; and**

2994 **7. Existing § 23-230 is relocated as proposed subsection D, the second sentence of**
2995 **which is derived from subsection (b) of existing § 23-229.**

2996 § ~~23-226~~ 23.1-2909. Bonds of agents and System employees.

2997 Proper bonds shall be required of all agents and employees who ~~shall~~ handle any funds
2998 ~~which that~~ may come into the custody of the System. The premiums on the bonds shall be paid
2999 from funds appropriated by the Commonwealth for the administration of the provisions of this
3000 chapter.

3001 **Drafting note: Technical changes.**

3002 § ~~23-221~~ 23.1-2910. ~~Adherence to policies of State Council of Higher Education;~~
3003 ~~extension~~ Extension programs; similar courses of study.

3004 ~~The State Board shall adhere to the policies of the State Council of Higher Education for~~
3005 ~~the coordination of higher education as required by law.~~

3006 In any area served by a comprehensive community college, no public institution of
3007 higher ~~learning which~~ education that conducts extension programs shall, ~~after July 1, 1966,~~ offer
3008 courses of study similar to those offered by a comprehensive community college, except as
3009 authorized by the ~~State Council of Higher Education~~. Whenever practicable, the State Board
3010 shall provide facilities to such public institutions of higher ~~learning~~ education for conducting
3011 extension programs not in conflict with the provisions of this chapter.

3012 **Drafting note: The first paragraph of existing § 23-221 is relocated as subdivision 5**
3013 **of proposed § 23.1-2904. Technical changes are made.**

3014 § ~~23-231.1~~ 23.1-2911. Community College Week.

3015 The ~~General Assembly finds that the community colleges in Virginia provide the general~~
3016 ~~public with quality educational services which contribute to maintaining a knowledgeable and~~

3017 ~~skilled citizenry. In recognition of these services, the~~ fourth week in January of every year
3018 ~~beginning in 1986~~ shall be declared "Community College Week." ~~The and the~~ State Board ~~for~~
3019 ~~Community Colleges~~ may approve such activities in observance of this week as it deems
3020 appropriate.

3021 **Drafting note: The statement of legislative finding by the General Assembly is**
3022 **stricken per the Code Commission policy regarding such statements. Technical changes**
3023 **are made.**

3024 ~~§ 23-220.01 23.1-2912. Apprenticeship program for employees of ship manufacturing~~
3025 ~~and ship repair companies; fund Shipyard workers; applied sciences and apprenticeship~~
3026 ~~programs; Virginia Vocational Incentive Scholarship Program for Shipyard Workers; Fund.~~

3027 A. For purposes of this section:

3028 "Applied sciences program" means a three-year program of educational instruction at the
3029 college that incorporates instruction in industrial applied sciences and leads to the conferral of
3030 an Associate in Applied Science degree on any person who successfully completes such
3031 program.

3032 "Apprenticeship program" means a three-year program at the college combining
3033 educational instruction and on-the-job training that is established for the purpose of enhancing
3034 the education and skills of shipyard workers.

3035 "College" means the Tidewater Community College.

3036 "Industrial applied sciences" may include applied sciences such as welding, burning,
3037 blasting, and other applied sciences.

3038 "Shipyard worker" means any employee employed full time on a salaried or wage basis,
3039 whose tenure is not restricted as to temporary or provisional appointment, at a ship
3040 manufacturing or ship repair company located in the Commonwealth.

3041 B. The Virginia Vocational Incentive Scholarship Program for Shipyard Workers is
3042 established.

3043 C. From such funds as are appropriated for this purpose and from such gifts, donations,
3044 grants, bequests, and other funds as may be received on its behalf, there is hereby created in the
3045 state treasury a special nonreverting fund to be known as the Virginia Vocational Incentive
3046 Scholarship Program for Shipyard Workers Fund, referred to in this section as "the Fund." The
3047 Fund shall be established on the books of the Comptroller. Interest earned on moneys in the
3048 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,
3049 including interest thereon, at the end of each fiscal year shall not revert to the general fund but
3050 shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i)
3051 awarding scholarships to shipyard workers enrolled at the college in the applied sciences
3052 program or the apprenticeship program or (ii) the administration and implementation of the
3053 applied sciences program or the apprenticeship program or both. Expenditures and
3054 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
3055 Comptroller upon written request signed by the president of Tidewater Community College.

3056 D. Subject to the ~~State Council of Higher Education for Virginia's Council's~~ authority to
3057 approve or disapprove all new academic programs as provided in subdivision 5 of § ~~23-9.6:1~~
3058 ~~23.1-203~~, the college may offer ~~a three-year program of educational instruction that incorporates~~
3059 ~~instruction in industrial applied sciences. An Associate in Applied Science Degree shall be~~
3060 ~~conferred on any person successfully completing such academic program. The college may an~~
3061 ~~applied sciences program and~~ coordinate such ~~academic~~ program with an apprenticeship
3062 program offered to shipyard workers by their employers.

3063 ~~C.~~E. Beginning in the calendar year that the Council approves ~~such academic~~ an applied
3064 sciences program and for calendar years thereafter, shipyard workers who are ~~(i) domiciled~~
3065 ~~residents of Virginia as described in § 23-7.4 and (ii) in-state students~~ enrolled ~~as full-~~ full-time
3066 or part-time ~~students~~ in ~~such academic~~ the applied sciences program, shall be eligible for
3067 scholarships for such program. Renewal of the scholarships of such shipyard workers shall be
3068 contingent upon maintaining (a) enrollment in ~~such academic~~ the applied sciences program, (b)

3069 a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent at the
3070 completion of each academic year, and (c) full-time employment as a shipyard worker.

3071 F. The college shall award scholarships to eligible students in the applied sciences
3072 program or the apprenticeship program for no more than three academic years. Scholarship
3073 amounts shall not exceed full tuition and required fees relating to such academic program or the
3074 apprenticeship program.

3075 ~~D.-G.~~ Before any scholarship is awarded in accordance with the provisions of this
3076 section, the scholarship recipient shall sign a promissory note under which he agrees (i) to
3077 continue full-time employment as a shipyard worker until his graduation and (ii) upon
3078 graduation, to work continuously as a shipyard worker for the same number of years that he was
3079 the beneficiary of ~~such the~~ scholarship. The college shall recover the total amount of funds
3080 awarded as a scholarship, or the appropriate portion thereof, including any accrued interest, if
3081 the scholarship recipient fails to honor such requirements.

3082 ~~E. There is hereby created the Virginia Vocational Incentive Scholarship Program for~~
3083 ~~Shipyard Workers to provide scholarships to shipyard workers enrolled at the college either in~~
3084 ~~such academic program or in the apprenticeship program.~~

3085 ~~F. From such funds as are appropriated for this purpose and from such gifts, donations,~~
3086 ~~grants, bequests, and other funds as may be received on its behalf, there is hereby created in the~~
3087 ~~state treasury a special nonreverting fund to be known as the Virginia Vocational Incentive~~
3088 ~~Scholarship Program for Shipyard Workers Fund, referred to in this section as "the Fund." The~~
3089 ~~Fund shall be established on the books of the Comptroller. Interest earned on moneys in the~~
3090 ~~Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,~~
3091 ~~including interest thereon, at the end of each fiscal year shall not revert to the general fund but~~
3092 ~~shall remain in the Fund. Funds may be paid to the college on behalf of shipyard workers who~~
3093 ~~have been awarded scholarships pursuant to subsection C and shipyard workers in the~~
3094 ~~apprenticeship program. Funds may also be used for the administration and implementation of~~
3095 ~~such academic program and/or the apprenticeship program.~~

3096 ~~Expenditures and disbursements from the Fund shall be made by the State Treasurer on~~
3097 ~~warrants issued by the Comptroller upon written request signed by the President of Tidewater~~
3098 ~~Community College.~~

3099 ~~G.H.~~ The Council shall promulgate regulations for the implementation of the provisions
3100 of this section ~~and the college shall award scholarships to eligible students for no more than~~
3101 ~~three academic years. Scholarship amounts shall not exceed full tuition and required fees~~
3102 ~~relating to such academic program or the apprenticeship program.~~

3103 **Drafting note: A definition of "applied sciences program" has been created and the**
3104 **term has been used in several places in proposed § 23.1-2912 in lieu of "such academic**
3105 **program" and similar phrases used in existing § 23-220.01. Subsections E and F of existing**
3106 **§ 23-220.01 are logically reordered as subsections B and C of proposed § 23.1-2912. The**
3107 **language in existing subsection C is updated to conform more closely to language currently**
3108 **used to designate other special funds in the Code.**

3109 § ~~23-231.1:1~~ 23.1-2913. Machinery and Equipment Donation Grant Program and Fund
3110 established.

3111 A. As used in this section, unless the context requires a different meaning:

3112 ~~"Chancellor" means the Chancellor of the System.~~

3113 "Machinery and equipment" means engines, machines, motors, mechanical devices,
3114 laboratory trainers, computers, printers, tools, parts, and similar machinery and equipment as set
3115 forth in guidelines developed by the System. "Machinery and equipment" includes specialized
3116 software required for the operation of machinery and equipment qualified for a grant pursuant to
3117 this section.

3118 "Vocational school" means any entity that offers career or technical education
3119 administered by the Department of Education pursuant to § 22.1-227. "Vocational school" does
3120 not include instructional programs that are intended solely for recreation, enjoyment, or personal
3121 interest, or as a hobby, or courses or programs of instruction that prepare individuals to teach
3122 such pursuits.

3123 B. From such funds as may be appropriated by the General Assembly and any gifts,
3124 grants, or donations from public or private sources, there is hereby created in the state treasury a
3125 special nonreverting fund to be known as the Machinery and Equipment Donation Grant Fund,
3126 hereafter referred to as "the Fund." The Fund shall be established on the books of the
3127 Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to
3128 it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year
3129 shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be
3130 used solely for the purposes of awarding grants [through the Machinery and Equipment Donation](#)
3131 [Grant Program](#) for qualified donations of machinery and equipment to comprehensive
3132 community colleges and vocational schools. Expenditures and disbursements from the Fund
3133 shall be made by the State Treasurer on warrants issued by the Comptroller upon written request
3134 signed by the Chancellor.

3135 C. 1. A business that donates new machinery and equipment in good working condition,
3136 purchased within the 12 months prior to the donation, to a comprehensive community college or
3137 vocational school shall be eligible to apply to the System for a grant from the Fund. Such grant
3138 shall be in an amount equal to 20 percent of the purchase price of the machinery or equipment,
3139 not to exceed an aggregate grant of \$5,000 for all such donations during a calendar year.

3140 2. In order to be eligible for a grant, the application shall include a written certification
3141 made by the donee comprehensive community college or vocational school that identifies the
3142 donee comprehensive community college or vocational school, the business donating the
3143 machinery or equipment, the date of the donation, and the number of units of each item of
3144 machinery and equipment donated. The certification shall also include a statement by the donee
3145 comprehensive community college or vocational school that the machinery and equipment was
3146 needed and can be utilized by the comprehensive community college or vocational school for
3147 teaching or training students, and that such machinery and equipment will be principally used in
3148 [Virginia the Commonwealth](#) in teaching or training students.

