

Titles Recodification Candidates

<p><i>Title 8.01. Civil Remedies and Procedure</i></p>	<p>Title 8.01 was last recodified in 1977. Proposals during the 2007 Code Project called for reorganizing the chapters and updating the language to remove numerous uses of terms like hereunder, herein, heretofore, hereafter, and hereinbefore.</p>
<p><i>Title 40.1. Labor and Employment</i></p>	<p>Title 40.1 was last recodified in 1970.</p>
<p><i>Title 36. Housing</i></p>	<p>Title 36 has never been recodified. Its organizational structure could use some cleaning up. Several of its chapters were repealed as obsolete in 2012. Proposals during the 2007 Code Project called for reorganizing the chapters and updating the language to remove numerous uses of terms like hereunder, herein, heretofore, and hereafter. Bringing the internal numbering of subsections and subdivisions up to date is also needed for this title. Converting to the chapter numbering scheme for new titles with each chapter starting with the next value of one hundred, e.g., Chapter 1 beginning with § 36-100 and Chapter 5 beginning with § 36-500 will provide a better structure for making changes to the title in the future.</p>
<p><i>Title 45.1. Mines and Minerals</i></p>	<p>Title 45.1 was last recodified in 1966. The first 14 chapters of the title were repealed in 1994 creating havoc with the numbering in most of the title. Here's an example in Article 9 of Chapter 14.4:1 (note the chapter number as well as the section number):</p> <p style="padding-left: 40px;">§ 45.1-161.292:73. Mineral mining safety training program.</p> <p>During the 2007 Code Project in 2005-2006, drafters proposed combining Title 67, Virginia Energy Plan, with Title 45.1. This would be a time to reconsider that idea and create Title 45.2. Mines, Minerals, and Energy.</p>
<p><i>Title 55. Property and Conveyances</i></p>	<p>Title 55 has never been recodified. The Real Estate Section of the Virginia Bar Association presented a case for recodification in 2009 expressing the need to resolve ambiguities, remove obsolete language, update archaic terminology, and perform general cleanup.</p>

Code of Virginia Titles with Recodification Dates

(shown with repealed titles in italics and currently effective titles in bold)

Updated 3-31-2015

Recodification Dates¹	Code of Virginia Titles
1966 2005²	1 General Provisions
<i>1966</i> 2001	<i>2 Administration of the Government Generally</i> <i>2.1 Administration of the Government Generally</i> 2.2 Administration of Government
<i>1966</i> 2008	<i>3 Agriculture, Horticulture and Food</i> <i>3.1 Agriculture, Horticulture and Food</i> 3.2 Agriculture, Animal Care, and Food
1993	<i>4 Alcoholic Beverages and Industrial Alcohol</i> 4.1 Alcoholic Beverage Control Act
1966	<i>5 Aviation</i> 5.1 Aviation
<i>1966</i> 2010	<i>6 Banking and Finance</i> <i>6.1 Banking and Finance</i> 6.2 Financial Institutions and Services
<i>1966</i>	<i>7 Boundaries, Jurisdiction and Emblems of the Commonwealth</i> <i>7.1 Boundaries, Jurisdiction and Emblems of the Commonwealth³</i>
1977	<i>8 Civil Remedies and Procedure; Evidence Generally</i> 8.01 Civil Remedies and Procedure - Code Commission tentatively approved for 2015 work plan on 6/19/2013
<i>1964</i> 2003	<i>8.1 Commercial Code - General Provisions</i> 8.1A Uniform Commercial Code - General Provisions
1964	8.2 Commercial Code - Sales
1991	8.2A Commercial Code - Leases
<i>1964</i> 1992	<i>8.3 Commercial Code - Commercial Paper</i> 8.3A Commercial Code - Negotiable Instruments
1964	8.4 Commercial Code - Bank Deposits and Collections
1990	8.4A Commercial Code - Funds Transfers
<i>1964</i> 1997	<i>8.5 Commercial Code - Letters of Credit</i> 8.5A Commercial Code - Letters of Credit
<i>1964</i> <i>1997</i>	<i>8.6 Commercial Code - Bulk Transfers</i> <i>8.6A Commercial Code - Bulk Sales⁴</i>
1964	8.7 Commercial Code - Warehouse Receipts, Bills of Lading and Other Documents of Title

¹ Titles were codified in 1950 unless a different date is indicated. The dates listed represent the General Assembly session in which the recodification was enacted.

² Title 1 was not recodified but substantially reorganized in 1966 and 2005.

³ Title 7.1 was repealed and its contents incorporated into Title 1 in 2005.

⁴ Title 8.6A was repealed as obsolete in 2011.

Code of Virginia Titles with Recodification Dates

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Updated 3-31-2015

1964 1996	8.8 <i>Commercial Code - Investment Securities</i> 8.8A Commercial Code - Investment Securities
1964 2000	8.9 <i>Commercial Code - Secured Transactions; Sales of Accounts, Contract Rights and Chattel Paper</i> 8.9A Commercial Code - Secured Transactions
1964	8.10 Commercial Code - Effective Date - Transitional Provisions
1973	8.11 1973 Amendatory Act - Effective Date and Transition Provisions
2001	9 <i>Commissions, Boards and Institutions Generally</i> ⁵ 9.1 Commonwealth Public Safety
1988	10 <i>Conservation Generally</i> 10.1 Conservation
	11 Contracts
1971	12 <i>Corporation Commission</i> 12.1 State Corporation Commission
1956	13 <i>Corporations Generally</i> 13.1 Corporations
1964	14 <i>Costs, Fees, Salaries and Allowances</i> 14.1 <i>Costs, Fees, Salaries and Allowances</i> ⁶
1962 1997	15 <i>Counties, Cities and Towns</i> 15.1 <i>Counties, Cities and Towns</i> 15.2 Counties, Cities and Towns
1956	16 <i>Courts Not of Record</i> 16.1 Courts Not of Record
1998	17 <i>Courts of Record</i> 17.1 Courts of Record
1960 1975	18 <i>Crimes and Offenses Generally</i> 18.1 <i>Crimes and Offenses Generally</i> 18.2 Crimes and Offenses Generally
1960 1975	19 <i>Criminal Procedure</i> 19.1 <i>Criminal Procedure</i> 19.2 Criminal Procedure
	20 Domestic Relations
	21 Drainage, Soil Conservation, Sanitation and Public Facilities Districts
1980	22 <i>Education</i> 22.1 Education
	23 Educational Institutions - On current work plan scheduled for completion in 2015

⁵ Title 9 was repealed in 2001; certain material was incorporated into Titles 2.2, 3.1, and 30.⁶ Title 14.1 was repealed in 1998; provisions relating to costs, fees, salaries, and allowances are now located throughout the Code of Virginia.

Code of Virginia Titles with Recodification Dates

(shown with repealed titles in italics and currently effective titles in bold)

Updated 3-31-2015

1970 1993	24 <i>Elections</i> 24.1 <i>Elections</i> 24.2 Elections
2003	25 <i>Eminent Domain</i> 25.1 Eminent Domain
	26 <i>Fiduciaries Generally</i> ⁷
	27 Fire Protection
1962 1992	28 <i>Fish, Oysters and Shellfish</i> 28.1 <i>Fish, Oysters, Shellfish and Other Marine Life</i> 28.2 Fisheries and Habitat of the Tidal Waters
1987	29 <i>Game, Inland Fisheries and Dogs</i> 29.1 Game, Inland Fisheries and Boating
	30 General Assembly
	31 <i>Guardian and Ward</i> ⁷
1979	32 <i>Health</i> 32.1 Health
	33 <i>Highways, Bridges and Ferries</i>
1970 2014	33.1 <i>Highways, Bridges and Ferries</i> 33.2 Highways and Other Surface Transportation Systems
	34 Homestead and Other Exemptions
1981	35 <i>Hotels, Restaurants and Camps</i> 35.1 Hotels, Restaurants, Summer Camps, and Campgrounds
	36 Housing
1968 2005	37 <i>Insane, Epileptic, Feeble-Minded and Inebriate Persons</i> 37.1 <i>Institutions for the Mentally Ill; Mental Health Generally</i> 37.2 Behavioral Health and Developmental Services
1952 1986	38 <i>Insurance</i> 38.1 <i>Insurance</i> 38.2 Insurance
1968	39 <i>Justices of the Peace</i> 39.1 <i>Justices of the Peace</i> ⁸
1970	40 <i>Labor and Employment</i> 40.1 Labor and Employment
1970	41 <i>Land Office</i> 41.1 Land Office
1970	42 <i>Libraries</i> 42.1 Libraries
	43 Mechanics' and Certain Other Liens

⁷ Titles 26 and 31 were repealed in 2012 and their provisions incorporated into Title 64.2.⁸ Title 39.1 was repealed in 1973 and its provisions incorporated into Title 19.2.

Code of Virginia Titles with Recodification Dates

(shown with repealed titles in italics and currently effective titles in bold)

Updated 3-31-2015

	44 Military and Emergency Laws
1966	<i>45 Mines and Mining</i> 45.1 Mines and Mining
<i>1958</i> 1989	<i>46 Motor Vehicles</i> <i>46.1 Motor Vehicles</i> 46.2 Motor Vehicles
1980	<i>47 Notaries and Out-of-State Commissioners</i> 47.1 Notaries and Out-of-State Commissioners
	48 Nuisances
	49 Oaths, Affirmations and Bonds
	50 Partnerships
1990	<i>51 Pensions and Retirement</i> 51.1 Pensions, Benefits, and Retirement
<i>1985</i> 1985	<i>51.01 Persons with Disabilities⁹</i> 51.5 Persons with Disabilities
	52 Police (State)
1982	<i>53 Prisons and Other Methods of Correction</i> 53.1 Prisons and Other Methods of Correction
1988	<i>54 Professions and Occupations</i> 54.1 Professions and Occupations
	55 Property and Conveyances
	56 Public Service Companies
	57 Religious and Charitable Matters; Cemeteries
1984	<i>58 Taxation</i> 58.1 Taxation
1968	<i>59 Trade and Commerce</i> 59.1 Trade and Commerce
<i>1968</i> 1986	<i>60 Unemployment Compensation</i> <i>60.1 Unemployment Compensation</i> 60.2 Unemployment Compensation
1968	<i>61 Warehouses, Cold Storage and Refrigerated Locker Plants</i> 61.1 Warehouses, Cold Storage and Refrigerated Locker Plants
1968	<i>62 Waters of the State, Ports and Harbors</i> 62.1 Waters of the State, Ports and Harbors
<i>1968</i> 2002	<i>63 Welfare</i> <i>63.1 Welfare (Social Services)</i> 63.2 Welfare (Social Services)

⁹ Title 51.01 was recodified as Title 51.5 for better arrangement in the Code.

Code of Virginia Titles with Recodification Dates

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Updated 3-31-2015

1968 2012	64 <i>Wills and Decedents' Estates</i> 64.1 <i>Wills and Decedents' Estates</i> 64.2 Wills, Trusts, and Fiduciaries
1968 1991	65 <i>Workmen's Compensation</i> 65.1 <i>Workers' Compensation</i> 65.2 Workers' Compensation
1989	66 Juvenile Justice¹⁰
2006	67 Virginia Energy Plan

¹⁰ Title 66 was originally titled "Youth and Family Services"; the name was changed in 1996.

Chapter 31. State and Local Government Conflict of Interests Act

§ 2.2-3101. Definitions.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

Code Commission Regulations

The Virginia Register Act authorizes the Code Commission to issue "general or special regulations respecting the nature and content of the Virginia Administrative Code, making exceptions thereto, supplementing or limiting the duties of agencies hereunder, and otherwise carrying out the purposes of" the Register Act. (§ 2.2-4104 (3)). The Code Commission's adoption of regulations is exempt from the Administrative Process Act.

Summary of Changes

1. **Title**: Change title from "Regulations of the Virginia Code Commission for Implementing the Virginia Register Act" to "Regulations for Filing and Publishing Agency Regulations"
2. **File by Description**: Eliminate provision that permits an agency to file a regulation by description in lieu of filing full text.
3. **Forms**:
 - Provide agencies ability to update forms associated with a regulation (e.g., licensure applications) without going through the regulatory process.
 - Allow Registrar to publish a list of forms with hyperlinks to the actual forms in lieu of publishing scanned copies of the forms in the Register.
4. **Incorporation by Reference**:
 - Disallow prospective incorporation of a document.
 - Address when an agency may incorporate by reference one of its own documents.
5. **Omission of certain provisions in VAC**: Section 30-150 of the COV allows omission of provisions that the Code Commission deems inappropriate in a code, such as (i) effective date clauses and (ii) severability clauses (provided for in § 2.2-4004).
 - Add ability of Registrar to omit (i) purpose statements, (ii) applicability statements, and (iii) other nonregulatory provisions.
 - Give discretion to Registrar to include material that would otherwise be omitted - for example, SCC may need inclusion of a severability clause because it is exempt from APA.
6. **Effective date of certain exempt regulations**: Encourage agencies to file exempt regulations that may become effective when "filed" with the Registrar at least three business days before the effective date.
7. **Withdrawal of final regulation**: Provide a mechanism to notify the public that a regulation, published in the Register as a final regulation with a specific effective date, will not become effective on the specified date because the agency has withdrawn the regulation.
8. **Rules of construction**: Add general rules of construction section addressing headlines of sections, gender, and use of "includes but not limited to," similar to the Code of Virginia.
9. **Computation of time**: Clarify computation of time period based on publication in the Virginia Register.
10. **Official version of Virginia Register**: Clarify that the PDF version of the Virginia Register is the official version. The Code Commission must post the Register on its website and may publish in print.
11. **Other miscellaneous changes**: Update to reflect statutory changes, current terminology, and current practices and technology, such as electronic filing and the inclusion of a web address in a regulation.

Proposed Regulations

Regulations of the Virginia Code Commission for Implementing the Virginia Register Act for Filing and Publishing Agency Regulations

Part I

General Provisions

§ 1.1. Purpose.

A. ~~The purpose of this regulation is to assist and guide administrative agencies in complying with the Virginia Register Act. The regulation defines more particularly the scope of certain terms and provisions of the Act as interpreted and modified by the Code Commission. In order to render them more readably complete and usable, the following text includes statements copying or paraphrasing the Act.~~

B. ~~The purpose of the Act is to satisfy the need for public availability of information respecting administrative regulations, and to encourage agencies in developing informative regulations. To that end, it provides for the compilation, publication, and supplementation of the Virginia Administrative Code and the Administrative Law Appendix. The Appendix serves as a finding guide to the existing regulations of administrative agencies of the Commonwealth and the Virginia Administrative Code is a complete, full text, official compilation of all regulations of state agencies. The Act provides for general supervision, application of policies, and determination of guidelines by the Virginia Code Commission, and day-to-day operation under a Registrar of Regulations.~~

Drafting Note: This section is repealed in accordance with the general policy to exclude purpose statements in regulations.

§ 1.2. Definitions.

The following words and terms, when used in ~~these regulations~~, this chapter shall have the following ~~meaning~~, meanings unless the context clearly indicates otherwise:

"Act" means the Virginia Register Act (~~§ 9-6.15 et seq. of the Code of Virginia.~~)

27 ~~"Administrative Law Appendix" means the published listing of agency regulations with~~
28 ~~supplemental information as provided by §§ 9-6.18 and 9-6.19 of the Code of Virginia, and~~
29 ~~referred to in these regulations as the "Appendix."~~

30 "Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of
31 Virginia.

32 ~~"Adoption by reference" or "incorporated by reference" means the inclusion in regulations of~~
33 ~~provisions making applicable in whole or in part any requirements, prohibitions, policies,~~
34 ~~standards, forms, instructions, or procedures prescribed or established in other documents,~~
35 ~~except statutes, whether issued by governmental agencies or by private organizations and~~
36 ~~whether such documents are in express terms "adopted" or "incorporated" in the regulations.~~

37 ~~"Agency" means any authority, instrumentality, officer, board or other unit of the government~~
38 ~~of the Commonwealth with express or implied authority to issue regulations other than the~~
39 ~~General Assembly, courts, municipal corporations, counties, other local or regional governmental~~
40 ~~authorities including sanitary or other districts and joint state-federal, interstate or intermunicipal~~
41 ~~authorities, the Virginia Resources Authority, the Virginia Code Commission with respect to minor~~
42 ~~changes made under the provisions of § 9-77.10:1 of the Code of Virginia, and educational~~
43 ~~institutions operated by the Commonwealth with respect to regulations which pertain to (i) their~~
44 ~~academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and employees;~~
45 ~~(iii) the selection of students; and (iv) rules of conduct and disciplining of students.~~

46 "Agency" means any authority, instrumentality, officer, board, or other unit of the government
47 of the Commonwealth empowered by the basic laws to adopt regulations or decide cases, except
48 as exempted by the Virginia Register Act.

49 "Commission" means the Virginia Code Commission.

50 "File" means to submit to the registrar so that the registrar receives the regulation submission
51 package, or required or requested information.

52 "Registrar" means the Registrar of Regulations, or his designee, as provided in § 9-6.17 2.2-
53 4102 of the Code of Virginia.

54 "Regulation" ~~or "operative regulation"~~ means any statement of general application, having the
55 force of law, and affecting the rights or conduct of any person, promulgated by an agency in
56 accordance with the authority conferred on it by applicable basic laws.

57 "Regulation submission package" means the regulation text and other information required to
58 be submitted by the Administrative Process Act or the Virginia Register Act.

59 "Regulatory Information System" or "RIS" means the web-enabled application of the Office of
60 the Registrar of Regulations that is used by an agency to file regulations, regulation submission
61 packages, and related information and used by the Office of the Registrar to publish the Virginia
62 Register of Regulations and update the Virginia Administrative Code.

63 "Style Manual" means the Virginia Register Form, Style, and Procedure Manual issued by the
64 Virginia Code Commission.

65 ~~"To file" means to deliver the entire text of the regulatory document to the Registrar or, upon a~~
66 ~~determination by the Registrar in accordance with the criteria established in § 2.3, to deliver a~~
67 ~~description of the regulatory document to the Registrar.~~

68 "Virginia Administrative Code" or "VAC" means the codified publication of regulations under
69 the provisions of Chapter 8.1 (~~§ 9-77.4 et seq.~~) of Title 9 15 (§ 30-145 et seq.) of Title 30 of the
70 Code of Virginia.

71 "Virginia Register Act" means Chapter 41 (§ 2.2-4100 et seq.) of Title 2.2 of the Code of
72 Virginia.

73 "Virginia Register of Regulations" or "Register" means the publication issued under the
74 provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act ~~in Article 7 (§ 9-~~
75 ~~6.14.22 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia.~~

76 ***Drafting note: Definitions are added, clarified and updated. Unnecessary or***
77 ***obsolete definitions are removed.***

78 **§ 1.2:1 Computation of time.**

79 When Article 2 (§ 2.2-4006 et seq.) or 6 (§ 2.2-4031 et seq.) of the Administrative Process Act
80 or the Virginia Register Act prescribes a time period that is contingent upon publication in the

81 Register, whether before, after, or upon publication, the day of publication shall not be counted as
82 part of the required time period. This section shall not apply to the comment period designated in
83 § 2.2-4007.06 of the Code of Virginia to begin on the date of publication of the notice in the
84 Register.

85 ***Drafting note: This section is new and modeled on § 1-210 of the Code of Virginia,***
86 ***which in part states that when an act is to be performed a certain amount of time***
87 ***before a proceeding, the day of the proceeding is not counted against the time***
88 ***allowed.***

89 **§ 1.2:2. General rules of construction.**

90 This section shall be used in the construction of the Virginia Administrative Code.

91 1. Catchlines of sections. The catchline or title of a section following the section number is
92 intended as a description to indicate the content of the section and does not constitute
93 part of the regulation.

94 2. Gender. A word used in the masculine includes the feminine and neuter.

95 3. Number. A word used in the singular includes the plural, and a word used in the plural
96 includes the singular unless the context clearly indicates otherwise.

97 4. The word "includes" means includes but not limited to.

98 5. The word "or" means any one or all of the items listed or any combination thereof.

99 ***Drafting note: This section is new. The definition of "catchlines" is adapted from***
100 ***§ 1-217 of the Code of Virginia.***

101 ***The definition of "gender" is identical to § 1-216 of the COV and the definition of***
102 ***"includes" is identical to § 1-218 of the COV.***

103 ***The definition of "number" is from § 1-227 of the COV, with the addition of the***
104 ***phrase "unless the context clearly indicates one or the other."***

105 ***The definition of "or" is based on the Code Commission's general policy to avoid***
106 ***use of "and/or"; inclusion of this term will provide a basis for agencies to conclude***
107 ***that "or" includes "and."***

108 **§ 1.3. Form and style of regulations.**

109 ~~Every regulation shall be drafted in conformance with the Virginia Register Form, Style and~~
110 ~~Procedure Manual, which has been prepared under the authority of the Virginia Code~~
111 ~~Commission, and which may be amended from time to time. Every regulation shall also be~~

112 ~~identified with a number as provided in that publication. A sufficient number of copies of the~~
113 ~~publication are furnished to all agency regulatory coordinators. Additional copies are available~~
114 ~~from the office of the Registrar for \$7.50.~~

115 A. The registrar shall develop a manual to advise agencies regarding the form and style of
116 regulations and the codification of regulations.

117 B. The registrar shall provide procedures stipulating how agencies shall prepare and file with
118 the Registrar's Office (i) regulations, (ii) regulation submission packages and other information
119 concerning regulatory actions, or (iii) other information requested by the registrar for publication in
120 the Virginia Register of Regulations or the Virginia Administrative Code.

121 C. Pursuant to § 30-150 of the Code of Virginia, the registrar may omit from publication in the
122 Virginia Register of Regulations or inclusion in the Virginia Administrative Code (i) effective date
123 clauses, (ii) severability clauses, (iii) purpose statements, and (iv) provisions that are
124 nonregulatory in nature, such as a defined word, term, or phrase that is not used in the regulatory
125 text.

126 D. The registrar may accept any of the items or provisions listed in subsection C of this
127 section if the agency establishes a need to the satisfaction of the registrar.

128 ***Drafting note: The Code Commission determines all questions of form, makeup,***
129 ***and arrangement for the Virginia Administrative Code pursuant to § 30-146 of the***
130 ***Code of Virginia. Subsections A and B are updated.***

131 ***Subsections C and D are added to address current practice, based on the Code***
132 ***Commission's authority to omit effective date clauses, severability clauses, and***
133 ***provisions "which in the judgment of the commission are inappropriate in a code."***

134 ***Currently, the registrar removes a purpose statement after consultation with the***
135 ***agency. Generally, effective date clauses and severability clauses are removed***
136 ***without consulting with the agency, but the agency is notified of the removal.***
137 ***Section 2.2-4004 of the Code of Virginia also addresses severability clauses in***
138 ***regulations for any regulation adopted under APA. Subsection B addresses agency***
139 ***regulations exempt from APA, such as State Corporation Commission.***

140 ***The purpose of this section is to confirm current practices, and to identify other***
141 ***provisions that the Code Commission may feel are inappropriate in a code, such as***
142 ***nonregulatory provisions.***

143 **~~§ 1.4. Agency services to the public.~~**

144 ~~The following requirements apply to all agencies adopting regulations subject to the Act,~~
145 ~~except that the requirements do not apply to materials adopted by reference to the Code of~~
146 ~~Federal Regulations or The Federal Register, or by reference to regulations of other Virginia~~
147 ~~agencies:~~

148 ~~1. Each agency shall maintain for public consultation a complete list of all of its currently~~
149 ~~operative regulations, including, an itemization of materials adopted by reference.~~

150 ~~2. Each agency shall make available for public inspection a complete file of the full text of all~~
151 ~~currently operative regulations, as well as all textual material adopted by reference, and allow~~
152 ~~public copying or make copies available either without charge, at cost, or on payment of a~~
153 ~~reasonable fee.~~

154 ~~3. Each agency shall maintain as a public record a complete file of its regulations which have~~
155 ~~been superseded on and after June 1, 1975.~~

156 ***Drafting note: This section is unnecessary as it restates § 2.2-4103 of the Code of***
157 ***Virginia.***

158 **~~§ 1.5. Place of filings; consultations; inquiries. Method of filing.~~**

159 ~~Filing An agency shall be made either in person or by mail at the office of the Registrar of~~
160 ~~Regulations, Second Floor, General Assembly Building, Capitol Square, Richmond, Virginia~~
161 ~~23219 file regulations, regulation submissions packages, and requested information electronically~~
162 ~~through the Regulatory Information System (RIS), unless specifically approved by the registrar to~~
163 ~~file through other means.~~

164 ~~A currently updated copy of the Appendix is available for public consultation at the above~~
165 ~~address. Upon request, the Registrar will furnish any person with both the date on which a~~
166 ~~regulation was filed and the date on which the regulation became effective. As stated more fully~~
167 ~~in § 9-6.18, however, it is the responsibility of each agency to make its regulations, including~~
168

169 ~~textual materials adopted by reference, available to the public and to make available for public~~
170 ~~consultation its own list of regulations.~~

171 ***Drafting note: This section is updated to reflect the current method of filing***
172 ***regulations with the Registrar's Office. The last paragraph regarding the***
173 ***Administrative Law Appendix is removed as it is obsolete.***

174 **§ 1.6. Internet address; contact information; consequential changes.**

175 A. If an agency includes an Internet address in the text of a regulation, the agency is
176 responsible for maintaining the accuracy and currency of the Internet address.

177 B. If an agency includes contact information in the text of a regulation, the agency is
178 responsible for maintaining the accuracy and currency of the contact information. Contact
179 information includes a title, mailing address, telephone number, email address, or similar
180 information.

181 C. The agency must (i) promptly notify the Registrar's Office when an Internet address or
182 contact information changes and (ii) provide the correct Internet address or contact information.
183 The agency shall file a request for amendment as directed by the registrar and provide the
184 revised text of the regulation.

185 D. The registrar may correct an Internet address or contact information upon request by an
186 agency. In addition, the registrar may, in his discretion, make other consequential corrections
187 pursuant to §§ 30-150 and 2.2-4102 of the Code of Virginia.

188 E. The registrar will publish notice of the correction.

189 ***Drafting note: This section is new and is based on § 30-150 of the Code of Virginia,***
190 ***which permits the Code Commission to make consequential changes made***
191 ***necessary by the use of titles, terminology, and references, or other language no***
192 ***longer appropriate.***

193 **§ 1.7 Waiver by registrar.**

194 The registrar may waive a provision of this chapter, provided that the waiver is consistent with
195 applicable state law.

196 ***Drafting note: This section is new and permits flexibility in application of the***
197 ***regulations to address unique situations.***

198 **§ 1.8 Agency regulatory coordinator.**

199 The head of each agency, or his designee, shall appoint or designate an individual as the
200 agency regulatory coordinator who shall coordinate the regulatory activities of the agency with the
201 Office of the Registrar of Regulations.

202 ***Drafting note: This section is new and reflects current practice.***

203

204 PART II.

205

206 ~~REGULATIONS REQUIRED TO BE FILED.~~

207 Filing Regulations and Regulation Submission Packages with the Registrar's Office

208 **§ 2.1 Registration of Filing regulations.**

209 ~~All operative regulations, including textual materials adopted by reference, shall be registered~~
210 ~~with the Registrar, either by filing in full or by filing a description of those regulations as specified~~
211 ~~in § 2.3.~~

212 A. An agency must file all regulations, including materials incorporated by reference and
213 forms used in administering the regulation, with the registrar. The regulations shall be filed
214 through the Regulatory Information System or as directed by the registrar.

215 B. The agency shall file the full text of a regulation with the registrar, except text that is
216 incorporated by reference pursuant to § 2.2-4031 of the Code of Virginia shall be filed in
217 accordance with Part III of this chapter.

218 C. No regulation, or amendment or repeal thereof, is effective until filed with the registrar
219 pursuant to § 2.2-4103 of the Code of Virginia. If the regulation, or amendment or repeal thereof,
220 is incomplete, the registrar may decline to publish the regulation.

221 ***Drafting note: The section is updated and amended. Agencies are no longer***
222 ***permitted to file merely a description of the contents of the regulation instead of***
223 ***filing the complete text of the regulation.***

224 ***Currently, three agencies have regulations that are filed by description: Department***
225 ***of Transportation (14), Department of General Services (2), and the Judicial Inquiry***
226 ***and Review Commission (1).***

227

228

229 ***Here is an example of what is published in VAC:***

230
231 24VAC30-390-10. Virginia Scenic Highways and Byways (Filed by Description with the
232 Registrar of Regulations).

233 Description: The regulations governing Virginia's scenic highways and byways establish the
234 policies and procedures which the Commonwealth Transportation Board, the department, local
235 governing bodies, and the Department of Conservation and Recreation will follow in adding or
236 deleting a route from the lists of scenic highways or Virginia byways. The policy includes a list
237 of criteria which proposed road segments must meet before they can be considered for addition.
238 These include aesthetic, cultural and safety factors.

239
240 Document available for inspection at the following location:

241 Virginia Department of Transportation
242 Management Services Division
243 1401 East Broad Street, 7th Floor
244 Richmond, VA 23219
245

246 ***The Code Commission's policy is to set out text in full. Therefore, subsection A***
247 ***requires the complete text of all regulations to be on file with the registrar. The only***
248 ***exception is text that is incorporated by reference to another publication, such as a***
249 ***building code.***

250 **~~§ 2.2. Registration by filing in full.~~**

251 ~~All currently operative materials falling within the term "regulation" as defined in § 1.2, and not~~
252 ~~exempted from filing in full as set out in § 2.3, are required to be on file in full text, with the~~
253 ~~Registrar (See also the filing requirements in the Administrative Process Act § 9-6.14:9 of the~~
254 ~~Code of Virginia.)~~

255 ~~All regulations subject to filing in full shall be filed in duplicate with the Registrar. A signed~~
256 ~~statement or certification, that they are full, true, and correctly dated shall accompany the~~
257 ~~regulation. The statement shall be filed in triplicate. One copy will be stamped and returned as a~~
258 ~~receipt to the agency. The signed statement or certification may be in the form of a cover letter.~~

259 ~~Regulations that are required to be filed under the Virginia Register Act and the Administrative~~
260 ~~Process Act shall comply with the Virginia Register Form, Style, and Procedure Manual.~~

261 ***Drafting note - The first paragraph is incorporated into § 2.1; the other paragraphs***
262 ***are unnecessary or obsolete.***

263 **~~§ 2.3. Registration by filing description.~~**

264 ~~The Registrar may authorize the filing of a document by description in lieu of filing the entire~~
265 ~~text of any regulatory document in accordance with the following criteria:~~

- 266 ~~1. Regulations which are expressly addressed to named individuals or organizations;~~
- 267 ~~2. Regulations which are concerned only with any of the following:~~
- 268 ~~a. Public officers and employees;~~
- 269 ~~b. Elections;~~
- 270 ~~c. Students;~~
- 271 ~~d. Persons in state mental, penal and other institutions;~~
- 272 ~~e. State property or funds;~~
- 273 ~~f. Public contracts;~~
- 274 ~~g. Defense functions;~~
- 275 ~~h. Police operations of an enforcement, prosecutorial or investigatory character; or~~
- 276 ~~i. Money grants, benefits, loans, or subsistence or welfare payments;~~
- 277 ~~3. The size of the document's pages differs significantly from the standard page size of~~
- 278 ~~the Virginia Register of Regulations or the Virginia Administrative Code;~~
- 279 ~~4. The material is not available in document form; for example, if the material is only~~
- 280 ~~available in electronic form or on computer tape or discs; or~~
- 281 ~~5. Regulations which are both of a temporary nature and operative only in limited~~
- 282 ~~localities.~~

283 ~~Any request for exemption shall be made to the Registrar by the agency in writing.~~

284 ~~Any approval granted by the Registrar shall also be made in writing.~~

285 ~~In every instance in which the Registrar authorizes an agency to file a regulatory document by~~

286 ~~description, a current document shall be maintained and, upon request, be made available to the~~

287 ~~public by the agency. This current document shall be deemed to be filed in its entirety with the~~

288 ~~Registrar and shall, at any time during business hours, be made available to the Registrar upon~~

289 ~~request.~~

290

291 ~~All such regulations are otherwise subject to all requirements in these regulations applicable~~
292 ~~to agency regulations covered by the Act.~~

293 ***Drafting note: The ability to file by description is not included in the proposed***
294 ***regulation. Therefore, this section is repealed.***

295 **~~§ 2.4. Supplemental information required to be supplied.~~**

296 ~~The Commission, through the Registrar, from time to time, may make general or special calls~~
297 ~~for additional information. The Act requires prompt response to all such requests. Unless~~
298 ~~specifically requested, no particular form is required for statements furnishing such supplemental~~
299 ~~information except that they must be signed, and filed in duplicate if the agency desires one copy~~
300 ~~stamped and returned as a receipt. The following additional information is regularly and generally~~
301 ~~hereby required to be on file respecting all regulations subject to the Act, whether the regulations~~
302 ~~are required to be registered by filing in full or by filing by description:~~

303 ~~1. Source or sources in the agency and elsewhere from which official copies may be~~
304 ~~obtained, and any fee or other requirement therefor. Information shall be filed detailing~~
305 ~~where and how private persons may obtain official (not certified), copies of all regulations.~~
306 ~~Unless otherwise stated, it is assumed that there is no charge for such copies.~~

307 ~~2. Place of custody of original regulations, and place or places where regulations may be~~
308 ~~inspected or copied. Unless the agency otherwise informs the Registrar, it will be~~
309 ~~assumed that its original regulations are maintained, and copies of the regulations may be~~
310 ~~reviewed or copied, in the same office or offices of the agency as those listed under~~
311 ~~subdivision 1 of this section. As stated in the preface to the Administrative Law Appendix,~~
312 ~~the statement "Regulations are available at", unless otherwise indicated, applies to~~
313 ~~both availability for inspection and availability of copies, as well as to the place of custody~~
314 ~~of the original regulations. If some or all of the agency's regulations are regularly~~
315 ~~distributed to, or posted for public inspection at, places other than agency offices,~~
316 ~~information to that effect should also be furnished.~~

317 ~~3. Existing official publication of regulations. When an agency's regulations are regularly~~
318 ~~published in official publications (e.g., annual reports, etc.), or if the agency regularly~~

319 ~~makes newspaper publication of regulations, the agency shall coordinate with the~~
320 ~~Registrar, the publication, of published regulations as they appeared in The Virginia~~
321 ~~Register of Regulations. If, due to the length of the regulation, only a summary of the~~
322 ~~regulation was published in the Register, the agency shall advise the Registrar of its need~~
323 ~~to proceed with publication in other sources, in order that the Registrar can process the~~
324 ~~document in a timely manner.~~

325 ~~4. Subsequent information or corrections. Agencies shall promptly file new or additional~~
326 ~~statements as necessary to correct or bring up to date previously filed public availability~~
327 ~~information of the foregoing nature.~~

328 ***Drafting note: This section is unnecessary or obsolete, mainly because of the***
329 ***existence of a published administrative code and because the information***
330 ***described in this section is submitted with the regulatory package.***

331 **~~§ 2.5. Data required to be included in filed regulations.~~**

332 ~~The date of adoption, revision, or effective date, and terminal date, if any, shall appear on the~~
333 ~~face of all new regulations, not merely on the certification filed with the Registrar. New forms shall~~
334 ~~indicate date of issuance or revision.~~

335 ~~Regulations shall indicate statutory authority. Statutory authority shall be cited by referring to~~
336 ~~the appropriate title and sections or chapters of the Code of Virginia or, for uncodified statutes,~~
337 ~~the appropriate chapter of the designated Act of Assembly.~~

338 ***Drafting note: This section is updated and replaced by § 2.6, except that the***
339 ***requirement that forms include the date of issuance or revision is now in § 5.1.***

340 **§ 2.6 Final agency action date; effective date; statutory authority.**

341 A. An agency shall provide the date of final agency action and the effective date of a
342 regulation when filing a regulation submission package for a fast-track or final regulatory action,
343 or other equivalent action.

344 B. When Virginia law allows a regulation to be effective upon the filing of the regulation with
345 the registrar, the agency should select an effective date at least three business days after filing.

346 C. An agency shall provide the effective date and expiration date of an emergency regulation
347 when filing the emergency regulation and accompanying regulation submission package. If the
348 expiration date of the emergency regulation is extended, the agency shall notify the registrar
349 within three business days of the governor's approval of the extension.

350 D. Pursuant to § 2.2-4012 D of the Code of Virginia, a regulation shall contain the statutory
351 authority for the regulation. An agency shall include in the regulatory submission package the
352 complete citation for each statute or regulation that serves as the statutory authority, as follows:

353 1. For a codified Virginia statute, the citation shall be to the applicable section of the Code
354 of Virginia.

355 2. For an uncodified Virginia statute, the citation shall be to the applicable chapter of the
356 designated Act of Assembly.

357 3. When a regulation is required to conform with federal law or regulation, the agency
358 shall provide a citation to the specific federal law or regulation to which conformity is
359 required.

360 ***Drafting note: This section updates and expands § 2.5. The first sentence of § 2.5 is***
361 ***found in subsection A.***

362 ***Subsection B is added to encourage agencies to file a regulation and provide***
363 ***sufficient time for the Registrar's Office to review a submission and update the***
364 ***Virginia Administrative Code.***

365 ***Subsection C is new. Section 2.2-4011 of the Code of Virginia requires that an***
366 ***agency notify the Registrar of a new expiration date "as soon as practicable."***

367 ***Subsection D replaces the second paragraph of § 2.5 and adds citations to federal***
368 ***law to comply with § 2.2-4012 D.***

369 **§ 2.7. Supplemental information; exemption to APA.**

370 A. Pursuant to § 2.2-4103 of the Code of Virginia, the registrar may request information in
371 addition to the full text of a regulation for the purpose of publishing the Register and VAC.

372 B. An agency shall respond to a request from the registrar within three business days of the
373 request, unless a different response time is approved by the registrar.

374 C. When claiming an exemption to the APA, an agency shall provide the specific statutory
375 citation for the claimed exemption. Upon request of the registrar, an agency should file a
376 memorandum from the Office of the Attorney General that confirms the exemption and cites the
377 specific statute upon which the exemption is based.

378 ***Drafting note: Section 2.2-4103 requires that an agency respond "promptly" to the***
379 ***requests of the Registrar (see below). This section defines "promptly."***

380 *[T]he Governor, ... may, until compliance with this chapter is achieved, withhold the payment*
381 *of compensation or expenses of any officer or employee of any agency... whenever the*
382 *Commission certifies to him that the agency has failed to comply with this section or this*
383 *chapter in stated respects, to respond promptly to the requests of the Registrar, or to comply*
384 *with the regulations of the Commission.*

385 **§ 2.8 Withdrawal of a final regulation; publication.**

386 A. When an agency withdraws a final regulation pursuant to § 2.2-4016 of the Code of
387 Virginia, the agency shall file a written notice of withdrawal with the registrar prior to the effective
388 date of the regulation being withdrawn. The notice shall include:

389 1. The reason for the withdrawal of the regulation;

390 2. Agency contact information;

391 3. The publication information; and

392 4. The date of agency action.

393 B. The notice of withdrawal will be published in the Register.

394 ***Drafting note: This new section provides a mechanism by which the public is***
395 ***notified that a regulation that was published in the Register as a final regulation***
396 ***with a specific effective date has been withdrawn and will not become effective.***

397 **§ 2.9 Omissions and errors.**

398 A. An agency shall notify the registrar of all omissions or errors that the agency becomes
399 aware of in any of the information (i) submitted for publication or (ii) published in the Register or
400 the Virginia Administrative Code.

401 B. The notification shall be filed with the registrar within three business days of the date that
402 the agency becomes aware of the omission or error.

403 ***Drafting note: This section updates and replaces § 4.2, which required agencies to***
404 ***notify the Registrar of errors in the Administrative Law Appendix.***

PART III

~~Adoption Incorporation by Reference.~~~~§ 3.1. Filing requirements for material adopted by reference.~~

~~A. Where regulations, which are filed in full, adopt textual matter by reference to other publications as defined in § 1.2, such incorporated publications, in their entirety, shall also be filed with the Registrar. Whether the referenced material is required to be filed in full or by descriptive statement, the agency shall make copies of all referenced publications available for public inspection and copying along with its other regulations.~~

~~B. Whenever a regulation incorporates other textual material by reference, it should specify the date of adoption, revision, or publication, or the effective date, of the adopted material.~~

~~In addition, regulations so adopting other materials are required to have the following information on the cover of the incorporated material and the places where copies of the referenced publications may be procured:~~

- ~~1. Reference to the specific regulation adopting the outside material;~~
- ~~2. The filing date and effective date of the regulation; and~~
- ~~3. A notation containing the name of the agency.~~

Drafting note: Subsection A of this section is now in § 3.1:2 and subsection B, first sentence, is now in § 3.1:3. The last provision regarding information on the cover of the incorporated material is updated and moved to § 3.1:3.

~~§ 3.2. Statement of availability.~~

~~Where numerous adoptions by reference are made in a regulation, notations of sources and places of availability may be set forth in a separate section of the regulation.~~

Drafting note: This section is unnecessary.

~~§ 3.1:1 Incorporation by reference permitted.~~

~~A. A regulation may incorporate textual matter by reference to all or any part of a publication or document. For the purposes of this part, a publication and a document are interchangeable.~~

431 The material in the document is incorporated by reference into the text of the regulation and
432 becomes an enforceable part of the regulation.

433 B. The agency must comply with the provisions of §§ 3.1:2 and 3.1:3 of this chapter when
434 incorporating a document by reference.

435 C. Effective [effective date of regulation], an agency may neither incorporate prospective
436 changes to an incorporated document by referring to a future edition or revision of the document,
437 nor by use of "as updated," "as amended," "future editions," or similar language. If an agency
438 wishes to adopt changes to an incorporated document, it must do so through a regulatory action.
439 However, when an agency incorporates by reference provisions of the Code of Virginia, the Acts
440 of the General Assembly, or the Virginia Administrative Code into a regulation, future
441 amendments to the incorporated provisions are included unless other intent is specifically stated
442 in the regulation.

443 D. Effective [effective date of regulation], an agency may not incorporate one of its own
444 documents by reference unless the agency establishes that the documents or circumstances are
445 unique and highly unusual.

446 ***Drafting note: The only Code of Virginia provision addressing incorporation by***
447 ***reference is § 2.2-4103: Where regulations adopt textual matter by reference to***
448 ***publications other than the Federal Register or Code of Federal Regulations, the***
449 ***agency shall (i) file with the Registrar copies of the referenced publications, (ii)***
450 ***state on the face of or as notations to regulations making such adoptions by***
451 ***reference the places where copies of the referred publications may be procured,***
452 ***and (iii) make copies of such referred publications available for public inspection***
453 ***and copying along with its other regulations.***

454 ***This section clarifies incorporation by reference and reflects the current practice of***
455 ***the Registrar's Office and most agencies.***

456 ***The second sentence of subsection C is based on § 1-220 of the Code of Virginia.***

457 **§ 3.1:2 Filing requirements.**

458 A. When an agency adopts textual matter in a regulation by reference to a document, the
459 agency shall file a copy of the referenced document with the regulation submission package. The
460 document shall be filed in its entirety, unless the registrar has approved a request for the

461 document to be filed by descriptive statement as provided in § 3.3 B. The agency shall also
462 provide information as to where copies of the incorporated publications may be procured.

463 B. When an agency adopts textual matter by reference to Internet content, the agency shall
464 file the Internet content with the registrar. The agency shall file a read-only electronic copy or a
465 printed copy of the Internet content.

466 ***Drafting note: This new section replaces § 3.1 A, supplements the statutory***
467 ***provision regarding incorporation by reference, and addresses Internet content.***

468 **§ 3.1:3 Regulation text.**

469 When incorporating material by reference, an agency shall include in the regulatory text (i) a
470 statement that the document is incorporated by reference; (ii) the complete name of the
471 document; (iii) the effective, issue, revision, or publication date; (iv) the version or edition, if any;
472 and (v) the publisher or entity that produced the document.

473 ***Drafting note: This new section replaces § 3.1 B and reflects current practice.***

474 **§ 3.3. Exemptions to filing of documents adopted or incorporated by reference;**
475 **requirements.**

476 A. The requirements established in §§ ~~3-1~~ 3.1:2 and ~~3-2~~ 3.1:3 do not apply to incorporation of
477 textual matter by reference to material published in the Federal Register or the Code of Federal
478 Regulations, or by reference to regulations of other Virginia agencies. Where such references are
479 made, ~~however, the citation shall be~~ the regulatory text must contain a citation sufficient for
480 accurate identification of the referenced material.

481 1. Where the material has been published in the Code of Federal Regulations, the agency
482 must:

483 a. Include in the regulatory text the title, part of sections or section, and the date of
484 publication shall be given. Example: 1 C.F.R. Part 1 (rev. Jan. 1, 1975) or 1 C.F.R. §§ 1.1
485 to 1.30 (rev. Jan. 1, 1975) 40 CFR Part 260 (July 1, 2014 update) or 40 CFR §§ 260.1
486 through 260.11 (July 1, 2014 update); or

487 b. Include a section listing the applicability of the cited CFR text and stating that when a
488 federal regulation is incorporated in the chapter, that regulation shall be as it exists and
489 has been published on a certain date.

490 2. Where the referenced material has not been published in the Code of Federal
491 Regulations but appears in the Federal Register, the agency must include in the
492 regulatory text the volume, page, and date of that publication shall be given and, if the
493 material is in codified form, the C.F.R. citation should be given. Example: 16 C.F.R.
494 § 19.1, 39 F.R. 23605 (Nov. 4, 1974). the Federal Register. Example: 79 FR 264, January
495 2, 2014.

496 ~~Some agency regulations previously filed with the Registrar adopt materials issued by federal~~
497 ~~agencies without reference to the Code of Federal Regulations or the Federal Register; to the~~
498 ~~extent that such materials appear in either of those publications, filing may be avoided and public~~
499 ~~access made easier by use of the appropriate citations.~~

500 ~~B. In certain limited instances, on a case-by-case basis, the Registrar~~ The registrar may
501 exempt an agency from the requirements requirement of filing in full textual material adopted by
502 ~~reference where~~ the incorporated document in its entirety if such filing would be impractical due
503 ~~to:~~ or cause an undue hardship on the agency. The document shall be filed as directed by the
504 registrar.

- 505 ~~1. The document exceeds 500 pages and is generally available to the public;~~
- 506 ~~2. The size of the document's pages differs significantly from the standard page size of~~
507 ~~the Virginia Register of Regulations or the Virginia Administrative Code;~~
- 508 ~~3. The material is not available in document form; for example, if the material is only~~
509 ~~available in electronic form or on computer tape or discs;~~
- 510 ~~4. The material is updated more than twice yearly; or~~
- 511 ~~5. The material is copyrighted or is otherwise the property of an individual or an~~
512 ~~organization other than the state government.~~

513 ~~C. Any The agency shall request for an exemption to these this filing requirements shall be~~
514 ~~made by the agency in writing requirement by submitting a request to the Registrar registrar. Any~~
515 ~~approval granted by the registrar shall also be made in writing The registrar will notify the agency~~
516 ~~whether the exemption is approved.~~

517 ~~D. The granting of an exemption Even if exempted under subsections A and B of this section~~
518 ~~does not relieve, an agency from the requirement of maintaining must maintain on file, and~~
519 ~~making make available to the public, the full text of all materials adopted by reference.~~

520 ***Drafting note: This section is revised to update language and reflect current***
521 ***practices.***

522 PART IV.

523 ADMINISTRATIVE LAW APPENDIX.

524 **~~§ 4.1. Contents of Appendix; supplementation.~~**

525 ~~A. The Appendix contains, for each agency subject to the Act, (i) a summary statement of its~~
526 ~~regulatory powers with citation to the Virginia Code or other authority; (ii) information as to where~~
527 ~~its regulations may be inspected or copied; (iii) where and how copies may be obtained; (iv) the~~
528 ~~place of custody of the originals if not at the same location; (v) references to any official~~
529 ~~publications of the regulations; (vi) a list of the agency's currently effective regulations, including~~
530 ~~forms, delegations of authority, and textual material adopted by reference, subject to filing in full~~
531 ~~under the Act and filed with the Registrar; and (vii) the notation of its regulations exempt from~~
532 ~~filing in full but otherwise covered by the Act, and which the agency has submitted descriptive~~
533 ~~statements as required by § 3.3.~~

534 ~~B. The Appendix will be published at least annually, and a currently updated copy maintained~~
535 ~~in the office of the Registrar.~~

536 ***Drafting note: The Administrative Law Appendix is no longer published; therefore,***
537 ***this section is obsolete.***

538

539 **~~§ 4.2. Omissions and errors.~~**

540 ~~Agencies should promptly call to the attention of the Registrar any omissions or errors they~~
541 ~~discover in the Appendix.~~

542 ***Drafting note: This section has been moved to § 2.9.***

543 Part V

544 Forms

545 **§ 5.1. Filing requirements.**

546 A. An agency shall file any form that the agency intends to incorporate into or use in
547 administering the regulation with the proposed or final, including fast-track, regulation submission
548 package for publication in the Register pursuant to § 2.2-4031 A of the Code of Virginia. The
549 agency shall include on the face of the form (i) the date of issuance or revision and (ii) a form
550 number.

551 B. A form is not a substitute for regulation text and may not contain requirements that are not
552 in the Code of Virginia or VAC.

553 ***Drafting Note: Subsection A contains the provision of existing § 2.5 that requires a***
554 ***form to indicate the date of issuance or revision***

555 **§ 5.2. Exemption from filing a form.**

556 A. An agency may request an exemption from filing if the form (i) may be completed only
557 online or electronically or (ii) is not in a printable format.

558 B. The agency shall make a request for an exemption from filing by submitting a request to
559 the registrar. The registrar will notify the agency whether the exemption is approved.

560 C. If an exemption is approved, the Internet address for the form will be included in VAC.

561 D. The agency shall notify the registrar in writing if an Internet address for the form changes.
562 Under the authority of § 30-150 of the Code of Virginia, the registrar may correct the Internet
563 address in the Virginia Administrative Code.

564

565 E. The granting of an exemption under this section does not relieve an agency from
566 maintaining the forms on file and making the forms available to the public.

567 ***Drafting Note: This section is added to address electronic-only forms.***

568 **§ 5.3. Filing process for changes only to forms Modification of forms in the Virginia**
569 **Administrative Code.**

570 A. The provisions of this section apply when a form for a regulation is added, amended, or
571 removed, provided that (i) the regulatory text is not changing and (ii) the change to the form is not
572 making a substantive change to the regulation.

573 B. An agency shall file form changes as directed by the registrar.

574 C. Notice of revised forms will be published in the Register and forms will be updated in the
575 Virginia Administrative Code online on the date of publication of the volume and issue of the
576 Register in which it appears.

577 ***Drafting note: The modification of a form using this "forms only" process will***
578 ***increase public availability to forms and allow maintenance of a current list of***
579 ***forms in VAC.***

580 **§ 5.4. Publication.**

581 A. For the purposes of § 2.2-4031 of the Code of Virginia, a form shall be considered to be
582 published in the Virginia Register of Regulations if (i) the form is published in full, (ii) a hyperlink
583 to the form is published, or (iii) a notice identifying where the form may be obtained is published.

584 B. The registrar shall determine how a form will be published..

585 ***Drafting note: The Administrative Process Act requires that forms be published in***
586 ***the Register. This section allows for "publication" by publishing the forms list for***
587 ***the chapter in lieu of the actual form. Typically, the forms list includes a hyperlink***
588 ***to the form. This provision will increase public availability to forms.***

589 Part VI

590 Virginia Register of Regulations

591 **§ 6.1. Availability and official version.**

592 As provided in § 2.2-4031 of the Code of Virginia, the Virginia Register of Regulations is
593 published by posting the Register on the Virginia Code Commission's website. The portable
594 document format (PDF) file is the official version of the Register.

595 ***Drafting note: Each issue of the Register is posted on the Virginia Register of***
596 ***Regulations website as an HTML and a PDF. This provision establishes that the***
597 ***PDF is the official version.***

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CHAPTER ~~3~~ 11.

BONDS AND OTHER OBLIGATIONS.

Drafting note: Existing Chapter 3 is reorganized as proposed Chapter 11 and technical changes are made throughout to modernize, simplify, and clarify language related to bonds of public institutions of higher education and certain other entities. Repeal of obsolete existing §§ 23-5, 23-6, and 23-30 is recommended.

~~§ 23-5. Payment of interest on bonds of State held by colleges, etc.~~

~~The Comptroller is authorized and directed to draw upon the state treasury in favor of the proper authorities of any incorporated college, institution, or seminary of learning, or manual labor school, in this Commonwealth, for all interest which has accrued, or may hereafter accrue, and as the same may fall due, upon all obligations of the Commonwealth, or of the James River and Kanawha Company, guaranteed by the Commonwealth, held by or for such college, institution, or seminary of learning, or manual labor school, or to which they were entitled, on the first day of January, 1882, so long as they may continue to hold the same; provided, that no interest shall be paid upon any bonds, the payment of which is forbidden by the Constitution.~~

Drafting note: Repeal of obsolete existing § 23-5 is recommended.

~~§ 23-6. Exchange and cancellation of consol coupon bonds of State.~~

~~The following sections of the Code of Virginia of 1919 are continued in effect:~~

~~(1) Section 991, relating to the exchange of consol coupon bonds held by colleges, etc., for funded registered consol bonds; and~~

~~(2) Section 992, relating to the cancellation of such bonds surrendered in exchange.~~

Drafting note: Repeal of obsolete existing § 23-6 is recommended.

~~§ 23-15~~ 23.1-1100. Definitions.

~~Whenever as As used in this chapter, unless a different meaning clearly appears from the context requires a different meaning:~~

~~"Institution" means any educational institution referred to in § 23-14 hereof.~~

28 "Board" means the members of the board of visitors, board of trustees, or other
29 governing ~~body, by whatever name known,~~ board of an institution.

30 "Bonds" means any ~~bonds bond, notes note~~ or other ~~evidences~~ evidence of indebtedness,
31 or other ~~obligations~~ obligation of an institution issued by an institution pursuant to this chapter.

32 ~~"Governor" means the Governor of the Commonwealth of Virginia.~~

33 "Erect" includes building, constructing, reconstructing, erecting, demolishing, extending,
34 bettering, equipping, installing, modifying, and improving.

35 "Institution" means each public institution of higher education, as that term is defined in
36 § 23.1-100; the Eastern Virginia Medical School; the Institute for Advanced Learning and
37 Research; the New College Institute; the Roanoke Higher Education Authority; the Southern
38 Virginia Higher Education Center; the Southwest Virginia Higher Education Center;; the
39 Virginia School for the Deaf and the Blind; and the Wilson Workforce and Rehabilitation
40 Center.

41 "Project" means (i) any (a) building, facility, addition, extension, or improvement of a
42 capital nature ~~required by that is necessary~~ or convenient ~~for to carry out~~ the purposes of an
43 ~~educational~~ institution, including, ~~without limitation,~~ administration, and teaching facilities,
44 lecture and exhibition halls, libraries, dormitories, student apartments, faculty dwellings, dining
45 halls, cafeterias, snack bars, laundries, hospitals, laboratories, research centers, infirmaries, field
46 houses, gymnasiums, auditoriums, student unions, recreation centers, stadiums, athletic
47 facilities, garages, parking facilities, warehouses and storage buildings, and book and student
48 supplies centers ~~and all buildings, or (b) building, lands and any other appurtenances land,~~
49 appurtenance, furnishings and furnishing, or equipment necessary or desirable in connection
50 ~~therewith or incidental thereto and with or incidental to a project or~~ (ii) any personal property at
51 ~~the institutions~~ an institution.

52 ~~"To erect" or "erection" includes building, constructing, reconstructing, erecting,~~
53 ~~demolishing, extending, bettering, equipping, installing, modifying, and improving.~~

54 **Drafting note: The definition of institution is revised to incorporate existing § 23-14**
55 **by referring to the new title-wide definition for public institution of higher education in**
56 **proposed § 23.1-100 and listing exceptions rather than listing individual entities. The**
57 **definition of Governor is stricken because in each instance in which the term is used in this**
58 **proposed chapter, the meaning is clearly understood from the context. The definition of To**
59 **erect or erection is revised to "Erect" and moved to alphabetical order and changes are**
60 **made throughout the chapter to reflect the change. Technical changes are made, including**
61 **removing "without limitation" used in conjunction with "including" in the project on the**
62 **basis of the Code-wide application of § 1-218, which states, "'Includes' means includes, but**
63 **not limited to."**

64 § ~~23-14~~ 23.1-1101. ~~Certain educational Powers of~~ institutions ~~declared governmental~~
65 ~~instrumentalities; powers~~ vested in majority of members of board; quorum.

66 ~~The College of William and Mary in Virginia, at Williamsburg; Richard Bland College~~
67 ~~of the College of William and Mary at Dinwiddie and Prince George; the rector and visitors of~~
68 ~~Christopher Newport University, at Newport News; Longwood University, at Farmville; the~~
69 ~~University of Mary Washington, at Fredericksburg; George Mason University, at Fairfax; the~~
70 ~~James Madison University, at Harrisonburg; Old Dominion University, at Norfolk; the State~~
71 ~~Board for Community Colleges, at Richmond; the Virginia Commonwealth University, at~~
72 ~~Richmond; the Radford University, at Radford; the Roanoke Higher Education Authority and~~
73 ~~Center; the rector and visitors of the University of Virginia, at Charlottesville; the University of~~
74 ~~Virginia's College at Wise; the Virginia Military Institute, at Lexington; the Virginia~~
75 ~~Polytechnic Institute and State University, at Blacksburg; the Virginia Schools for the Deaf and~~
76 ~~the Blind; the Virginia State University, at Petersburg; Norfolk State University, at Norfolk; the~~
77 ~~Wilson Workforce and Rehabilitation Center, at Fishersville; the Eastern Virginia Medical~~
78 ~~School; the Southern Virginia Higher Education Center; the Southwest Virginia Higher~~
79 ~~Education Center; the Institute for Advanced Learning and Research; and the New College~~
80 ~~Institute are hereby classified as educational institutions and are declared to be public bodies~~

81 ~~and constituted as governmental instrumentalities for the dissemination of education.~~ The
82 powers of ~~every such~~ each institution derived directly or indirectly from this chapter ~~shall be~~ are
83 vested in and may be exercised by a majority of the members of its board, and a majority of
84 such board shall be a quorum for the transaction of any business authorized by this chapter.
85 ~~Wherever the word "board" is used in this chapter, it shall be deemed to include the members of~~
86 ~~a governing body designated by another title.~~

87 **Drafting note: Provisions of existing § 23-14 are stricken here and incorporated**
88 **into the definition of "institution" in proposed § 23.1-1100. Technical changes are made.**

89 ~~§ 23-17~~ 23.1-1102. Purposes Purpose of institutions ~~to acquire, install, modify, and erect~~
90 ~~projects.~~

91 In addition to any other purposes provided by law or otherwise, the purpose of every
92 institution ~~shall be~~ is to acquire, install, modify, and erect ~~any project as defined in § 23-15~~
93 ~~projects.~~

94 **Drafting note: Technical changes.**

95 ~~§ 23-16~~ 23.1-1103. Powers of institutions Institutions; powers generally.

96 ~~In addition to any powers to sue and be sued heretofore conferred upon it, every~~
97 ~~institution shall have power, in its proper corporate name and style, if any, to sue, and also~~
98 ~~power to be sued on any bonds, agreements or other contractual or quasi-contractual obligations~~
99 ~~issued, made or incurred pursuant to this chapter and for the enforcement thereof and of any~~
100 ~~duty in connection therewith and of any debt thereon or evidence thereby and of any terms,~~
101 ~~provisions, conditions, or covenants contained therein or made in connection with the issuance,~~
102 ~~making or procuring thereof, and for the enforcement of any contract or agreement with or~~
103 ~~liability of any nature to a federal agency or the holders of any bonds or any trustee therefor or~~
104 ~~representative thereof.~~

105 ~~In addition to the powers now enjoyed by it, every~~ Any institution ~~shall have power~~ may,
106 in its proper corporate name and style, ~~if any:~~

107 1. Sue and be sued (i) on any bond, agreement, or other contractual or quasi-contractual
108 obligation issued, made, or incurred pursuant to this chapter; (ii) on any duty, debt, evidence of
109 debt, term, provision, condition, or covenant related to any bond, agreement, or other
110 contractual or quasi-contractual obligation issued, made, or incurred pursuant to this chapter;
111 (iii) for the enforcement of any bond, agreement, or other contractual or quasi-contractual
112 obligations issued, made, or incurred pursuant to this chapter; or (iv) for the enforcement of any
113 contract or agreement with or liability to any federal agency or bondholder or any trustee or
114 representative of such bondholder.

115 ~~(a) To have~~ 2. Adopt and alter a common seal ~~and alter the same at pleasure.~~

116 ~~(b) To acquire and~~ 3. Acquire and hold real or personal property or interests ~~therein in~~
117 such property in its own name.

118 ~~(c) To execute all instruments~~ 4. Execute any instrument that it deems necessary or
119 convenient ~~for~~ to carry out the purposes of this chapter.

120 ~~(d)~~ 5. With the consent of the Governor, to issue bonds and to provide for and secure the
121 rights of the ~~holders thereof and to secure the same, all as hereinafter provided~~ bondholders.

122 ~~(e) To perform~~ 6. Perform any ~~acts and do any things~~ act authorized by this chapter
123 ~~under,~~ through ~~or by means of~~ its own officers, agents, or employees, or by contracts with
124 private corporations, firms, or individuals.

125 ~~(f) To do all acts and things~~ 7. Perform any act that it deems necessary or convenient to
126 carry out the powers and purposes expressly ~~given~~ provided in this chapter.

127 **Drafting note: Technical changes.**

128 ~~§ 23-18 23.1-1104. Consent of Governor to acquisition, erection or refinancing of~~
129 ~~project; borrowing money and issuing bonds; securing grants or loans under acts of Congress or~~
130 ~~of Commonwealth Institutions; powers; projects and bonds.~~

131 ~~The~~ With the consent of the Governor ~~being first had and obtained,~~ every any institution
132 ~~shall have power and is hereby authorized and empowered to~~ may acquire any project by
133 purchase, gift, or otherwise, ~~any project or to~~ erect ~~the same~~ any project, or ~~to~~ refinance the cost

134 of ~~acquisition~~ acquiring or ~~erection of~~ erecting any project, and in connection ~~therewith to~~ with
135 any such acquisition, erection, or refinancing, any institution may borrow money, ~~and~~; make,
136 issue, and sell its bonds as ~~hereinafter~~ provided in this chapter, and to; enter into and perform all
137 lawful contracts and agreements ~~and~~, do all lawful acts ~~and things~~ necessary or proper, and
138 ~~further to~~ make such lawful contracts and agreements and ~~do and~~ perform all such lawful acts
139 ~~and things~~ as may be necessary, proper, or advisable for the purpose of obtaining ~~and/or or~~
140 securing grants, loans ~~and/or, or~~ financial assistance of any kind ~~or sort in connection therewith~~
141 under any act of Congress or ~~of this~~ the Commonwealth.

142 **Drafting note: Technical changes.**

143 § ~~23-30.04~~ 23.1-1105. Borrowing Institutions; powers; borrowing upon endowment and
144 other investments.

145 ~~(a) In addition to the powers conferred upon institutions by other provisions of this~~
146 ~~chapter, any~~ A. Any institution ~~is hereby authorized may, by and~~ with the approval of the
147 Governor, and upon the affirmative vote of at least two-thirds of its board ~~to~~, borrow ~~from time~~
148 ~~to time; sums that it deems necessary~~ for and in the name of the institution, ~~such sum or sums as~~
149 ~~it may determine necessary for its uses and purposes and to~~ secure payment ~~thereof of such~~
150 sums by the pledge of any ~~stocks stock, notes note, bonds bond,~~ and other ~~assets asset~~ held by
151 such institution as a part of its endowment funds or unrestricted gifts from private sources.

152 ~~(b) Notes~~ B. Any institution may issue notes or bonds ~~issued by an institution~~ pursuant
153 to this section ~~may be issued~~ in one or more series, and such bonds or notes shall bear such date
154 ~~or dates~~, mature at such time ~~or times~~, bear interest at such rate or rates not exceeding the rate
155 specified in § ~~23-30.03~~ 23.1-1112 that is payable at such time ~~or times~~, be in such
156 ~~denominations~~ denomination, be in such form, either coupon or registered, carry such
157 registration ~~privileges privilege~~, be executed in such manner, be payable in such medium of
158 payment, and at such place ~~or places~~, and be subject to such terms of redemption, with or
159 without premium, as ~~may be provided by resolution of~~ the board of such institution may provide
160 by resolution. Notes

161 C. Any notes or bonds ~~so~~ issued pursuant to this section may be sold at public or private
162 sale for such price or prices as the board ~~shall determine, provided that the~~ determines. The
163 interest cost to maturity of the ~~money moneys~~ received for any such issue of notes or bonds
164 shall not exceed the rate specified in § ~~23-30.03~~ 23.1-1112. Notes or bonds so issued and the
165 interest thereon ~~shall be (i) is~~ payable only out of the sale or ~~the~~ liquidation of the endowment
166 investments, investments of unrestricted gifts from private sources, and interest accruing ~~thereon~~
167 on such sale, liquidation, or investment that is pledged to secure the notes or bonds so issued,
168 and ~~shall in no event constitute (ii) is not~~ a general obligation of such institution, the
169 Commonwealth, the Governor, the members of the board of such institution, nor or any person
170 executing the notes or bonds so issued.

171 ~~(e) D.~~ All moneys received or derived from the sale of any notes or bonds ~~so~~ issued ~~shall~~
172 ~~not constitute state funds, but shall be and constitute~~ pursuant to this section are a part of the
173 local funds of ~~such the~~ institution and are not state funds.

174 ~~(d) The E.~~ Each institution ~~shall have power out of any funds~~ may use funds available
175 ~~therefor for such purpose~~ to purchase any ~~notes note~~ or ~~bonds so bond~~ issued, ~~but pursuant to~~
176 this section at a price not more than the sum of the principal amount ~~thereof of such note or~~
177 bond and accrued interest thereon, ~~and any. Any~~ note or bond so purchased shall be canceled
178 unless purchased as an endowment fund investment. This subsection shall not apply to the
179 redemption of bonds.

180 ~~(e) G.~~ Any ~~notes note~~ or ~~bonds so bond~~ issued ~~are hereby made securities pursuant to~~
181 this section is a security in which all public officers and bodies of ~~this the~~ Commonwealth and
182 ~~all its~~ political subdivisions ~~thereof, all~~ insurance companies and associations, ~~all and~~ savings
183 banks and savings institutions, including savings and loan associations, in ~~this the~~
184 Commonwealth, may properly and legally invest funds under their control; ~~and all notes.~~

185 H. Any note or ~~bonds so bond~~ issued pursuant to this section, their the transfer of such
186 note or bond, and the income ~~therefrom from such note or bond,~~ including any profit derived
187 from the sale ~~thereof of such note or bond,~~ shall at all times be free and is exempt from taxation

188 by ~~this~~ the Commonwealth, ~~and or~~ by any ~~municipality, county or any locality or~~ political
189 subdivision ~~hereof of the Commonwealth.~~

190 ~~(f) I.~~ Any resolution ~~or resolutions~~ of the board authorizing the issuance of notes or
191 bonds ~~to be issued~~ pursuant to this section may, ~~at the discretion of the board,~~ contain any
192 provision ~~or provisions, which shall be a part of the contract with the holders of notes or bonds~~
193 ~~so issued, as are~~ that is authorized ~~by any other section of~~ pursuant to this chapter in connection
194 with the issuance of bonds by institutions. Such provision shall be part of the contract with the
195 holders of such notes or bonds.

196 **Drafting note: Technical changes are made, including removing "or dates," "or**
197 **times," and "or places" in proposed subsections B and C and "or resolutions" and "or**
198 **provisions" in proposed subsection I because § 1-227 provides that throughout the Code**
199 **any word in the singular includes the plural and vice versa. The term "locality" is used to**
200 **replace "municipality, county" in proposed subsection H as a more broad term that**
201 **conforms to §§ 1-221 and 1-224, which respectively state that throughout the Code**
202 **"locality" means a county, city, or town and "municipality" means a city or town.**

203 ~~§ 23-19 23.1-1106. Amount of bonds; purposes; resolutions; Treasury Board to be~~
204 ~~paying agent and to approve terms and structure; payment or purchase by institution; no~~
205 ~~personal liability Bonds generally.~~

206 ~~(a) Every A.~~ The Treasury Board is designated as the paying agent of institutions for the
207 purposes of this chapter and shall approve the terms and structure of bonds executed pursuant to
208 this chapter.

209 B. Any institution ~~shall have power and is hereby authorized and empowered from time~~
210 ~~to time to~~ may execute its bonds in ~~such an~~ aggregate principal amount ~~as may be~~ determined
211 ~~upon~~ by its board ~~and,~~ approved by the Governor. ~~All such bonds shall be, and~~ approved by the
212 Treasury Board pursuant to § 2.2-2416, ~~and the Treasury Board is hereby designated the paying~~
213 ~~agent of such institutions under this chapter. The Treasury Board's duties shall include the~~
214 ~~approval of the terms and structure of such bonds.~~ Such aggregate principal amount may include

215 ~~without limitation~~ any ~~costs~~ cost associated with the development and management of the
216 project ~~or~~, legal or accounting expenses incurred by the institution in connection with the project
217 for ~~the erection of~~ which such bonds are issued, and the cost of ~~issuance of~~ issuing the bonds,
218 including printing, engraving, advertising, legal, and other similar expenses.

219 ~~(b) Such bonds~~ C. Bonds issued pursuant to this chapter shall be authorized:

220 1. Be subject to approval by the Governor and authorization by resolution of the board,
221 ~~approved by the Governor, and may be issued in one or more series, shall bear such date or~~
222 ~~dates, mature at such time or times, bear interest at such rate not exceeding the rate specified in~~
223 ~~§ 23-30.03 payable at such time or times, be in such denominations, be in such form, either~~
224 ~~coupon or registered, carry such registration privileges, be executed in such manner, be payable~~
225 ~~in such medium of payment, at such place or places, be subject to such terms of redemption,~~
226 ~~with or without premium, as such resolution or resolutions may provide. Such bonds may be~~
227 ~~sold at public or private sale for such price or prices as the board with the approval of the~~
228 ~~Governor shall determine, provided that the interest cost to maturity of the money received for~~
229 ~~any issue of such bonds shall not exceed the rate specified in § 23-30.03; however, prior to the~~
230 ~~issuance of bonds to finance any "project," the approval of the General Assembly must be~~
231 ~~obtained; and provided further, that biennially on or before the first day of September in the~~
232 ~~odd-numbered years, each educational institution shall submit to the Governor any project or~~
233 ~~projects and the estimated cost of each separate project such educational institution desires to~~
234 ~~have financed under the provisions of this chapter, and the Governor shall consider such~~
235 ~~projects and make his recommendation to the General Assembly in the budget submitted in~~
236 ~~accordance with the provisions of § 2.2-1508. Each educational institution is authorized to~~
237 ~~finance only those projects approved by the General Assembly in the appropriations act for the~~
238 ~~biennium covered by such appropriations act, which projects need not be limited to the projects~~
239 ~~recommended by the Governor.~~

240 ~~(c) Such bonds may be issued to finance all or a portion of the cost of any project plus~~
241 ~~amounts to fund issuance costs, reserve funds, capitalized interest for a period not to exceed one~~

242 ~~year following completion of the project and for the corporate purpose or purposes of the~~
243 ~~institution specified by § 23-17 hereof or to carry out the powers conferred on the institution by~~
244 ~~§ 23-18 hereof.~~

245 ~~(d) Any and any such~~ resolution ~~or resolutions authorizing such bonds~~ may contain ~~a~~
246 ~~provision or~~ provisions, which shall be part of the contract with the ~~holders of such bonds as~~
247 ~~bondholders, related~~ to:

248 ~~(1) a.~~ Fixing, revising, charging, and collecting fees, rents, and charges for or in
249 connection with the use, occupation, or services of the project ~~and or~~ pledging ~~the same and~~
250 ~~such fees, rents, and charges and~~ any ~~increases~~ increase in revenues ~~to be~~ derived from any
251 existing facilities at such institution resulting from any increase in ~~the such~~ fees, rents, or
252 charges ~~for or in connection with the use, occupation or services of any such existing facilities~~
253 to the payment of the principal of and the interest on such bonds;

254 ~~(2) b.~~ Fixing, revising, charging, and collecting fees, rents, and charges for or in
255 connection with the use, occupation, or services of any existing ~~facilities~~ facility at such
256 institution and pledging ~~the same~~ such fees, rents, and charges to the payment of the principal of
257 and the interest on such bonds;

258 ~~(3) c.~~ Fixing, revising, charging, and collecting student building fees and other student
259 fees from students enrolled at such institution and pledging ~~the same in whole or in part~~ all or
260 part of such fees to the payment of the principal of and the interest on such bonds;

261 ~~(4) d.~~ Pledging to the payment of the principal of and the interest on such bonds any
262 moneys available for the use of such institution, including, ~~but not limited to, and subject to~~
263 ~~Treasury Board guidelines and approval pursuant to § 2.2-2416,~~ moneys appropriated to such
264 institution from the general fund of the Commonwealth or from nongeneral funds, ~~without~~
265 ~~regard to the source of such moneys, and which~~ that are not required by law or by previous
266 binding contract to be devoted to some other purpose, without regard to the source of such
267 moneys but subject to Treasury Board guidelines and approval pursuant to § 2.2-2416;

268 ~~(5)~~e. Paying the cost of operating and maintaining any project and any such existing
269 facilities from any ~~one or more of the~~ revenue ~~sources~~ source mentioned in ~~subdivisions (1), (2),~~
270 ~~(3) and (4) of this subsection~~ subdivision a, b, c, or d, creating reserves for such purposes, and
271 providing for the use and application ~~thereof of such reserves;~~

272 ~~(6)~~f. Creating sinking funds for the payment of the principal of and the interest on such
273 bonds, creating reserves for such purposes, and providing for the use and application ~~thereof of~~
274 such reserves;

275 ~~(7)~~g. Limiting the right of the institution to restrict and regulate the use, occupation, and
276 services of the project and such other existing facilities or the services rendered ~~therein in such~~
277 project or other existing facilities;

278 ~~(8)~~h. Limiting the purposes to which the proceeds of sale of any issue of bonds ~~then or~~
279 ~~thereafter to be issued~~ may be applied;

280 ~~(9)~~i. Limiting the issuance of additional bonds;

281 ~~(10)~~j. Setting forth the procedure, ~~if any,~~ by which the terms of any contract with the
282 ~~holders of such bonds~~ bondholders may be amended or abrogated and the manner in which such
283 bondholders may give consent ~~of such holders~~ to any such amendment or abrogation ~~may be~~
284 given; and

285 ~~(11)~~k. Setting forth such other ~~condition or~~ conditions precedent as may be required by
286 the United States ~~of America~~ or any federal agency ~~as a condition precedent to or a requirement~~
287 ~~in connection with the obtaining of~~ to obtain a direct grant ~~or grants of money for or in aid of~~
288 ~~the erection of or loan to erect or defray the cost of labor and material to erect~~ any project, ~~or to~~
289 ~~defray or to partially defray the cost of labor and material employed in the erection of any~~
290 ~~project, or to obtain a loan or loans of money for or in aid of the erection of any project~~ from the
291 United States ~~of America~~ or any federal agency, ~~provided that such other condition or~~
292 conditions are approved by subject to the approval of the Governor.;

293 2. Bear such date, mature at such time, bear interest at such rate not exceeding the rate
294 specified in § 23.1-1112 payable at such times, be in such denomination, be in such form, either

295 coupon or registered, carry such registration privilege, be executed in such manner, be payable
296 in such medium of payment and at such place, and be subject to such terms of redemption, with
297 or without premium, as the resolution of the board provides;

298 3. Be issued to finance only those projects approved by the General Assembly in the
299 biennial general appropriation act;

300 4. Be pledged pursuant to a resolution of the board and payable only from the revenue
301 sources set forth in subdivision 1 a, b, c, or d;

302 5. Not constitute an indebtedness of the institution, except to the extent of the collection
303 of such revenues. Institutions shall not be liable to pay such bonds or the interest on such bonds
304 from any other funds. No contract entered into by an institution pursuant to this chapter shall be
305 construed to require the costs or expenses to operate and maintain a project for which bonds are
306 issued and any other existing facilities to be paid out of any funds other than the revenues
307 derived and pledged from the sources set forth in subdivisions 1 a, b, c, and d; and

308 6. Be fully negotiable within the meaning and for all the purposes set forth in Title 8.3A.

309 D. Bonds issued pursuant to this chapter may be:

310 1. Sold at public or private sale for such price or prices as the board determines and the
311 Governor approves, provided that (i) the interest cost to maturity of the money received for any
312 issue of such bonds shall not exceed the rate specified in § 23.1-1112; (ii) the General Assembly
313 shall approve the issuance of bonds to finance projects; and (iii) biennially, on or before
314 September 1 of each odd-numbered year, each institution shall submit to the Governor each
315 proposed project and the estimated cost of each such project that the institution desires to have
316 financed under the provisions of this chapter, and the Governor shall consider such projects and
317 make his recommendation to the General Assembly in the budget submitted in accordance with
318 the provisions of § 2.2-1508;

319 2. Issued to finance only those projects approved by the General Assembly in the
320 biennial appropriation act, which projects need not be limited to the projects recommended by
321 the Governor;

322 3. Issued to finance all or a portion of the cost of any project plus amounts to fund
323 issuance costs, reserve funds, and capitalized interest for a period not to exceed one year
324 following completion of the project; and

325 4. Issued for the purpose set forth in § 23.1-1102 or to carry out the powers conferred on
326 the institution by § 23.1-1104.

327 ~~(e) The power and obligation of an institution to pay any bonds issued under this chapter~~
328 ~~shall be limited. Such bonds shall be payable only from any one or more of the revenue sources~~
329 ~~mentioned in subdivisions (1), (2), (3) and (4) of subsection (d) of this section and pledged~~
330 ~~therefor pursuant to a resolution adopted under said subsection (d). Such bonds shall in no event~~
331 ~~constitute an indebtedness of the institution, except to the extent of the collection of such~~
332 ~~revenues and such institution shall not be liable to pay such bonds or the interest thereon from~~
333 ~~any other funds; and no contract entered into by the institution pursuant to subsection (b) of this~~
334 ~~section shall be construed to require the costs or expenses of operation and maintenance of the~~
335 ~~project for the erection of which the bonds are issued and any such other existing facilities to be~~
336 ~~paid out of any funds other than the revenues derived from the sources mentioned in~~
337 ~~subdivisions (1), (2), (3) and (4) of subsection (d) of this section and pledged therefor. Any~~
338 ~~provision of the general laws to the contrary notwithstanding, any bonds issued pursuant to the~~
339 ~~authority of this chapter shall be fully negotiable within the meaning and for all the purposes of~~
340 ~~Title 8.3A.~~

341 ~~(f)~~E. Neither the Governor nor the members of the board nor any person executing ~~such~~
342 bonds pursuant to this chapter shall be liable personally on the bonds or ~~be~~ subject to any
343 personal liability or accountability by reason of the issuance ~~thereof~~ of such bonds.

344 ~~(g)~~F. ~~Any~~ institution ~~shall have power out of any funds available therefor to~~ may
345 purchase with funds available for such purchase any ~~bonds~~ bond that it has issued ~~by it~~ at a price
346 not more than the sum of the principal amount ~~thereof~~ and ~~the~~ accrued interest. All bonds so
347 purchased shall be cancelled unless purchased as an endowment fund investment. ~~This~~
348 ~~paragraph~~ Nothing in this subsection shall ~~not be construed to~~ apply to the redemption of bonds.

349 ~~(h) G.~~ In any case in which an institution ~~shall have obtained~~ obtains a loan ~~for or in aid~~
350 ~~of the erection of any project~~ from the United States ~~of America~~ or any federal agency, ~~which~~
351 ~~loan to erect any project that~~ requires the establishment of a debt service reserve, the institution,
352 with the consent of the Governor, may deposit securities in a separate collateral account in an
353 amount equal to the required debt service reserve, ~~which securities shall be pledged and pledge~~
354 such securities to meet the debt service requirements ~~only~~ if the revenues derived from any ~~one~~
355 ~~or more of the sources mentioned~~ source set forth in ~~subdivisions (1), (2), (3) and (4) of~~
356 ~~subsection (d) of this section~~ subdivision C 1 a, b, c, or d and pledged for the payment of such
357 loan become insufficient for such purpose. The face value of United States government
358 securities and the market value of all other securities ~~shall be deemed to be~~ is the value of any
359 securities so deposited. Nothing ~~herein in this subsection~~ shall be construed ~~as prohibiting to~~
360 prohibit repayment of any portion of such loan from income derived from the securities so
361 deposited. No securities shall be deposited in any such collateral account unless ~~the same shall~~
362 have been such securities are purchased with funds, ~~the whose~~ use of which is in ~~nowise~~ no way
363 limited or restricted or ~~shall have been~~ are donated to such institution for the purpose of
364 establishing such debt service reserve.

365 **Drafting note: Requirements for bonds issued pursuant to this chapter are grouped**
366 **in proposed subsection C, and permissive provisions related to such bonds are grouped in**
367 **proposed subsection D. Technical changes are made, including (i) in proposed subsection**
368 **B, removing the term "from time to time" as unnecessary; (ii) in proposed subsection B,**
369 **removing "without limitation" used in conjunction with "include" on the basis of the**
370 **Code-wide application of § 1-218, which states, "'Includes' means includes, but not limited**
371 **to"; and (iii) in proposed subsections C and D, changing the use of both singular and**
372 **plural phrases such as "date or dates" and "provision or provisions" to one or the other**
373 **based on § 1-227, which provides that throughout the Code any word in the singular**
374 **includes the plural and vice versa.**

375 § ~~23-20~~ 23.1-1107. ~~Remedies of holders of bonds; powers of trustee representing holders~~
376 Bondholders; remedies and trustees.

377 ~~(a)~~ A. The provisions of this section shall ~~be applicable~~ apply to an ~~issue~~ issuance of
378 bonds only if the resolution ~~or resolutions~~ authorizing such bonds ~~shall provide in substance~~
379 provides that the ~~holders of such bonds~~ bondholders are entitled to all the benefits of and subject
380 to the provisions of this section.

381 ~~(b)~~ ~~In the event that~~ B. If any institution ~~shall default in~~ (i) defaults on the payment of
382 principal of or interest on any series of its bonds after the ~~same shall become~~ payment becomes
383 due, whether at maturity or upon call for redemption, and such default ~~shall continue~~ continues
384 for a period of ~~thirty~~ 30 days; ~~or in the event that such institution shall fail;~~ (ii) fails or ~~refuse~~
385 refuses to comply with the provisions of this chapter; ~~or shall default in~~ (iii) defaults on any
386 agreement made with the ~~holders of its bonds~~ bondholders of any series, the holders of ~~twenty~~
387 five per centum in 25 percent of the aggregate principal amount of the bonds of such series then
388 outstanding, by instrument ~~or instruments~~ filed with the Governor and proved or acknowledged
389 in the same manner as a deed to be recorded, may appoint a trustee to represent the ~~holders~~
390 bondholders of such series for the purposes ~~herein~~ provided in this section.

391 ~~(c)~~ ~~Such~~ C. The trustee may, and upon written request of the holders of ~~twenty five per~~
392 centum in 25 percent of the aggregate principal amount of the bonds of such series then
393 outstanding shall, in his ~~or its~~ own name:

394 ~~(1)~~ 1. By mandamus or other suit, action, or proceeding at law or in equity, enforce all
395 rights of the ~~holders of bonds~~ bondholders of such series, including the right to require such
396 institution and its board to (i) collect fees, rents, charges, or other revenues adequate to carry out
397 any agreement as to, or pledge of, such revenues, ~~and to require such institution and board to or~~
398 (ii) carry out and perform any other agreements with the ~~holders of the bonds~~ bondholders of
399 such series ~~and to perform it~~ and their duties under this chapter;

400 ~~(2)~~ 2. Bring suit upon such bonds;

401 ~~(3)~~3. By action or suit in equity, require such institution to account as if it were the
402 ~~trustees trustee~~ of an express trust for the ~~holders of such bonds~~ bondholders; ~~and~~

403 ~~(4)~~4. By action or suit in equity, enjoin any acts ~~or things which that~~ may be unlawful or
404 in violation of the rights of the ~~holders of such bonds~~ bondholders.

405 ~~(d)~~D. If the resolution ~~or resolutions which authorize that authorizes~~ any ~~bonds contain~~
406 bond contains the provision ~~authorized required~~ by subsection ~~(a) of this section A~~ and ~~further~~
407 ~~provide in substance~~ provides that any trustee appointed by the ~~holders of the bonds~~
408 bondholders pursuant to this section ~~shall have~~ has the powers provided by this subsection, then
409 any such trustee, whether or not all such bonds have been declared due and payable, ~~shall be is~~
410 entitled ~~as of right~~ to the appointment of a receiver who may (i) enter and take possession of any
411 property of the institution ~~any of the revenues~~ from which any of the revenues are pledged for
412 the security of the bonds of the holders of which are that are represented by such trustee ~~and, (ii)~~
413 operate and maintain ~~the same and such property, and (iii)~~ collect and receive all fees, rents,
414 charges, and other revenues ~~thereafter~~ arising ~~therefrom~~ from such property in the same manner
415 as the institution ~~itself might~~ is permitted to do and shall deposit all such moneys in a separate
416 account and apply ~~the same~~ all such moneys in such manner as the court ~~shall direct~~ directs. In
417 any suit, action, or proceeding by the trustee ~~the, any~~ fees, counsel fees, and expenses of the
418 trustee and ~~of the~~ receiver, ~~if any,~~ shall constitute taxable costs and disbursements and all costs
419 and disbursements allowed by the court shall be a first charge on any fees, rents, charges, and
420 other revenues of the institution that are pledged for the security of the bonds.

421 ~~(e) Such trustee shall, in addition to the foregoing, have and possess~~ E. Each trustee
422 appointed pursuant to subsection B has all of the powers necessary or appropriate for the
423 exercise of any functions specifically set forth ~~herein in this section~~ or incident to the general
424 representation of the ~~holders of bonds represented by such trustee~~ bondholders he represents in
425 the enforcement and protection of their rights.

426 **Drafting note: Technical changes are made, including removing "or resolutions" in**
427 **proposed subsections A and D and "or instruments" in proposed subsection B based on §**

428 **1-227, which provides that throughout the Code any word in the singular includes the**
429 **plural and vice versa.**

430 § ~~23-20.1~~ 23.1-1108. Bonds mutilated, lost, or destroyed.

431 ~~Should-If~~ any bond issued by an institution ~~become is~~ mutilated ~~or be~~, lost, or destroyed,
432 the board may ~~cause~~ execute and deliver a new bond of like date, number, and tenor ~~to be~~
433 ~~executed and delivered~~ in exchange and substitution for, and upon cancellation of, ~~such a~~
434 mutilated bond and its interest coupons, or in lieu of and in substitution for ~~such a~~ lost or
435 destroyed bond and its unmatured interest coupons. Such new bond or coupon shall not be
436 executed or delivered until the holder of the mutilated, lost, or destroyed bond ~~(1) (i)~~ has paid
437 the reasonable expense and charges in connection ~~therewith and (2) with the execution and~~
438 delivery; (ii) in the case of a lost or destroyed bond, has filed with the board and the State
439 Treasurer satisfactory evidence that such bond was lost or destroyed and that the ~~holder~~
440 bondholder was the owner ~~thereof of the bond;~~ and ~~(3) (iii)~~ has furnished indemnity satisfactory
441 to the State Treasurer.

442 **Drafting note: Technical changes.**

443 § ~~23-24~~ 23.1-1109. ~~Proceeds of bonds and revenues to be paid into state treasury~~ Bonds
444 and revenues; disposition.

445 All moneys derived from the sale of bonds pursuant to § ~~23-19~~ 23.1-1106 and all
446 revenues derived from any ~~one or more of the sources mentioned~~ source set forth in
447 ~~subdivisions (1), (2) and (3) of subsection (d)~~ subdivision C 1 a, b, or c of § ~~23-19~~ 23.1-1106,
448 except those moneys that are exempt from deposit into the state treasury, shall be paid into the
449 state treasury ~~and any such moneys and revenues so paid into the state treasury shall be~~, set
450 aside in special funds, and devoted solely to the payment of (i) the cost of erecting the project
451 for which such bonds shall have been issued ~~and to the payment of, (ii)~~ the principal of and the
452 interest on such bonds, and ~~of (iii)~~ the cost of maintenance and operation of such project and ~~of~~
453 any other existing facilities ~~the revenues of for~~ which any revenue is pledged either in whole
454 or in part to the payment of the principal of and the interest on such bonds, respectively, and are

455 ~~hereby~~ (ii) specifically appropriated for ~~those such~~ purposes to be paid out by the State
456 Treasurer on warrants of the Comptroller to be issued on vouchers of the treasurer or other fiscal
457 officer of the board of such institution.

458 **Drafting note: Technical changes.**

459 § ~~23-23~~ 23.1-1110. Bonds as legal investments.

460 Any bonds issued pursuant to ~~the authority of~~ this chapter are ~~hereby made~~ securities in
461 which all public officers and bodies of ~~this the~~ Commonwealth and ~~all its~~ political subdivisions
462 ~~thereof, all~~ insurance companies and associations, ~~all and~~ savings banks and savings institutions,
463 including savings and loan associations, in the Commonwealth may properly and legally invest
464 funds in their control.

465 **Drafting note: Technical changes.**

466 § ~~23-24~~ 23.1-1111. ~~Prohibition Bonds; prohibition~~ against obligating Commonwealth.

467 The bonds and other obligations of an institution ~~shall are~~ not ~~be in any way~~ a debt of the
468 Commonwealth ~~and shall, do~~ not create or constitute any indebtedness or obligation of the
469 Commonwealth, either legal, moral, or otherwise, ~~nor shall they be and are not~~ payable out of
470 any funds other than those of the institution ~~and nothing. Nothing~~ in this chapter ~~contained~~ shall
471 be construed to authorize any institution to incur any indebtedness on behalf of the
472 Commonwealth or in any way to obligate the Commonwealth.

473 **Drafting note: Technical changes.**

474 § ~~23-30.03~~ 23.1-1112. ~~Interest Bonds; interest~~.

475 No bond issued by institutions pursuant to this chapter ~~(a)~~ shall (i) bear interest at ~~a per~~
476 ~~centum per annum~~ an annual percentage rate exceeding the greater of the rates authorized under
477 § 6.2-303 or ~~under §~~ 15.2-2612; or ~~(b) shall (ii)~~ be sold at public or private sale such that the
478 interest cost to maturity ~~shall exceed~~ exceeds the greater of such ~~per centum per annum~~ annual
479 percentage rates ~~as is~~ authorized under § 6.2-303 or ~~under §~~ 15.2-2612.

480 **Drafting note: Technical changes.**

481 § ~~23-28~~ 23.1-1113. ~~Surplus Bonds; surplus~~ to be paid into state treasury.

482 When any institution ~~shall have~~ fully ~~met~~ meets and ~~discharged~~ discharges its bonds,
483 ~~together with~~ interest thereon, ~~with~~ interest on any unpaid installments of interest on its bonds,
484 and all costs and expenses in connection with any action or proceedings by or on behalf of the
485 ~~holders of such bonds~~ bondholders and ~~shall have paid~~ pays in full or otherwise ~~discharged~~
486 discharges all of its liabilities incurred pursuant to this chapter, such institution shall pay into the
487 state treasury ~~as now required by general law~~ all such ~~sum or~~ sums of money ~~received by~~ it
488 receives pursuant to the provisions of this chapter or that are derived from any project erected
489 pursuant to this chapter as may ~~then remain be~~ in its possession or control.

490 **Drafting note: Technical changes, including removing "sum or" on the basis of § 1-**
491 **227, which provides that throughout the Code any word in the singular includes the plural**
492 **and vice versa.**

493 § ~~23-22~~ 23.1-1114. ~~Accounts~~ Projects; accounts to be kept by boards.

494 The board of ~~every~~ each institution shall keep and preserve complete and accurate
495 accounts of all sums of money received and disbursed ~~in connection with the acquisition to~~
496 acquire, erection erect, lease, ~~operation and maintenance of~~ operate, or maintain any project and
497 any ~~such~~ other existing facilities, including ~~without limitation~~ a complete and accurate record of
498 all revenues derived from any ~~one or more of the sources mentioned~~ source set forth in
499 subdivisions (1), (2), (3) and (4) of subsection (d) subdivision C 1 a, b, c, or d of § ~~23-19~~ 23.1-
500 1106 and all sums disbursed for the payment of the principal of or interest on or other debt
501 service with respect to any bonds issued pursuant to ~~the authority of~~ this chapter ~~and such~~. The
502 annual portion of such revenues ~~as shall~~ that are not ~~be~~ required to discharge ~~in due course~~ any
503 obligation, liability, or debt of the institution incurred in connection with the project or ~~such~~
504 other existing facilities, including the creation of reserves for such purposes, shall be paid into
505 the state treasury; as provided in § ~~23-21~~ 23.1-1109.

506 **Drafting note: Technical changes, including removing "without limitation" used in**
507 **conjunction with "including" on the basis of the Code-wide application of § 1-218, which**
508 **states, "'Includes' means includes, but not limited to."**

509 § ~~23-25~~ 23.1-1115. Exemptions Projects; exemption from taxation.

510 The acquisition, erection, leasing, operation, and maintenance of any project authorized
511 by this chapter are ~~in all respects~~ for the benefit of the ~~people~~ citizens of the Commonwealth ~~of~~
512 Virginia, for the increase of their pleasure, knowledge, and welfare, and for the dissemination of
513 education among them, ~~and every. Each~~ institution ~~shall be regarded as performing~~ performs a
514 governmental function and ~~shall be deemed to be~~ is an incorporated institution of learning in
515 carrying out its purposes and exercising its powers ~~derived from pursuant to~~ this chapter and, so
516 far as may be consistent with the Constitution of Virginia, ~~shall be~~ is not required to pay ~~no~~
517 taxes or assessments of any kind ~~whatsoever~~ upon any project ~~acquired, erected or leased and~~
518 operated and maintained by it and that it acquires, erects, or leases and operates and maintains.
519 Any such project shall be exempt from taxation, and, insofar as may be permitted under the
520 Constitution of Virginia, the bonds of such institution shall be exempt from taxation except for
521 inheritance taxes.

522 **Drafting note: Technical changes.**

523 § ~~23-26~~ 23.1-1116. Commonwealth not to limit revenues of institutions.

524 The Commonwealth ~~of Virginia does pledge to and agree with the holders of the bonds~~
525 issued by any institution that the Commonwealth will shall not (i) limit or alter the rights ~~hereby~~
526 vested in ~~such~~ any institution to establish ~~and~~, collect ~~the, and pledge~~ fees, rents, and charges,
527 including student building fees and other student fees ~~and to pledge the same, all~~ as provided for
528 in ~~subdivisions (1), (2), (3) and (4) of subsection (d)~~ subdivision C 1 a, b, c, or d of § ~~23-19~~ as
529 ~~may be convenient or~~ 23.1-1106 that the institution deems necessary or convenient to produce
530 sufficient revenues to meet the expense of maintenance and operation of such project and such
531 other existing facilities and ~~to~~ fulfill the terms of any ~~agreements~~ agreement made with the
532 ~~holders of the bonds~~ bondholders or (ii) in any way ~~to~~ impair the rights and remedies of such
533 ~~holders, bondholders~~ until the bonds, ~~together with the~~ interest thereon, ~~with the~~ interest on any
534 unpaid installments of interest on the bonds, and all costs and expenses in connection with any
535 action or proceedings by or on behalf of such ~~holders~~ bondholders are fully met and discharged.

536 **Drafting note: Technical changes.**

537 § ~~23-30.02~~ 23.1-1117. Borrowing to purchase real estate.

538 ~~(a) In addition to the powers conferred upon institutions by other provisions of this~~
539 ~~chapter, and notwithstanding any other provision of this title, any~~ A. Any institution ~~is hereby~~
540 ~~authorized by and may,~~ with the approval of the Governor, and upon the affirmative vote of at
541 least ~~two-thirds~~ two-thirds of its board, ~~to (i) borrow from time to time,~~ for and in the name of
542 the institution, such ~~sum or~~ sums as it ~~may determine~~ determines necessary for the acquisition of
543 improved or unimproved real estate, ~~improved or unimproved,~~ whether ~~or not~~ such acquisition
544 is ~~in pursuance for the purpose of the erection of erecting~~ a project, and ~~to (ii) secure payment~~
545 ~~thereof of such debts~~ by a lien on such real estate; ~~provided that interest upon the notes or bonds~~
546 ~~issued by an institution pursuant to this section may be further secured by or~~ the pledge of any
547 endowment funds or unrestricted gifts from private sources available for the use of such
548 institution ~~and which that~~ are not required by law or by previous binding contract to be devoted
549 to some other purpose.

550 ~~(b) B.~~ Notes or bonds issued by an institution pursuant to this section and the interest
551 thereon shall ~~be required to~~ be paid only from the real estate, endowment funds, or unrestricted
552 gifts from private sources, ~~including interest thereon,~~ pledged to secure the notes or bonds so
553 issued; or the proceeds from the sale or liquidation ~~thereof of such real estate, funds, or gifts,~~
554 and shall ~~in no event not~~ constitute a general obligation of such institution, the Commonwealth,
555 the Governor, the members of the board, ~~nor or~~ any person executing the notes or bonds so
556 issued.

557 ~~(e) C.~~ Any notes or bonds ~~so~~ issued by an institution pursuant to this section are ~~hereby~~
558 made securities in which all public officers and bodies of ~~this the~~ Commonwealth and ~~all its~~
559 political subdivisions ~~thereof,~~ ~~all~~ insurance companies and associations, ~~all and~~ savings banks
560 and savings institutions, including savings and loan associations, in ~~this the~~ Commonwealth,
561 may properly and legally invest funds under their control; ~~and all.~~

562 D. Any notes or bonds ~~so issued, their transfer and the income therefrom pursuant to this~~
563 section, the transfer of such notes or bonds, or the income from such notes or bonds, including
564 any profit derived from the sale ~~thereof of such notes or bonds, shall at all times be free and is~~
565 exempt from taxation by ~~this the~~ Commonwealth, ~~and by any municipality, county or any~~
566 locality or any political subdivision thereof of the Commonwealth.

567 ~~(d) E. Any board resolution or resolutions of the board~~ authorizing the issuance of notes
568 or bonds ~~to be issued~~ pursuant to this section may, ~~at the discretion of the board,~~ contain any
569 provision ~~or provisions which shall be a part of the contract with the holders of notes or bonds~~
570 ~~so issued as are~~ authorized by ~~any other section of~~ this chapter in connection with the issuance
571 of bonds by institutions. Such provision shall be part of the contract with the holders of such
572 notes or bonds.

573 **Drafting note: The term "locality" is used to replace "municipality, county" in**
574 **proposed subsection D as a more broad term that conforms to §§ 1-221 and 1-224, which**
575 **state respectively that throughout the Code "locality" means a county, city, or town and**
576 **"municipality" means a city or town. Technical changes are made.**

577 ~~§ 23-27~~ 23.1-1118. Discretion of Governor in granting or withholding consent or
578 approval.

579 The Governor is ~~hereby~~ vested with absolute discretion ~~in with~~ respect to ~~the~~
580 withholding or granting ~~of~~ any consent or approval ~~required in connection with any act or thing~~
581 authorized by made pursuant to this chapter.

582 **Drafting note: Technical changes.**

583 ~~§ 23-29~~ 23.1-1119. Provisions of chapter to control.

584 Insofar as the provisions of this chapter are inconsistent with the provisions of any other
585 general or specific law, ~~general or special,~~ or ~~of~~ the charter or other organic law of any
586 institution, the provisions of this chapter shall be controlling control.

587 **Drafting note: Technical changes.**

588 ~~§ 23-30. Certificates of indebtedness.~~

589 ~~Chapter 489 of the Acts of 1926, approved March 25, 1926, and codified as §§ 992(1)-~~
590 ~~992(13) of Michie Code 1942, authorizing the governing boards of certain state educational~~
591 ~~institutions to issue certificates of indebtedness to raise funds for dormitory construction~~
592 ~~purposes, and Chapter 61 of the Acts of 1928, approved February 28, 1928, relating to similar~~
593 ~~certificates, are continued in effect.~~

594 **Drafting note: Repeal of obsolete existing § 23-30 is recommended.**

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616 CHAPTER 3.1.

617 VIRGINIA COLLEGE BUILDING AUTHORITY.

618 §§ 23-30.1 through 23-30.22.

619 **Drafting note: Repealed by Acts 1966, c. 685.**

620 CHAPTER 3.2 12.

621 VIRGINIA COLLEGE BUILDING AUTHORITY.

622 **Drafting note: Existing Chapters 3.2 and 3.3 are reorganized as Chapter 12 in**
623 **order to logically combine the provisions of these closely related chapters.**

624 Article 1.

625 General Provisions; Powers and Duties.

626 **Drafting note: Existing Chapter 3.2 is reorganized as proposed Article 1 of Chapter**
627 **12, consolidating general provisions and provisions related to the Virginia College**
628 **Building Authority's powers and duties generally.**

629 § 23-30.23. Title.

630 This chapter shall be known and may be cited as the "Virginia College Building
631 Authority Act of 1966."

632 **Drafting note: Existing § 23-30.23 is recommended for repeal because of the Code-**
633 **wide application of § 1-244, which states that the caption of a subtitle, chapter, or article**
634 **serves as a short title citation.**

635 § 23-30.24 23.1-1200. Legislative declaration; definitions Definitions; findings.

636 It is hereby found, determined and declared that the providing of funds for the
637 construction of projects of capital improvement at educational institutions within this
638 Commonwealth is or may be hindered, impeded and delayed by the high financing costs
639 resulting from the sale of bonds of such educational institutions in the open market, and it is
640 desirable that a state agency be created as hereinafter provided, authorized either (i) to purchase
641 such bonds in order to serve educational institution purposes by financing the construction of

642 ~~projects of capital improvement at less cost, thereby facilitating such construction or (ii) to issue~~
643 ~~its own revenue bonds for purposes of paying for the costs of such projects.~~

644 ~~It is hereby further found, determined and declared that there is an urgent need to~~
645 ~~provide substantial amounts of new scientific, technical and other equipment for teaching,~~
646 ~~research and related activities at such educational institutions so that they may remain~~
647 ~~competitive in attracting high quality faculty and obtaining research grants, and it is desirable~~
648 ~~that a state agency be empowered, as hereinafter provided, to purchase such equipment for lease~~
649 ~~or sale to such educational institutions in order to provide them with such equipment at the~~
650 ~~lowest possible cost, thereby facilitating the acquisition and supply of such equipment to~~
651 ~~educational institutions and increasing the purchasing power of their funds, including funds~~
652 ~~provided by tuition and fees and by appropriations from the General Assembly.~~

653 ~~A. As used in this chapter article, the following words and terms shall have the following~~
654 ~~meanings unless the context shall otherwise indicate requires a different meaning:~~

655 ~~"Authority" means the Virginia College Building Authority created by § 23-30.25, or, if~~
656 ~~said Authority shall be abolished, the board, body, commission, department or officer~~
657 ~~succeeding to the principal functions thereof or to whom the powers given by this chapter to the~~
658 ~~Authority shall be given by law.~~

659 ~~"Bonds" means bonds, notes, or other evidences of indebtedness or other obligations of~~
660 ~~the Authority pursuant to this chapter article.~~

661 ~~"Educational Eligible institution" means those public institutions enumerated in § 23-14,~~
662 ~~area career and technical schools established under Chapter 16 (§ 23-214 et seq.) of this title,~~
663 ~~and all other schools owned and operated by the Commonwealth in which a college education is~~
664 ~~taught for less than four years of higher education, as that term is defined in § 23.1-100; the~~
665 ~~Eastern Virginia Medical School; the Institute for Advanced Learning and Research; the New~~
666 ~~College Institute; the Roanoke Higher Education Authority; the Southern Virginia Higher~~
667 ~~Education Center; the Southwest Virginia Higher Education Center; the Virginia School for the~~
668 ~~Deaf and the Blind; and the Wilson Workforce and Rehabilitation Center.~~

669 "Equipment" means any personal property, including, ~~but without limitation,~~ computer
670 hardware and software, and any other improvements ~~of all types,~~ including infrastructure
671 improvements related to equipment, ~~to be~~ used to support academic instruction and research, at
672 educational eligible institutions.

673 "Project" has the same meaning as ~~it is defined in set forth in~~ § ~~23-15~~ 23.1-1100.

674 B. Providing funds for the construction of projects at eligible institutions is or may be
675 hindered, impeded, and delayed by the high financing costs resulting from the sale of bonds of
676 such eligible institutions in the open market, and it is desirable that the Authority may (i) serve
677 the purposes of eligible institution by purchasing such bonds and financing the construction of
678 projects at a lower cost, which facilitates such construction and (ii) issue its own revenue bonds
679 for the purpose of paying the costs of such projects.

680 C. There is an urgent need to provide substantial amounts of new scientific, technical,
681 and other equipment for academic instruction, research, and related activities at eligible
682 institutions so that they may remain competitive in attracting high-quality faculty and obtaining
683 research grants, and it is desirable that the Authority may finance the purchase of such
684 equipment to provide eligible institutions with such equipment at the lowest possible cost,
685 which facilitates the acquisition and supply of such equipment to eligible institutions and
686 increases the purchasing power of their funds, including funds provided by tuition and fees and
687 appropriations from the General Assembly.

688 **Drafting note: The definition of eligible institution is revised to incorporate existing**
689 **§ 23-14. Technical changes are made, including removing "but without limitation" used in**
690 **conjunction with "including" in the definition of equipment on the basis of the Code-wide**
691 **application of § 1-218, which states, "'Includes' means includes, but not limited to."**

692 ~~§ 23-30.25~~ 23.1-1201. ~~Creation and organization of Virginia College Building~~
693 ~~Authority; surety bonds established.~~

694 A. The Virginia College Building Authority is ~~hereby created~~ established as a public
695 body corporate and ~~as~~ a political subdivision ~~and an,~~ agency, and instrumentality of the

696 Commonwealth ~~of Virginia, and as such, shall have and.~~ The Authority is hereby vested with
697 the powers, rights, and duties ~~hereinafter~~ conferred in this ~~chapter article~~.

698 B. ~~The Virginia College Building~~ Authority shall consist of the State Treasurer, the State
699 Comptroller, the Director of the Department of Planning and Budget, and the Director of the
700 State Council of Higher Education for Virginia, all of whom shall serve ex officio, and seven
701 additional members appointed by the Governor, subject to confirmation by the General
702 Assembly, ~~if in session when such appointments are made, and if not in session, at its first~~
703 ~~session subsequent to such appointment, who~~ Each member shall serve at the pleasure of the
704 Governor. ~~The initial members shall be the members of the Authority heretofore appointed~~
705 ~~under the Virginia College Building Authority Act of 1964 for the terms appointed pursuant to~~
706 ~~that act and until their successors shall be appointed and qualified. The successors of each of the~~
707 ~~appointed members~~ Appointed members shall ~~be appointed~~ serve for a term of four years,
708 ~~except that appointments to fill vacancies. Ex officio members shall serve terms coincident with~~
709 ~~their terms of office. Vacancies occurring other than by expiration of a term shall be made filled~~
710 for the unexpired ~~terms~~ term. ~~Such members~~ No appointed member shall serve ~~no~~ more than
711 two consecutive terms. ~~The secretary and the assistant secretary may receive such compensation~~
712 ~~as the Authority may provide.~~

713 C. The Governor shall appoint one member as chairman who shall serve a two-year
714 term. No member shall be eligible to serve more than two consecutive terms as chairman. The
715 chairman shall be the chief executive officer of the Authority and shall receive such
716 compensation as the Governor ~~shall fix~~ determines. ~~Neither the State Treasurer, the State~~
717 ~~Comptroller, the Director of the State Council of Higher Education for Virginia nor the Director~~
718 ~~of Planning and Budget~~ No ex officio member shall be eligible to serve as chairman. ~~Six~~
719 ~~members of the Authority shall constitute a quorum for the transaction of all business of the~~
720 Authority.

721 D. The Authority shall elect one appointed member ~~from the group of seven members~~
722 ~~appointed by the Governor~~ as vice-chairman, who shall exercise the powers of the chairman in
723 the absence of the chairman.

724 E. The Authority shall elect a treasurer, a secretary, and an assistant secretary, ~~each of~~
725 ~~whom may to~~ perform the duties and functions commonly performed by such officers. All such
726 officers, except the secretary and the assistant secretary, shall be selected from members of the
727 Authority. The secretary and the assistant secretary may receive such compensation as the
728 Authority provides.

729 F. Each appointed member of the Authority ~~hereafter appointed~~ and the secretary and the
730 assistant secretary ~~of the Authority~~ shall execute a surety bond in such penal sum as shall be
731 determined by the Attorney General, ~~each such surety bond~~ to be (i) conditioned upon the
732 faithful performance of the duties of his office, ~~to be (ii)~~ executed by a surety company
733 authorized to transact business in the Commonwealth ~~of Virginia~~ as surety ~~and to be, (iii)~~
734 approved by the Attorney General, and (iv) filed in the office of the Secretary of the
735 Commonwealth.

736 G. Six members of the Authority shall constitute a quorum for the transaction of all
737 business of the Authority.

738 **Drafting note: Provisions related to Authority membership in this proposed section**
739 **are updated to conform to the provisions of proposed § 23.1-1300, to the extent feasible.**
740 **Obsolete provisions related to initial appointments to the Authority are recommended for**
741 **repeal. Technical changes are made.**

742 § ~~23-30.35~~ 23.1-1202. Action by Authority may be authorized by resolution.

743 ~~Any~~ The Authority may authorize any action taken by the Authority ~~under~~ pursuant to
744 the provisions of this ~~chapter may be authorized~~ article by resolution at any regular or special
745 meeting, and each such resolution shall take effect immediately and need not be published or
746 posted.

747 **Drafting note: Technical changes.**

748 § ~~23-30.31~~ 23.1-1203. Powers of Authority generally.

749 ~~In order to~~ To enable the Authority to carry out the purposes for which it is established,

750 the Authority ~~is vested with the powers of a public body corporate, including the power to sue~~

751 ~~and may~~:

752 1. Sue and be sued, ~~to make~~;

753 2. Make contracts, ~~and to adopt and~~;

754 3. Adopt, use, and alter a common seal ~~and to alter the same, and is authorized and~~

755 ~~empowered~~;

756 ~~1. To have~~ 4. Have perpetual succession as a public body corporate, ~~and to adopt~~;

757 5. Adopt bylaws and regulations for the conduct of its affairs;

758 ~~2. To maintain~~ 6. Maintain an office at such place ~~or places~~ as it may designate;

759 ~~3. To collect~~, 7. Collect, or ~~to~~ authorize the trustee under any trust indenture securing

760 any bonds of the Authority to collect, ~~as the same shall become due~~, (i) the principal of and the

761 interest on all obligations transferred to the Authority by the General Assembly and (ii) other

762 assets or moneys transferred to the Authority by the General Assembly or educational eligible

763 institutions, including lease payments and other sources of revenue, as such principal, interest,

764 and other assets or moneys become due;

765 ~~4. To conduct~~ 8. Conduct a program of purchasing equipment for ~~lease or sale to~~

766 educational eligible institutions as authorized by this ~~chapter~~ article;

767 ~~5. To collect~~, 9. Collect, or ~~to~~ authorize the trustee under any trust indenture securing

768 any bonds of the Authority to collect, ~~as the same shall become due~~, (i) payments due under

769 leases or agreements of sale of equipment or leases or other obligations of real property by the

770 Authority to educational eligible institutions, as such payments become due and (ii) the

771 principal of and the interest on all ~~educational institution~~ bonds of eligible institutions purchased

772 by the Authority;

773 ~~6. To repossess and~~ 10. Repossess and sell, or ~~to~~ authorize the trustee under any trust
774 indenture securing any bonds of the Authority to repossess and sell, any equipment upon any
775 default under the lease or agreement for the sale of such equipment;

776 ~~7. To repossess and~~ 11. Repossess and re-lease, or ~~to~~ authorize the trustee under any
777 trust indenture securing any bonds of the Authority to repossess and re-lease, any project upon
778 any default under the lease of such project;

779 ~~8. To assist educational~~ 12. Assist eligible institutions in applying for grants from, or
780 entering into other agreements with, the federal or state government ~~or,~~ foundations, ~~or others~~
781 other entities that are designed to provide (i) guarantees of or funds for payments under leases or
782 contracts of sale or (ii) other benefits ~~and to enter into similar agreements with such entities~~
783 itself;

784 13. Enter into agreements with the federal or state government, foundations, or other
785 entities that are designed to provide (i) guarantees of or funds for payments under leases or
786 contracts of sale or (ii) other benefits;

787 ~~9. To select in such manner as it deems fit~~ 14. Select, and ~~to~~ appoint, and employ
788 financial experts, corporate depositories, trustees, paying agents, attorneys, accountants,
789 consulting engineers, construction experts ~~and for,~~ and other individuals to perform such other
790 services as may be necessary in the judgment of the Authority; and ~~to~~ pay their compensation
791 and reasonable expenses either from moneys received by the Authority under the provisions of
792 this ~~chapter,~~ article or from appropriations made by the General Assembly for such purposes;

793 ~~10. To issue~~ 15. Issue bonds of the Authority as authorized by this ~~chapter,~~ and to article
794 and refund any of such bonds;

795 ~~11. To receive~~ 16. Receive and accept any grants, aid, or contributions ~~from any source~~
796 ~~of either~~ money, property, labor, or other things of value; from any source or ~~to~~ reject ~~the same~~
797 in the judgment of the Authority any such grants, aid, or contributions; and

798 ~~12. To do~~ 17. Perform any ~~and all~~ other ~~acts and things~~ act necessary, appropriate,
799 incidental, or convenient to carrying out the powers expressly granted in this ~~chapter~~ article.

800 **Drafting note: Language vesting the Authority with the powers of a public body**
801 **corporate are removed in this section because such powers are given in the previous**
802 **section in existing language and retained in that proposed section. Technical changes are**
803 **made, including removing "or places" in proposed subdivision 6 because § 1-227 provides**
804 **that throughout the Code any word in the singular includes the plural and vice versa.**

805 § ~~23-30.26~~ 23.1-1204. ~~Administration Duties; administration~~ of assets, moneys, or
806 obligations.

807 The Authority shall manage and administer ~~as hereinafter provided~~ all assets, moneys, or
808 obligations ~~that may be~~ set aside and transferred to it by the General Assembly or ~~educational~~
809 ~~eligible~~ institutions as provided in this article.

810 **Drafting note: Technical changes.**

811 § ~~23-30.27~~ 23.1-1205. ~~Purchase and Powers; purchase or~~ sale of bonds or other
812 obligations of ~~educational eligible~~ institutions.

813 A. The Authority ~~is authorized to may~~ purchase, with any funds of the Authority
814 available for such purpose, at public or private sale and for such price and on such terms as it
815 ~~shall determine~~ determines, bonds or other obligations issued by ~~educational eligible~~ institutions
816 pursuant to Chapter ~~3 11~~ (§ ~~23-14~~ 23.1-1100 et seq.) ~~of this title~~.

817 B. The Authority may pledge to the payment of the interest on and the principal of any
818 bonds of the Authority all or any part of the ~~educational institution~~ bonds of eligible institutions
819 so purchased, including payments of principal and interest thereon, as ~~they shall~~ such payments
820 become due. The Authority may ~~also~~, subject to any such pledge, sell any such ~~educational~~
821 ~~institution~~ bonds so purchased and apply the proceeds of such sale ~~in the (i) to purchase of other~~
822 like ~~educational institution~~ bonds of other eligible institutions or (ii) for ~~such the~~ purpose and in
823 ~~such the~~ manner ~~as shall be~~ provided by any resolution authorizing the issuance of bonds of the
824 Authority.

825 **Drafting note: Technical changes, including replacing "is authorized to" with its**
826 **simpler equivalent "may."**

827 § ~~23-30.27:1~~ 23.1-1206.—~~Acquisition and Powers;~~ acquisition or disposition of
828 equipment.

829 A. The Authority ~~is authorized to~~ may (i) acquire equipment or any interest ~~therein in~~
830 equipment by purchase, exchange, gift, lease, or otherwise, ~~to;~~ (ii) sell, exchange, donate,
831 convey, lease, and dispose of ~~the same, such equipment~~ or any portion ~~thereof of~~ or interest
832 ~~therein in such equipment~~, including security interests ~~therein, and to in such equipment; and~~
833 (iii) retain or receive security interests in such equipment.

834 B. ~~Without regard to the requirements, restrictions, limitations or Notwithstanding any~~
835 other ~~provisions contained in any other general, special or local law~~ provision of law to the
836 contrary, educational eligible institutions ~~are authorized to~~ may grant security interests in or
837 other liens on equipment held or acquired by the educational eligible institution under any lease
838 or agreement of sale with the Authority.

839 C. The Authority ~~is authorized to~~ may acquire equipment with any funds of the
840 Authority available for such purpose. Acquisition and disposition of equipment may be at public
841 or private sale and for such price and on such terms as the Authority ~~shall determine~~ determines,
842 provided that the Authority ~~shall acquire~~ finances the acquisition of equipment for, ~~and shall~~
843 ~~lease or sell the same sale~~ to, educational eligible institutions only pursuant to standards and
844 procedures ~~as~~ approved through the Commonwealth's budget and appropriation process. The
845 budget document shall present ~~the any~~ lease payments and the corresponding total value of
846 equipment to be acquired by each institution. Each institution shall make available such
847 additional detail on specific equipment to be purchased as may be requested by the Governor or
848 the General Assembly. If emergency acquisitions and leases are necessary when the General
849 Assembly is not in session, the Governor may approve such acquisitions and leases. Prior to
850 such acquisitions and leases, the Governor shall submit such proposed acquisitions and leases to
851 the House Appropriations Committee and the Senate Finance Committee for their review and
852 approval.

853 D. The Authority ~~is authorized to~~ may establish and maintain such ~~funds accounts~~ as it
854 ~~may deem~~ deems appropriate ~~from time to time~~ to provide funds for acquisition of equipment on
855 a continuing basis. The Authority may deposit ~~therein in~~ such accounts such funds as it deems
856 appropriate, including, ~~but without limitation,~~ the proceeds of any Authority bonds issued to
857 finance the purchase of equipment and payments made to the Authority under equipment ~~leases~~
858 ~~and lease or~~ sale agreements with educational eligible institutions ~~and others or other entities~~.
859 Any moneys held in such ~~funds accounts~~ may ~~also~~ be (i) used ~~in the Authority's discretion~~ to
860 secure payment of principal of and interest on any Authority bonds, whether issued to finance
861 the purchase of equipment, ~~or to issued to~~ pay administrative costs of the authority, ~~whether or~~
862 incurred in connection with the purchase, lease, or sale of equipment, or ~~may be~~ (ii) transferred
863 by the Authority to be used in connection with any other program of the Authority. ~~However, no~~
864 No funds of the Authority derived from the equipment program authorized under this section
865 may be used in connection with the issuance or securing of indebtedness for the benefit of
866 private institutions ~~for of~~ higher education pursuant to Chapter 3.3 Article 2 (§ ~~23-30.39 23.1-~~
867 1219 et seq.) ~~of this title~~.

868 E. The Authority ~~is authorized to~~ may (i) determine and charge rent or determine sale
869 prices for equipment ~~leased or sold by the Authority that it leases or sells~~ to educational eligible
870 institutions and terminate such ~~leases lease~~ or sale agreements upon the failure of an educational
871 eligible institution to comply with any ~~of the obligations thereof, and may obligations contains~~
872 in such agreements or (ii) include in such ~~leases, lease agreements~~ options for the educational
873 eligible institution to renew ~~such leases, the lease~~ or ~~to~~ purchase any or all of the leased
874 equipment and provisions for the Authority to repossess and sell equipment leased or sold upon
875 any default under the lease or sale agreement ~~for the sale of such equipment~~.

876 **Drafting note: The term "from time to time" in subsection D is removed as**
877 **unnecessary pursuant to Code Commission policy. Technical changes are made, including**
878 **replacing "is authorized to" with its simpler equivalent "may" and removing "but without**

879 **limitation" used in conjunction with "including" in subsection D on the basis of the Code-**
880 **wide application of § 1-218, which states, "'Includes' means includes, but not limited to."**

881 § ~~23-30.28~~ 23.1-1207. ~~Bonds Powers; bonds~~ of Authority generally.

882 ~~In order to~~ A. To provide funds for the purchase of ~~educational institution~~ bonds of
883 eligible institutions as authorized by § ~~23-30.27~~ 23.1-1205, ~~to provide funds for~~ the acquisition
884 of equipment as authorized by § ~~23-30.27:1~~ 23.1-1206, ~~to provide funds for~~ the reimbursement
885 of the Central Capital Planning Fund; established ~~under pursuant to~~ § 2.2-1520, ~~for payments~~
886 ~~made for the payment of~~ pre-planning or detailed planning ~~of expenses for~~ all projects that have
887 been approved for construction by the General Assembly, ~~and to provide funds for or~~ the
888 purpose payment of ~~paying~~ all or any part of the cost of any ~~one or more projects~~ project or ~~of~~
889 any portion ~~or portions thereof of a project~~, the Authority ~~is hereby authorized to~~ may provide
890 by resolution, ~~at one time or from time to time~~, for the issuance of bonds of the Authority in
891 such amount ~~or amounts~~ as the Authority ~~shall determine~~ determines. Such bonds of the
892 Authority shall be payable solely from funds of the Authority, including, ~~but without limitation,~~
893 ~~any one or more of the following:~~ (i) payments of principal of and interest on ~~educational~~
894 ~~institution~~ bonds of eligible institutions purchased by the Authority; (ii) the proceeds of the sale
895 of any such ~~educational institution~~ bonds; (iii) payments of principal of and interest on
896 obligations transferred to the Authority by the General Assembly or from other assets or moneys
897 transferred to the Authority by the General Assembly or educational eligible institutions,
898 including lease payments or any other source of revenue; (iv) the proceeds of the sale of any
899 such obligations or assets; (v) the proceeds from the sale of bonds of the Authority; (vi)
900 payments made by educational eligible institutions under leases or sales of equipment by the
901 Authority; (vii) funds realized from the enforcement of security interests or other liens securing
902 such bonds; (viii) payments due under letters of credit, policies of bond insurance, bond
903 purchase agreements, or other credit enhancements securing payment of principal of and interest
904 on bonds of the Authority; (ix) any moneys held in funds established by the Authority pursuant

905 to § ~~23-30.27:1, 23.1-1206~~; (x) any reserve or sinking ~~funds fund~~ created to secure such
906 payment; and (xi) other available funds of the Authority.

907 B. Bonds of the Authority issued under the provisions of this ~~chapter shall~~ article do not
908 ~~be deemed to~~ constitute a debt of the Commonwealth or a pledge of the faith or credit of the
909 Commonwealth, and all bonds of the Authority shall contain on ~~the~~ their face ~~thereof~~ a
910 statement to the effect that neither the faith and credit, nor the taxing power of the
911 Commonwealth or of any political subdivision ~~thereof is, or of the Commonwealth~~ shall be,
912 pledged to ~~the payment of pay~~ the principal of or the interest on such bonds.

913 C. The bonds of each issue shall be dated, ~~shall and~~ mature at such time ~~or times, not~~
914 ~~exceeding 40 years from their date or dates~~, as may be determined by the Authority but not to
915 exceed 40 years from their date, and may be made redeemable before maturity, at the option of
916 the Authority, at such price or prices and under such terms and conditions as may be fixed by
917 the Authority prior to the issuance of the bonds. The bonds may bear interest payable at such
918 time ~~or times and~~, at such rate or rates, and in such manner as may be determined by the
919 Authority ~~or as determined in such manner as the Authority may provide~~, including the
920 determination by agents designated by the Authority under guidelines established by it. The
921 principal of and interest ~~of on~~ such bonds may be made payable in any lawful medium. The
922 Authority shall determine the form ~~of the bonds and the~~, manner of execution ~~of~~, denomination,
923 and place of payment of principal and interest for the bonds, ~~and shall fix the denomination or~~
924 ~~denominations of the bonds and the place or places of payment of principal and interest thereof~~,
925 which may be at the office of the State Treasurer or at any bank or trust company within or
926 without outside the Commonwealth. ~~In case~~

927 D. If any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears
928 on any bonds or coupons ~~shall cease~~ ceases to be such officer before the delivery of such bonds,
929 such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the
930 same as if he had remained in office until such delivery.

931 E. All revenue bonds issued under the provisions of this ~~chapter~~ (article, other than
932 bonds registered as to principal or in registered form) ~~shall have and,~~ are ~~hereby declared to~~
933 ~~have, as between successive holders, all the qualities and incidents of~~ negotiable instruments
934 ~~under the law of this Commonwealth.~~ The Revenue bonds shall be in such form, ~~shall and~~ bear
935 interest at such rate or rates, either fixed rates or rates established by formula or other method,
936 and may contain such other provisions, ~~all~~ as the Authority may determine. The principal of and
937 premium, if any, and interest on ~~the revenue~~ bonds shall be payable in ~~lawful money of the~~
938 United States ~~of America~~ currency. The Authority shall fix the denomination ~~or denominations~~
939 of ~~the revenue~~ bonds and place ~~or places~~ of ~~payments~~ payment of principal, premium, if any,
940 and interest at any ~~one or more banks~~ bank or trust ~~companies~~ company within or ~~without~~
941 outside the Commonwealth.

942 F. Bonds may be issued under a system of book entry for recording the ownership and
943 transfer of ownership of rights to receive payments of principal of and premium, if any, and
944 interest on the bonds.

945 G. The Authority may sell ~~such~~ bonds issued under the provisions of this article in such
946 manner, either at public or private sale, and for such price as it ~~may determine~~ determines to be
947 in ~~the its~~ best ~~interests of the Authority~~ interest. The proceeds of such bonds shall be disbursed
948 for the purposes for which such bonds ~~shall have been~~ are issued and under such restrictions, if
949 any, as the resolution authorizing the issuance of such bonds or the trust indenture ~~hereinafter~~
950 mentioned may provide.

951 H. Prior to the preparation of definitive bonds, the Authority may under like restrictions
952 issue temporary bonds, with or without coupons, exchangeable for definitive bonds when such
953 bonds ~~shall~~ have been executed and are available for delivery. The Authority may also provide
954 for the replacement of any bond ~~which shall become~~ that becomes mutilated or ~~shall be~~ is
955 destroyed or lost. Such revenue bonds may be issued without any other proceedings or the
956 happening of any other conditions or things than the proceedings, conditions, and things ~~which~~
957 that are specified and required by this ~~chapter~~ article.

958 I. Neither the members of the Authority nor any person executing any bonds issued
959 under the provisions of this ~~chapter~~ article shall be liable personally on such bonds or be subject
960 to any personal liability or accountability by reason of the issuance thereof.

961 ~~No~~ J. ~~The Authority shall not undertake a~~ project for an institution ~~listed in as that term~~
962 ~~is defined in~~ § ~~23-14 shall be undertaken by the Authority~~ 23.1-1100 if such project was not
963 ~~specifically included in a bill passed by a majority of those elected to each house of~~ approved by
964 the General Assembly, ~~authorizing such project or projects. In addition pursuant to a bill, and~~
965 any such project to be financed by bonds issued by the Authority secured by a pledge of any ~~one~~
966 ~~or more of the revenue sources~~ revenue source cited in ~~subdivisions (1) through (4) of~~
967 ~~subsection (d) of § 23-19~~ subdivision C 1 a, b, c, or d of § 23.1-1106 shall ~~have been be~~
968 designated by the institution's ~~board of visitors~~ governing board as a project to be undertaken by
969 the Authority.

970 **Drafting note: The term "from time to time" in proposed subsection A is removed**
971 **as unnecessary pursuant to Code Commission policy. Technical changes are made,**
972 **including (i) removing "or amounts" in subsection A and "or times" in subsection C**
973 **because § 1-227 provides that throughout the Code any word in the singular includes the**
974 **plural and vice versa and (ii) removing "but without limitation" used in conjunction with**
975 **"including" in proposed subsection A on the basis of the Code-wide application of § 1-218,**
976 **which states, "'Includes' means includes, but not limited to."**

977 § ~~23-30.29~~ 23.1-1208. Security for bonds.

978 ~~In the discretion of the~~ A. ~~The~~ Authority; may secure any bonds issued under the
979 provisions of this ~~chapter may be secured~~ article by a trust indenture by and between the
980 Authority and a corporate trustee, which may be any trust company or bank having the powers
981 of a trust company within or ~~without this~~ outside the Commonwealth. Such trust indenture or
982 the resolution providing for the issuance of such bonds may pledge:

983 1. Pledge or assign all or ~~any~~ part of the funds of the Authority available for such
984 purpose, including, ~~but without limitation,~~ (i) payments of principal of and interest on

985 ~~educational institution~~ bonds of eligible institutions purchased by the Authority; (ii) proceeds of
986 the sale of any such ~~educational institution~~ bonds; (iii) payments of principal of and interest on
987 obligations transferred to the Authority by the General Assembly or from other assets or moneys
988 transferred to the Authority by the General Assembly or educational eligible institutions,
989 including lease payments and other sources of revenue; (iv) proceeds of the sale of any such
990 obligations or assets; (v) proceeds from the sale of bonds of the Authority; (vi) security
991 interests granted by the Authority or any educational eligible institution in, or other liens on,
992 equipment, whether such equipment has been leased or sold to an educational eligible
993 institution; (vii) all or ~~any~~ part of the payments due the Authority from educational eligible
994 institutions under any ~~leases lease, sale agreements agreement, loans loan, or other agreements~~
995 ~~made by agreement between~~ the Authority ~~with the educational and eligible~~ institutions
996 pursuant to § ~~23-30.27:1~~ 23.1-1206, and any funds realized from enforcing security for such
997 payments; (viii) payments due under policies of bond insurance, letters of credit, or other credit
998 enhancement securing payment of principal of and interest on bonds of the Authority; (ix) any
999 moneys in any, ~~or all of the funds as the Authority may from time to time establish fund~~
1000 established pursuant to § ~~23-30.27:1~~, 23.1-1206; (x) any reserve or sinking ~~funds fund~~ created
1001 by the Authority to secure such bonds; and (xi) other available funds of the Authority. ~~Such~~
1002 ~~trust indenture or resolution may also pledge;~~

1003 2. Pledge or assign any other rights of the Authority in equipment owned by, or leases or
1004 sales of equipment made by, the Authority. ~~Such trust indenture or resolution providing for the~~
1005 ~~issuance of such bonds may contain;~~

1006 3. Contain such provisions for protecting and enforcing the rights and remedies of the
1007 bondholders as may be reasonable and proper and not in violation of law. ~~Such trust indenture~~
1008 ~~or resolution providing for the issuance of such bonds may provide;~~

1009 4. Provide for the creation and maintenance of such reserves as the Authority ~~shall~~
1010 ~~determine~~ determines to be proper, ~~and may include;~~

1011 5. Include covenants setting forth the duties of the Authority in relation to the acquisition
1012 of any equipment or ~~educational institution~~ bonds of eligible institutions; the care, leasing, or
1013 sale of equipment to educational eligible institutions; the substitution of any ~~educational~~
1014 ~~institution~~ bonds of eligible institutions, equipment, ~~leases~~ lease, security interest, or other
1015 security as security for the payment of the bonds of the Authority; the care, use, and insurance
1016 of equipment; the repossession and sale of leased or sold equipment by the Authority or the
1017 trustee under any trust indenture upon any default under the lease or sale of such equipment; and
1018 the collection of (i) payments due the Authority under leases or agreements of sale of equipment
1019 and (ii) payments of principal and interest on any ~~educational institution~~ bonds ~~and on any of~~
1020 eligible institutions or obligations or other assets held by the Authority. ~~It shall be lawful for any~~
1021 Any bank or trust company incorporated under the laws of the Commonwealth ~~which may act~~
1022 that acts as depository of the proceeds of bonds or ~~of~~ revenues ~~to~~ may furnish such
1023 indemnifying bonds or ~~to~~ pledge such securities as may be required by the Authority. ~~Any such~~
1024 ~~trust indenture may set;~~

1025 6. Set forth the rights and remedies of the bondholders and the trustee, ~~and may restrict;~~

1026 7. Restrict the individual right of action by bondholders. ~~In addition to the foregoing, any~~
1027 ~~such trust indenture or resolution may contain; and~~

1028 8. Contain such other provisions as the Authority ~~may deem~~ deems reasonable and
1029 proper for the security of the bondholders.

1030 B. All expenses incurred in carrying out the provisions of any such trust indenture or
1031 resolution may be treated as a part of the administration costs of the Authority.

1032 C. Neither the resolution nor any trust indenture by which a pledge is created need be
1033 filed or recorded except in the records of the Authority.

1034 **Drafting note: The term "from time to time" in proposed subdivision A 1 is**
1035 **removed as unnecessary pursuant to Code Commission policy. Technical changes are**
1036 **made, including removing "but without limitation" used in conjunction with "including"**

1037 **in proposed subdivision A 1 on the basis of the Code-wide application of § 1-218, which**
1038 **states, "'Includes' means includes, but not limited to."**

1039 § ~~23-30.29-1~~ 23.1-1209. Reserve fund; limitations.

1040 A. If the Authority deems it proper to create a reserve fund ~~or funds~~ from its bond
1041 proceeds or other funds ~~of the Authority~~ to support an issuance of bonds in accordance with the
1042 provisions of this section, all moneys held in such reserve fund, except as hereinafter otherwise
1043 provided in this section, shall be pledged solely for the payment of the principal of and interest
1044 on the bonds secured in whole or in part by such a fund. ~~Any The Authority may transfer~~
1045 income or interest earned on, or increment to, any reserve fund ~~may be transferred by the~~
1046 Authority to its other funds or accounts ~~of the Authority to the extent it if such transfer~~ does not
1047 reduce the amount of the reserve fund below its minimum requirement.

1048 B. ~~In order to assure~~ To ensure further the maintenance of reserve funds established in
1049 accordance with the provisions of this section, the chairman of the Authority shall annually, on
1050 or before November 15, make and deliver to the Governor and the Secretary of Finance a
1051 certificate stating the sum, if any, required to restore each reserve fund to its minimum
1052 requirement. The Governor shall submit to the presiding officer of each house of the General
1053 Assembly printed copies of a budget including the sum, if any, required to restore each reserve
1054 fund to its minimum requirement; ~~such~~. Such submission shall be made at the time the Governor
1055 presents his budget and budget bill to the General Assembly pursuant to §§ 2.2-1508 and 2.2-
1056 1509. All sums, if any, ~~which that~~ may be appropriated by the General Assembly for any
1057 restoration and paid to the Authority shall be deposited by the Authority in the applicable
1058 reserve fund. All sums paid to the Authority pursuant to this section shall constitute and be
1059 accounted for as advances by the Commonwealth to the Authority and, subject to the rights of
1060 the holders of any bonds of the Authority, shall be repaid to the Commonwealth without interest
1061 from available revenues of the Authority in excess of the amounts required for payment of
1062 bonds or other obligations of the Authority, maintenance of reserve funds, and operating
1063 expenses.

1064 C. The Authority shall not at any time issue bonds secured in whole or in part by any
1065 reserve fund referred to in subsection A if, upon the issuance of the bonds, the amount in the
1066 reserve fund will be less than its minimum requirement unless the Authority, at the time of the
1067 issuance of the bonds, deposits in the fund an amount ~~which that~~, together with the amount then
1068 in the fund, will not be less than the fund's minimum reserve requirement.

1069 D. The total principal amount of bonds outstanding at any one time, secured by a reserve
1070 fund in accordance with the provisions of this section, shall not exceed the sum of \$300 million
1071 without the prior approval of the General Assembly.

1072 E. Nothing in this section shall be construed as limiting the power of the Authority to
1073 issue bonds (i) not secured by a reserve fund or (ii) secured by a reserve fund not described in
1074 this section.

1075 **Drafting note: Technical changes are made, including removing "or funds" in**
1076 **subsection A because § 1-227 provides that throughout the Code any word in the singular**
1077 **includes the plural and vice versa.**

1078 ~~§ 23-30.29:2 23.1-1210. Educational institutions' pledge of tuition, fees, etc~~ Payment on
1079 bonds; pledge of revenues.

1080 ~~In order to~~ To provide funds for the repayment of bonds issued by the Authority ~~either to~~
1081 (i) ~~for the purchase of~~ any educational eligible institution's bonds or (ii) ~~to~~ provide funds ~~for the~~
1082 ~~purpose of paying to pay~~ all or ~~any~~ part of the cost of any ~~one or more projects~~ project or ~~of~~ any
1083 ~~portion or portions thereof of a project~~, each educational eligible institution ~~is authorized to may~~
1084 agree to pledge and transfer to the Authority all or ~~a~~ part of the educational eligible institution's
1085 revenues derived from any ~~one or more of the sources~~ source mentioned in ~~subdivisions (1)~~
1086 ~~through (4) of subsection (d)~~ subdivision C 1 a, b, c, or d of ~~§ 23-19~~ 23.1-1106. Any agreement
1087 related to such transfer may contain ~~such~~ other provisions that the Authority and educational
1088 eligible institution deem reasonable and proper and are not in violation of law. ~~Any No~~ such
1089 agreement shall ~~not be deemed to~~ constitute a debt of the Commonwealth or a pledge of the full
1090 faith and credit of the Commonwealth. Neither the full faith and credit of the Commonwealth

1091 nor the taxing power of the Commonwealth or any political subdivision ~~thereof is or of the~~
1092 Commonwealth shall be pledged to the payment of the principal of and interest on bonds so
1093 secured by such agreement. Prior to execution, any such agreement shall be approved by ~~(i)~~ the
1094 Secretary of Finance and ~~(ii)~~ the Secretary of Education.

1095 **Drafting note: Technical changes.**

1096 § ~~23-30.29:3~~ 23.1-1211. ~~Investigation by Governor of alleged defaults; withholding of~~
1097 ~~state funds from defaulting institution; payment of funds withheld; receipts, reports, etc~~ Default
1098 on payments.

1099 A. Whenever it appears to the Governor from an affidavit filed with him by the paying
1100 agent for the bonds issued by the Authority that ~~the~~ an eligible institution has defaulted in the
1101 payment of the principal of or premium, if any, or interest on its bonds pursuant to this ~~chapter~~
1102 article, the Governor shall immediately make a summary investigation into the facts set forth in
1103 the affidavit. If it is established to the satisfaction of the Governor that the institution is in
1104 default in the payment of the principal of or premium, if any, or interest on its bonds ~~or the~~
1105 ~~interest thereon~~, the Governor immediately shall make an order directing the State Comptroller
1106 to make payment immediately to the owners or paying agent of the bonds in default, ~~or the~~
1107 ~~paying agent for the bonds~~, on behalf of the institution from any appropriation available to the
1108 institution in the amount due and remaining unpaid by the institution on its bonds.

1109 B. Any payment so made by the State Comptroller to the owners or paying agent of the
1110 bonds in default, ~~or to the paying agent of the bonds for the bonds~~, shall be credited as if made
1111 directly by the institution and ~~shall be~~ charged by the State Comptroller against the
1112 appropriations of the institution. The owners or paying agent of the bonds in default, ~~or the~~
1113 ~~paying agent for the bonds~~, at the time of payment ~~or at the time of each payment~~ shall deliver
1114 to the State Comptroller, in a form satisfactory to the State Comptroller, a receipt for payment of
1115 the principal, premium, or interest satisfied by the payment. The State Comptroller shall report
1116 each payment made to the governing body of the defaulting institution under the provisions of
1117 this section.

1118 C. ~~In addition, for any institution which defaulted on its bonds pursuant to this section,~~
1119 ~~the~~ The Governor shall direct the State Comptroller to (i) charge against the appropriations
1120 available to ~~such~~ any institution that has defaulted on its bonds pursuant to this section all future
1121 payments of principal of and interest on the institution's bonds when due and payable and ~~to~~ (ii)
1122 make such payments to the owners or paying agent of the bonds, ~~or the paying agent for the~~
1123 ~~bonds,~~ on behalf of the institution ~~so as~~ to ensure that no future default will occur on such
1124 bonds. The charge and payment shall be made upon receipt of ~~such~~ documentation ~~as in the~~
1125 ~~opinion of that~~ the State Comptroller ~~provides~~ deems to be satisfactory evidence of the claim.
1126 The owners or paying agent of the bonds, ~~or the paying agent for the bonds,~~ at the time of each
1127 payment shall deliver to the State Comptroller, in a form satisfactory to the State Comptroller, a
1128 receipt for payment of the principal or interest satisfied by the payment.

1129 D. Nothing in this section shall be construed to create any obligation on the part of the
1130 State Comptroller or the Commonwealth to make any payment on behalf of the defaulting
1131 institution other than from funds appropriated to the defaulting institution.

1132 **Drafting note: Technical changes are made, including removing the phrase "in**
1133 **addition" in subsection C as unnecessary.**

1134 § ~~23-30.30~~ 23.1-1212. Investment of funds.

1135 Any moneys or funds held by the Authority or ~~by~~ the trustee under any trust indenture
1136 under the provisions of this ~~chapter article~~ may be invested and reinvested in securities that are
1137 legal investments under the laws of the Commonwealth for moneys or funds held by fiduciaries.

1138 **Drafting note: Technical changes.**

1139 § ~~23-30.32~~ 23.1-1213. Enforcement of rights and duties by bondholder or trustee under
1140 trust indenture.

1141 Any (i) holder of bonds issued under the provisions of this ~~chapter article~~ or any of the
1142 coupons appertaining ~~thereto, and the~~ to such bonds and (ii) trustee under any trust indenture,
1143 ~~except to the extent the rights herein given may be restricted by such trust indenture or the~~
1144 ~~resolution authorizing the issuance of such bonds,~~ may, either at law or in equity, by suit, action,

1145 mandamus, or other proceeding, (a) protect and enforce any and all rights under the laws of the
1146 Commonwealth ~~of Virginia or granted hereunder or under such, the~~ trust indenture, or the
1147 resolution authorizing the issuance of such bonds, ~~and may and~~ (b) enforce and compel the
1148 performance of all duties required by this ~~chapter article~~ or ~~by~~ such trust indenture or resolution
1149 to be performed by the Authority or by any officer thereof, except to the extent that such rights
1150 are restricted by the trust indenture or the resolution authorizing the issuance of such bonds.

1151 **Drafting note: Technical changes.**

1152 § ~~23-30.33~~ 23.1-12x14. Exemption of bonds from taxation.

1153 The bonds issued by the Authority under the provisions of this ~~chapter article, their the~~
1154 transfer of such bonds, and the income ~~therefrom from such bonds~~, including any profit made on
1155 the sale ~~thereof of such bonds~~, ~~shall at all times be free and is~~ exempt from taxation by the
1156 Commonwealth and ~~by any municipality, county, locality or any other~~ political subdivision
1157 thereof of the Commonwealth.

1158 **Drafting note: Technical changes are made, including replacing references to**
1159 **"municipality" and "county" with "locality," which encompasses both municipalities and**
1160 **counties.**

1161 § ~~23-30.34~~ 23.1-1214. Bonds made lawful investments.

1162 All bonds issued by the Authority under the provisions of this ~~chapter article~~ are ~~hereby~~
1163 ~~made~~ securities (i) in which all public officers and bodies of the Commonwealth, and ~~all~~
1164 ~~counties, cities and towns, its localities~~ and ~~municipal political~~ subdivisions, ~~and~~ all insurance
1165 companies and associations, ~~all~~ savings banks and savings institutions, including savings and
1166 loan associations, commercial banks and trust companies, beneficial and benevolent
1167 associations, administrators, guardians, executors, trustees, and other fiduciaries in the
1168 Commonwealth may properly and legally invest funds under their control. ~~Such bonds are~~
1169 ~~hereby made securities which~~ and (ii) that may properly and legally be deposited with and
1170 received by any state or ~~municipal local~~ officer or any agency or political subdivision of the

1171 Commonwealth for any purpose for which the deposit of bonds or obligations is ~~now or may~~
1172 ~~hereafter [after June 27, 1966] be~~ authorized by law.

1173 **Drafting note: An obsolete reference to June 27, 1966, is deleted. A reference to**
1174 **"municipal subdivisions" is replaced with "political subdivisions." A reference to**
1175 **"municipal officer" is replaced with "local officer." Technical changes are made.**

1176 § ~~23-30.36~~ 23.1-1215. Annual report; examination of records, books, and accounts.

1177 A. The Authority shall submit ~~an annual report~~ to the Governor and General Assembly
1178 an annual report of the interim activity and work of the Authority on or before November 1 of
1179 each year. Such report shall be submitted as a report document as provided in the procedures of
1180 the Division of Legislative Automated Systems for the processing of legislative documents and
1181 reports and shall be posted on the General Assembly's website. Such report shall contain, at a
1182 minimum, the annual financial statements of the Authority for the year ending the preceding
1183 June 30.

1184 B. The records, books, and accounts of the Authority shall be subject to examination and
1185 inspection by duly authorized representatives of the General Assembly and any bondholder ~~or~~
1186 ~~bondholders~~ at any reasonable time, provided that such examination and inspection do not
1187 unduly interrupt or interfere with the business of the Authority ~~is not unduly interrupted or~~
1188 ~~interfered with thereby.~~

1189 **Drafting note: Standard DLAS procedures for submitting reports are incorporated**
1190 **into this section on the Authority's reporting requirement. Technical changes are made,**
1191 **including removing "or bondholders" because § 1-227 provides that throughout the Code**
1192 **any word in the singular includes the plural and vice versa.**

1193 § ~~23-30.36+1~~ 23.1-1216. Annual audit.

1194 The Auditor of Public Accounts, or his legally authorized representatives, shall annually
1195 audit the accounts of the Authority, and the cost of such audit ~~services as shall be required~~ shall
1196 be borne by the Authority.

1197 **Drafting note: Technical changes.**

1198 § ~~23-30.37~~ 23.1-1217. ~~Chapter Article~~ liberally construed; provisions severable; powers
1199 of Authority not subject to supervision by ~~municipalities, etc~~ certain entities.

1200 A. This ~~chapter article~~, being necessary for the welfare of the Commonwealth and its
1201 inhabitants, shall be liberally construed to effect the purpose ~~thereof~~ of this article.

1202 Except as otherwise expressly provided in this ~~chapter article~~, none of the powers
1203 granted to the Authority under the provisions of this ~~chapter article~~ shall be subject to the
1204 supervision or regulation or require the approval or consent of (i) any ~~municipality locality~~ or
1205 political subdivision of the Commonwealth or (ii) any commission, board, bureau, official, or
1206 agency ~~thereof or~~ of (a) any such locality or political subdivision or (b) the Commonwealth.

1207 **Drafting note: A reference to "municipality" is replaced with "locality." Technical**
1208 **changes.**

1209 § ~~23-30.38~~ 23.1-1218. Jurisdiction of suits against Authority; service of process.

1210 The Circuit Court of the City of Richmond shall have exclusive jurisdiction of any suit
1211 brought in ~~Virginia~~ the Commonwealth against the Authority, and process in such suit shall be
1212 served either on the State Comptroller or on the chairman of the Authority.

1213 **Drafting note: Technical changes.**

1214 ~~CHAPTER 3.3.~~

1215 ~~EDUCATIONAL FACILITIES AUTHORITY ACT.~~

1216 Article 2.

1217 Nonprofit Private Institutions of Higher Education; Projects.

1218 **Drafting note: Existing Chapter 3.3, the Educational Facilities Authority Act, is**
1219 **reorganized as proposed Article 2 of Chapter 12, and the name is changed to "Nonprofit**
1220 **Private Institutions of Higher Education; Projects" to more accurately reflect its contents.**

1221 ~~§ 23-30.40. Title of chapter.~~

1222 ~~This chapter may be cited as the "Educational Facilities Authority Act."~~

1223 **Drafting note: Existing § 23-30.40 is recommended for repeal because of the Code-**
1224 **wide application of § 1-244, which states that the caption of a subtitle, chapter, or article**
1225 **serves as a short title citation.**

1226 § ~~23-30.41~~ 23.1-1219. Definitions.

1227 ~~In As used in this chapter article, the following words and terms shall,~~ unless the context
1228 ~~otherwise requires, have the following meanings a different meaning:~~

1229 ~~(a) "Authority,"~~ means the Virginia College Building Authority ~~created by established in~~
1230 ~~§ 23-30.25~~ 23.1-1200.

1231 ~~(d) "Bonds" or "revenue bonds,"~~ means revenue bonds of the Authority issued under the
1232 provisions of this ~~chapter article~~, including revenue refunding bonds, notes, and other
1233 obligations, ~~notwithstanding that the same that~~ may be secured by a mortgage ~~or by~~, the full
1234 faith and credit, ~~or by~~ any other lawfully pledged security of ~~either one or more a~~ participating
1235 ~~institutions for higher education institution~~.

1236 ~~(e) "Costs," as applied to a project or any portion thereof financed under the provisions~~
1237 ~~of this chapter embraces~~ means (i) all or any part of the cost of construction, acquisition,
1238 alteration, enlargement, reconstruction, and remodeling of a project, including all lands,
1239 structures, real or personal property, rights, rights-of-way, air rights, franchises, easements, and
1240 interests acquired or used ~~for or~~ in connection with a project; (ii) the cost of demolishing or
1241 removing any ~~buildings building~~ or ~~structures structure~~ on land ~~so~~ acquired in connection with a
1242 project, including the cost of acquiring any lands to which such ~~buildings building~~ or ~~structures~~
1243 structure may be moved, the cost of all machinery and equipment, financing charges, interest
1244 prior to, during, and for a period after completion of such construction and acquisition,
1245 provisions for reserves for principal and interest, and provisions for extensions, enlargements,
1246 additions, replacements, renovations, and improvements; (iii) the cost of architectural,
1247 engineering, financial, and legal services, plans, specifications, studies, surveys, estimates of
1248 cost and ~~of~~ revenues; (iv) administrative expenses; (v) expenses necessary or incident to
1249 determining the feasibility or practicability of constructing the project; and (vi) such other

1250 expenses as may be necessary or incident to ~~the construction and acquisition of~~ constructing and
1251 acquiring the project, ~~the financing of such construction and acquisition and the,~~ acquiring the
1252 project, and placing ~~of~~ the project in operation.

1253 (e) ~~"Institution for higher education," a nonprofit educational institution within the~~
1254 ~~Commonwealth whose primary purpose is to provide collegiate or graduate education and not to~~
1255 ~~provide religious training or theological education.~~

1256 (f) ~~"Participating institution for higher education," an~~ means a nonprofit private
1257 ~~institution for of~~ higher education ~~which, pursuant to the provisions of this chapter, undertakes~~
1258 ~~the financing and construction or acquisition of~~ whose primary purpose is to provide collegiate
1259 or graduate education and not to provide religious training or theological education that (i) (a)
1260 finances and constructs or (b) acquires a project or ~~undertakes the refunding (ii) refunds~~ or
1261 ~~refinancing of~~ refinances obligations ~~or of,~~ a mortgage, ~~or of~~ advances as provided in this
1262 ~~chapter article.~~

1263 (b) ~~"Project," in the case of a participating institution for higher education, means~~ a
1264 ~~structure or structures~~ suitable for use as a dormitory or other multi-unit housing facility for
1265 students, faculty, officers, or employees, a dining hall, student union, administration building,
1266 academic building, library, laboratory, research facility, classroom, athletic facility, health care
1267 facility, maintenance, storage or utility facility ~~and other structures or facilities,~~ any related ~~to~~
1268 ~~any of the foregoing structure or facility,~~ or any other structure or facility required or useful for
1269 ~~the instruction of~~ instructing students ~~or the,~~ conducting ~~of~~ research, or ~~the operation of~~
1270 operating an institution ~~for of~~ higher education, including parking facilities and other facilities
1271 or structures essential or convenient for the orderly conduct of such institution ~~for of~~ higher
1272 education, ~~and shall also include,~~ "Project" includes landscaping, site preparation, furniture,
1273 equipment and machinery, and other similar items necessary or convenient for the ~~operation~~
1274 intended use of a particular facility or structure ~~in the manner for which its use is intended but~~
1275 ~~shall,~~ "Project" does not include ~~such items as~~ books, fuel, supplies, or other items ~~the whose~~
1276 ~~costs of which~~ are customarily deemed to result in a current operating charge, ~~and shall not~~

1277 ~~include~~ any facility used ~~or to be used~~ for sectarian instruction or as a place of religious worship
1278 ~~nor, or~~ any facility ~~which is~~ used ~~or to be used~~ primarily in connection with any part of the
1279 program of a school or department of divinity for any religious denomination.

1280 **Drafting note: Technical changes are made, including (i) moving definitions into**
1281 **alphabetical order without regard to placement in existing language so that changes are**
1282 **clearly shown and (ii) removing "or structures" in the definition of project because § 1-**
1283 **227 provides that throughout the Code any word in the singular includes the plural and**
1284 **vice versa.**

1285 § ~~23-30.39~~ 23.1-1220. Declaration of policy and purpose.

1286 ~~It is hereby declared that for~~ A. For the benefit of the people of the Commonwealth, the
1287 increase of their commerce, welfare, and prosperity, and the improvement of their health and
1288 living conditions, it is essential that (i) this and future generations of youth be given the fullest
1289 opportunity to learn and ~~to~~ develop their intellectual and mental capacities; ~~that it is essential~~
1290 ~~that and (ii) participating~~ institutions ~~for higher education within the Commonwealth~~ be
1291 provided with appropriate additional means to assist such youth in achieving the required levels
1292 of learning and development of their intellectual and mental capacities; ~~and that it is the~~.

1293 B. The purpose of this ~~chapter article is~~ to provide a measure of assistance and an
1294 alternative method to enable participating institutions ~~for higher education in the~~
1295 ~~Commonwealth~~ to provide the facilities and structures ~~which that~~ are sorely needed to
1296 accomplish the purposes of this ~~chapter article~~, all to the public benefit and good, to the extent
1297 and manner provided ~~herein in this article~~.

1298 **Drafting note: Technical changes.**

1299 § ~~23-30.43~~ 23.1-1221. Expenses of administering ~~chapter article~~.

1300 All expenses incurred in carrying out the provisions of this ~~chapter article~~ shall be
1301 payable solely from funds provided under the authority provisions of this ~~chapter article~~, and no
1302 liability or obligation shall be incurred by the Authority ~~hereunder pursuant to this article~~

1303 beyond the extent to which moneys ~~shall~~ have been provided under the provisions of this
1304 ~~chapter article~~.

1305 **Drafting note: Technical changes are made, including replacing the broad and**
1306 **general term "hereunder" with the more specific reference to "pursuant to this article."**

1307 § ~~23-30.42~~ 23.1-1222. Powers and duties of Authority.

1308 A. The Authority shall assist institutions ~~for of~~ higher education in the acquisition,
1309 construction, ~~and~~ financing, and ~~the~~ refinancing of projects ~~begun after July 1, 1972, and for this~~
1310 ~~purpose the Authority is authorized and empowered. In addition to such other powers as are~~
1311 ~~granted to the~~

1312 B. The Authority ~~by law, it is further empowered may:~~

1313 ~~(a) To determine~~ 1. Determine the location and character of any project to be financed
1314 under the provisions of this ~~chapter, and to construct~~ article;

1315 2. Construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair,
1316 operate, lease, as lessee or lessor, and regulate ~~the same, any project to be financed under the~~
1317 ~~provisions of this article;~~

1318 ~~to enter~~ 3. Enter into contracts for any ~~or all of such purposes, to enter~~ purpose set forth
1319 in subdivision 2;

1320 4. Enter into contracts for the management and operation of ~~a any~~ project, ~~and to~~
1321 ~~designate a participating institution for higher education as its agent to determine the location~~
1322 ~~and character of a project undertaken by such participating institution for higher education under~~
1323 ~~the provisions of this chapter and, as the agent of the Authority, to construct, reconstruct,~~
1324 ~~remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and~~
1325 ~~regulate the same, and, as the agent of the Authority, to enter into contracts for any or all of such~~
1326 ~~purposes, including contracts for the management and operation of such project;~~

1327 ~~(b) To issue~~ 5. Issue bonds, bond anticipation notes, and other obligations of the
1328 Authority for any of its corporate purposes; and ~~to~~ fund or refund ~~the same all such bonds, bond~~
1329 ~~anticipation notes, or other obligations~~ as provided in this ~~chapter article;~~

1330 ~~(e) Generally, to fix and~~ 6. Fix, revise ~~from time to time and~~, charge, and collect rates,
1331 rents, fees, and charges for the use of and for the services furnished ~~or to be furnished~~ by a
1332 project or any portion ~~thereof and to contract~~ of a project;

1333 7. Contract with any person, partnership, association ~~or~~, corporation, or other ~~body~~
1334 ~~public or private in respect thereof and to designate~~ entity to fix, revise, charge, and collect
1335 rates, rents, fees, and charges pursuant to subdivision 9;

1336 8. Designate a participating institution ~~for higher education or a participating hospital~~ as
1337 its agent to ~~fix, revise, charge and collect such rates, rents, fees and charges and to make such~~
1338 ~~contracts~~ take actions pursuant to subdivisions 1 through 4, 6, and 7;

1339 ~~(d) To establish rules and~~ 9. Establish regulations for the use of a project or any portion
1340 ~~thereof and to~~ of a project or designate a participating institution ~~for higher education~~ as its
1341 agent to establish ~~rules and~~ regulations for the use of a project in which such ~~participating~~
1342 institution ~~for higher education~~ is participating;

1343 ~~(e) To employ~~ 10. Employ consulting engineers, architects, attorneys, accountants,
1344 construction and financial experts, superintendents, managers, and such other employees and
1345 agents as ~~may be it deems~~ necessary in its judgment, and ~~to fix~~ determine their compensation;

1346 ~~(f) To receive~~ 11. Receive and accept from any public agency loans or grants for or in
1347 aid of the construction of a project or any portion ~~thereof, and to receive~~ of a project;

1348 12. Receive and accept from any source loans, grants, aid, or contributions ~~from any~~
1349 ~~source~~ of either money, property, labor, or other things of value to be held, used, and applied
1350 only for the purposes for which such loans, grants, aid, and contributions are made;

1351 ~~(g) To mortgage~~ 13. Mortgage any project and the site ~~thereof of any project~~ for the
1352 benefit of the holders of revenue bonds issued to finance such project;

1353 ~~(h) To make~~ 14. Make loans to any participating institution ~~for higher education~~ for the
1354 cost of a project in accordance with an agreement between the Authority and ~~one or more~~
1355 ~~participating institutions for higher education; provided that~~ such institution, but no such loan

1356 shall exceed the total cost of the project as determined by such ~~participating~~ institution ~~or~~
1357 ~~institutions for higher education~~ and approved by the Authority;

1358 (i) ~~To make~~ 15. Make loans to participating institutions ~~for higher education~~ to refund
1359 outstanding obligations, mortgages, or advances issued, made, or given by such participating
1360 institutions ~~for higher education~~ for the cost of a project;

1361 (j) ~~To charge~~ 16. Charge to and equitably apportion among participating institutions ~~for~~
1362 ~~higher education~~ its administrative costs and expenses incurred in the exercise of the powers and
1363 duties conferred by this ~~chapter~~ article; and

1364 (k) ~~To do~~ 17. Do all things necessary or convenient to carry out the purposes of this
1365 ~~chapter~~ article.

1366 C. In carrying out the purposes of this ~~chapter~~ article, the Authority may undertake a
1367 joint project for two or more participating institutions ~~for higher education~~, and, ~~thereupon~~, all
1368 other provisions of this ~~chapter~~ article shall apply to and for the benefit of the Authority and the
1369 ~~participants~~ institutions of higher education participating in such joint project ~~or projects~~.

1370 **Drafting note: The obsolete reference in proposed subsection A to projects "begun**
1371 **after July 1, 1972," is removed, and the term "from time to time" in proposed subdivision**
1372 **B 6 is removed as unnecessary pursuant to Code Commission policy. Technical changes**
1373 **are made, including removing "or projects" in proposed subsection C because § 1-227**
1374 **provides that throughout the Code any word in the singular includes the plural and vice**
1375 **versa.**

1376 § ~~23-30.45~~ 23.1-1223. ~~Execution of deeds and conveyances~~ Duties; conveyance of title
1377 to projects.

1378 When (i) (a) the principal of and interest on revenue bonds of the Authority issued to
1379 finance the cost of a ~~particular~~ ~~project or projects~~ ~~for one or more~~ any participating institutions
1380 ~~for higher education~~, including any revenue refunding bonds issued to refund and refinance such
1381 revenue bonds, have been fully paid and retired or ~~when~~ (b) adequate provision has been made
1382 to fully pay and retire ~~the same, and~~ such bonds, (ii) all other conditions of the resolution or

1383 trust agreement authorizing and securing the same have been satisfied, and (iii) the lien of such
1384 resolution or trust agreement has been released in accordance with the provisions ~~thereof of~~
1385 such resolution or trust agreement, the Authority shall ~~promptly do such things and execute such~~
1386 ~~deeds and conveyances as are necessary and required to~~ convey title to such project ~~or projects~~
1387 to such participating institution ~~or institutions for higher education~~, free and clear of all liens
1388 and encumbrances, ~~all to the extent that if~~ title to such project ~~or projects~~ is not, ~~at the time, yet~~
1389 vested in such participating institution ~~or institutions for higher education~~.

1390 **Drafting note: Technical changes are made, including removing "or projects" and**
1391 **"or institutions" because § 1-227 provides that throughout the Code any word in the**
1392 **singular includes the plural and vice versa.**

1393 § ~~23-30.44~~ 23.1-1224. Acquisition Powers; acquisition of property.

1394 The Authority ~~is authorized and empowered may~~, directly or ~~by and~~ through a
1395 participating institution ~~for higher education~~, as its agent, ~~to~~ acquire by (i) purchase solely from
1396 funds provided under the authority of this ~~chapter, or by gifts or article, (ii) gift, or (iii)~~ devise,
1397 such lands, structures, property, real or personal, rights, rights-of-way, air rights, franchises,
1398 easements, and other interests in lands, including lands lying under water and riparian rights,
1399 ~~which that~~ are located within the Commonwealth as it may deem necessary or convenient for
1400 the acquisition, construction, or operation of a project, upon such terms and at such prices as
1401 ~~may be considered by~~ it ~~to be deems~~ reasonable and can be agreed upon between it and the
1402 owner ~~thereof, of the property~~ and ~~to~~ take title ~~thereto to the property~~ in the name of the
1403 Authority or ~~in the name of one or more any~~ participating ~~institutions for higher education~~
1404 institution as its agent.

1405 **Drafting note: Technical changes are made including replacing "which" with**
1406 **"that" as the context requires.**

1407 § ~~23-30.46~~ 23.1-1225. Issuance Powers; issuance of negotiable notes.

1408 The Authority may ~~from time to time~~ issue negotiable notes for any corporate purpose
1409 ~~and may from time to time or~~ renew any notes by the issuance of new notes, whether or not the

1410 notes to be renewed have ~~or have not~~ matured. The Authority may issue notes partly to renew
1411 notes or to discharge other obligations then outstanding and partly for any other purpose. ~~The~~
1412 Such notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any
1413 resolution ~~or resolutions~~ authorizing notes ~~of the Authority~~ or any ~~issue thereof~~ issuance of
1414 notes by the Authority may contain any ~~provisions which~~ provision that the Authority is
1415 authorized to include in any resolution ~~or resolutions~~ authorizing revenue bonds ~~of the Authority~~
1416 or any ~~issue thereof~~ issuance of revenue bonds by the Authority, and the Authority may include
1417 in any ~~notes~~ note any ~~terms~~ term, ~~covenants~~ covenant, or ~~conditions which~~ condition that it ~~is~~
1418 authorized to may include in any ~~bonds~~ bond. All such notes shall be payable solely from the
1419 revenues of the Authority, subject only to any contractual ~~rights~~ rights of the holders of any of
1420 its notes or other obligations then outstanding.

1421 **Drafting note: The term "from time to time" is removed as unnecessary pursuant**
1422 **to Code Commission policy. Technical changes are made.**

1423 § ~~23-30.47~~ 23.1-1226. Issuance Powers; issuance of revenue bonds.

1424 ~~(a) A.~~ The Authority may ~~from time to time~~ issue revenue bonds for any corporate
1425 purpose, and all such revenue bonds, notes, bond anticipation notes, or other obligations of the
1426 Authority issued pursuant to this ~~chapter shall be and~~ article are ~~hereby declared to be~~
1427 negotiable for all purposes, notwithstanding their payment from a limited source and without
1428 regard to any other law ~~or laws~~.

1429 B. In anticipation of the sale of such revenue bonds, the Authority may issue and renew
1430 negotiable bond anticipation notes ~~and may renew the same from time to time~~, but the
1431 maximum maturity of any such note, including renewals ~~thereof~~, shall not exceed five years
1432 from the date ~~of issue of~~ on which the original note was issued. Such notes shall be paid from
1433 any revenues of the Authority available ~~therefor~~ for such purpose and not otherwise pledged, or
1434 from the proceeds of sale of the Authority's revenue bonds ~~of the Authority issued~~ in
1435 anticipation of ~~which they were issued~~ such sale. ~~The~~ Such notes shall be issued in the same
1436 manner as the revenue bonds. Such notes and the resolution ~~or resolutions~~ authorizing ~~the same~~

1437 such notes may contain any provisions, conditions, or limitations ~~which a bond resolution of~~
1438 ~~that~~ the Authority may ~~contain~~ include in a bond resolution.

1439 ~~(b)~~ C. The revenue bonds and notes of every issue shall be payable solely out of
1440 revenues to the Authority, subject only to any ~~agreements~~ agreement with (i) the holders of
1441 particular revenue bonds or notes ~~pledging to pledge~~ any particular revenues ~~and subject to any~~
1442 ~~agreements with or~~ (ii) any participating institution ~~for higher education. Notwithstanding that~~
1443 revenue

1444 D. Revenue bonds and notes ~~may be payable from a special fund, they shall be and be~~
1445 ~~deemed to be, for all purposes, are~~ negotiable instruments, ~~that are~~ subject only to the provisions
1446 of the revenue bonds and notes for registration but may be payable from a special fund.

1447 ~~(c)~~ ~~The revenue~~ E. Revenue bonds may be issued as serial bonds ~~or as~~ term bonds, or
1448 ~~the Authority, in its discretion, may issue bonds of~~ both ~~types~~. Revenue bonds shall
1449 be authorized by resolution of the members of the Authority and ~~shall~~ bear such date ~~or dates~~,
1450 mature at such time ~~or times~~, not exceeding fifty 50 years from ~~their respective dates~~ such date,
1451 bear interest at such rate or rates, that is payable at such time ~~or times~~, be in such ~~denominations~~
1452 denomination, be in such form, either coupon or registered, carry such registration privileges, be
1453 executed in such manner, be payable in lawful ~~money of the~~ United States ~~of America~~ currency
1454 at such place ~~or places~~, and be subject to such terms of redemption, as such resolution ~~or~~
1455 ~~resolutions may provide~~ provides. Revenue bonds or notes may be sold at public or
1456 private sale for such price or prices as the Authority ~~shall determine~~ determines. Pending
1457 preparation of the definitive bonds, the Authority may issue interim receipts or certificates
1458 which that shall be exchanged for such definitive bonds.

1459 ~~(d)~~ F. Any resolution ~~or resolutions~~ authorizing ~~any~~ revenue bonds or any issue of
1460 revenue bonds may contain provisions, which shall be a part of the contract with the holders of
1461 the such revenue bonds ~~to be authorized, as related~~ to:

1462 ~~(1)~~ 1. Pledging all or any part of the revenues of a project ~~or projects~~, any ~~revenue~~
1463 producing revenue-producing contract ~~or contracts~~ made by the Authority with any individual,

1464 partnership, corporation ~~or~~, association~~,~~ or other public or private body~~, public or private~~, to
1465 secure the payment of the revenue bonds or ~~of~~ any particular issue of revenue bonds, subject to
1466 such any existing agreements with bondholders ~~as may then exist~~;

1467 ~~(2) the 2. Charging~~ rentals, fees~~,~~ and other charges ~~to be charged~~, and setting forth the
1468 amounts to be raised ~~in each year thereby~~, annually with such charges and the use and
1469 disposition of the revenues;

1470 ~~(3) the establishment and setting 3. Establishing, setting~~ aside ~~of, regulating, and~~
1471 disposing of reserves or sinking funds~~, and the regulation and disposition thereof~~;

1472 ~~(4) limitations on 4. Limiting~~ the right of the Authority or its agent to restrict and
1473 regulate the use of the project;

1474 ~~(5) limitations on 5. Limiting~~ the purpose to which the proceeds of the sale of any issue
1475 of revenue bonds ~~then or thereafter~~ to be issued may be applied and pledging such proceeds to
1476 secure the payment of the revenue bonds or any issue of the revenue bonds;

1477 ~~(6) limitations on 6. Limiting~~ the issuance of additional bonds, the terms upon which
1478 additional bonds may be issued and secured~~,~~ and the refunding of outstanding bonds;

1479 ~~(7) the 7. Establishing a~~ procedure~~, if any~~, by which the terms of any contract with
1480 bondholders may be amended or abrogated~~, that includes~~ the ~~amount of bonds the holders of~~
1481 which must number of bondholders required to consent ~~thereto~~, to such amendment or
1482 abrogation and the manner in which such consent may be given;

1483 ~~(8) limitations on 8. Limiting~~ the amount of moneys derived from the project to be
1484 expended for operating, administrative~~,~~ or other expenses of the Authority;

1485 ~~(9) defining the 9. Defining the~~ acts or omissions ~~to act which shall that~~ constitute a
1486 default in the duties of the Authority to holders of its obligations and providing the rights and
1487 remedies of such holders in the event of a default;

1488 ~~(10) 10. Setting forth~~ the duties, obligations~~,~~ and liabilities of any trustee or paying
1489 agent; and

1490 ~~(11) the mortgaging of~~ 11. Mortgaging a project and the site ~~thereof of such project~~ for
1491 the purpose of securing the bondholders.

1492 ~~(e) G.~~ Neither the members of the Authority nor any person executing ~~the~~ revenue bonds
1493 or notes shall be liable personally on the revenue bonds or notes or be subject to any personal
1494 liability or accountability by reason of the issuance ~~thereof of such revenue bonds or notes~~.

1495 ~~(f) H.~~ The Authority ~~shall have power out of any funds available therefor to~~ may
1496 purchase its bonds or notes with funds available for such purpose. The Authority may hold,
1497 pledge, cancel, or resell such bonds or notes subject to and in accordance with agreements with
1498 bondholders.

1499 **Drafting note: The term "from time to time" in proposed subsections A and B is**
1500 **removed as unnecessary pursuant to Code Commission policy, and the following phrases**
1501 **are removed because § 1-227 provides that throughout the Code any word in the singular**
1502 **includes the plural and vice versa: "or laws," "or resolutions," "or dates," "or times," "or**
1503 **places," and "or contracts." Technical changes are made.**

1504 ~~§ 23-30.48 23.1-1227.~~ Security Powers: security for revenue bonds.

1505 ~~In the discretion of the~~ A. The Authority may secure any revenue bonds issued under the
1506 provisions of this ~~chapter may be secured~~ article by a trust agreement ~~by and~~ between the
1507 Authority and a corporate trustee ~~or trustees, which that~~ may be any trust company or bank
1508 having the powers of a trust company within or outside the Commonwealth. Such trust
1509 agreement or the resolution providing for the issuance of such revenue bonds may (i) pledge or
1510 assign the revenues to be received or proceeds of any contract ~~or contracts~~ pledged ~~and may~~, (ii)
1511 convey or mortgage the project or any portion ~~thereof. Such trust agreement or resolution~~
1512 ~~providing for the issuance of such revenue bonds may of the project, or (iii)~~ contain ~~such~~
1513 provisions for protecting and enforcing the rights and remedies of the bondholders ~~as may be~~
1514 that the Authority deems reasonable and proper and are not in violation of law, including
1515 ~~particularly such~~ provisions ~~as have hereinabove been specifically authorized to~~ that may be

1516 included in any resolution ~~or resolutions~~ of the Authority authorizing revenue bonds ~~thereof~~
1517 pursuant to this article.

1518 B. Any bank or trust company incorporated under the laws of the Commonwealth ~~which~~
1519 that may act as depository of the proceeds of bonds ~~or of~~, revenues, or other moneys may
1520 furnish such indemnifying bonds or pledge such securities as may be required by the Authority.

1521 C. Any such trust agreement may set forth the rights and remedies of the bondholders
1522 and ~~of~~ the trustee ~~or trustees~~, and may restrict the individual right of action by bondholders. ~~In~~
1523 addition to the foregoing, any

1524 D. Any such trust agreement or resolution may contain such other provisions as the
1525 Authority may deem deems reasonable and proper for the security of the bondholders.

1526 E. All expenses incurred in carrying out the provisions of such trust agreement or
1527 resolution may be treated as a part of the cost of the operation of a project.

1528 **Drafting note: Technical changes are made, including removing "or contracts" in**
1529 **proposed subsection A and "or trustees" in proposed subsection C because § 1-227**
1530 **provides that throughout the Code any word in the singular includes the plural and vice**
1531 **versa.**

1532 § 23-30.50 23.1-1228. Rates Powers and duties; rates, rents, fees and charges; sinking
1533 fund.

1534 A. The Authority may fix, revise, charge and collect rates, rents, fees and charges for the
1535 use of and ~~for~~ the services furnished ~~or to be furnished~~ by each project and ~~to~~ contract with any
1536 person, partnership, association ~~or~~, corporation, or other public or private body, ~~public or~~
1537 private, in respect thereof to perform such acts. Such The aggregate of such rates, rents, fees,
1538 and charges shall be fixed and adjusted ~~in respect of the aggregate of rates, rents, fees and~~
1539 charges from such project so as to provide funds that, when combined with other revenues, is
1540 sufficient ~~with other revenues, if any, (1)~~ to (i) pay the uncovered cost of maintaining, repairing,
1541 and operating each portion of the project ~~and each and every portion thereof, to the extent that~~
1542 ~~the payment of such cost has not otherwise been adequately provided for, (2) to;~~ (ii) pay the

1543 principal of and the interest on outstanding revenue bonds of the Authority ~~issued in respect of~~
1544 ~~such project as the same shall become~~ as such principal and interest becomes due and payable;
1545 and ~~(3) to (iii)~~ create and maintain reserves required or provided for in any resolution
1546 authorizing, or trust agreement securing, such revenue bonds of the Authority. ~~Such rates, rents,~~
1547 ~~fees and charges~~ No such rate, rent, fee, or charge shall ~~not~~ be subject to supervision or
1548 regulation by any department, commission, board, body, bureau, or agency of ~~this the~~
1549 Commonwealth other than the Authority.

1550 A-B. The Authority shall set aside in a sinking fund or other similar fund a sufficient
1551 amount of the revenues derived ~~in respect of from~~ a project, except ~~such the~~ part of such
1552 revenues ~~as may be that is~~ necessary to pay the cost of maintenance, repair, and operation ~~and to~~
1553 of the project, provide reserves ~~and for, or make~~ renewals, replacements, extensions,
1554 enlargements, and improvements as ~~may be provided for~~ set forth in the resolution authorizing
1555 the issuance of any revenue bonds of the Authority or in the trust agreement securing ~~the same,~~
1556 ~~shall be set aside at such regular intervals as may be provided in such resolution or trust~~
1557 ~~agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the~~
1558 payment of such revenue bonds. The Authority shall pledge such sinking fund or other similar
1559 fund to pay the principal of and the interest on such revenue bonds as ~~the same shall become~~
1560 such principal and interest becomes due; and the redemption or purchase price ~~or the purchase~~
1561 price of bonds retired by call or purchase as ~~therein~~ provided in the resolution authorizing the
1562 issuance of any revenue bonds of the Authority or in the trust agreement securing such revenue
1563 bonds. Such pledge shall be valid and binding from the time when the pledge is made; ~~the. The~~
1564 rates, rents, fees, and charges and other revenues or ~~other~~ moneys so pledged and ~~thereafter~~
1565 received by the Authority shall immediately be subject to the lien of such pledge without any
1566 physical delivery ~~thereof~~ or further act, ~~and the. The~~ lien of any such pledge ~~shall be is~~ valid and
1567 binding ~~as~~ against all parties having claims of any kind in tort, contract, or otherwise against the
1568 Authority, irrespective of whether such parties have notice ~~thereof of such lien. Neither the No~~
1569 resolution ~~nor any~~ authorizing the issuance of any revenue bonds of the Authority or trust

1570 agreement by which a pledge is created need be filed or recorded except in the records of the
1571 Authority. The use and disposition of moneys to the credit of such sinking fund or other similar
1572 fund ~~shall be is~~ subject to the provisions of the resolution authorizing the issuance of such bonds
1573 or of such trust agreement. ~~Except as may otherwise be provided in such resolution or such trust~~
1574 ~~agreement, such~~ Such sinking fund or other similar fund ~~shall be is~~ a fund for all such revenue
1575 bonds issued to finance a project ~~or projects~~ at ~~one or more~~ a participating ~~institutions for higher~~
1576 ~~education institution~~, without distinction or priority of one revenue bond over another; ~~provided,~~
1577 ~~but~~ the Authority ~~in any such resolution or trust agreement~~ may provide in any such resolution
1578 or trust agreement (i) that such sinking fund or other similar fund ~~shall be is~~ the fund for a
1579 particular project at an institution ~~for of~~ higher education and ~~for~~ the revenue bonds issued to
1580 finance a particular project and ~~may, additionally, permit and provide (ii)~~ for the issuance of
1581 revenue bonds having a subordinate lien ~~in respect of the security herein authorized~~ to other
1582 revenue bonds of the Authority with respect to the security authorized and, in such case, the
1583 Authority may create separate or other similar funds ~~in with~~ respect ~~of to~~ such subordinate lien
1584 bonds.

1585 **Drafting note: Technical changes are made, including referring to "the**
1586 **Commonwealth" instead of "this Commonwealth" in accordance with Code Commission**
1587 **policies.**

1588 § ~~23-30.54~~ 23.1-1229. Issuance Powers; issuance of refunding bonds.

1589 ~~(a) A.~~ The Authority ~~is hereby authorized to~~ may provide for the issuance of revenue
1590 bonds ~~of the Authority for the purpose of refunding to (i) refund~~ any of its outstanding revenue
1591 bonds ~~of the Authority then outstanding~~, including the payment of any redemption premium
1592 thereon and any interest accrued or to accrue ~~to on~~ the earliest or any subsequent date of
1593 redemption, purchase, or maturity of such revenue bonds, ~~and, if deemed advisable by the~~
1594 Authority, for the additional purpose of paying or (ii) pay all or any part of the cost of
1595 constructing and acquiring additions, improvements, extensions, or enlargements of a project or
1596 any portion ~~thereof of a project~~.

1597 ~~(b) B.~~ The Authority may (i) apply the proceeds of any ~~such~~ revenue bonds issued ~~for~~
1598 ~~the purpose of refunding to refund~~ outstanding revenue bonds ~~may, in the discretion of the~~
1599 ~~Authority, be applied to the purchase or retirement, retire~~ at maturity, ~~or redemption of redeem~~
1600 such outstanding revenue bonds either on their earliest or any subsequent redemption date ~~or,~~
1601 upon ~~the their~~ purchase, ~~or at the their~~ maturity ~~thereof and may, pending such application, be~~
1602 ~~placed and (ii) place the proceeds of revenue bonds issued to refund outstanding revenue bonds~~
1603 in escrow pending such application to be applied to such purchase ~~or,~~ retirement ~~at maturity,~~ or
1604 redemption on ~~such the~~ date ~~as may be determined by the Authority that it determines.~~

1605 ~~(c) Any such escrowed~~ C. The Authority may invest and reinvest proceeds, ~~pending such~~
1606 ~~use, may be invested and reinvested~~ placed in escrow pursuant to subsection B in direct
1607 obligations of the United States ~~of America, or in~~ certificates of deposit, or time deposits
1608 secured by direct obligations of the United States ~~of America, maturing that mature~~ at such time
1609 ~~or times~~ as shall be is appropriate to ~~assure~~ ensure the prompt payment, ~~as to of~~ principal,
1610 interest, and any redemption premium, ~~if any,~~ of the outstanding revenue bonds to be so
1611 refunded, pending the purchase, retirement at maturity, or redemption of such outstanding
1612 revenue bonds. The Authority may apply interest, income, and any profits, ~~if any,~~ earned or
1613 realized on any such investment ~~may also be applied to the payment of pay~~ the outstanding
1614 revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and
1615 carried out, any balance of such proceeds and any interest, income, and profits, ~~if any,~~ earned or
1616 realized on the investments ~~thereof~~ on such proceeds may be returned to the Authority for its
1617 lawful use ~~by it in any lawful manner.~~

1618 ~~(d) D.~~ The Authority may invest or reinvest the portion of the proceeds of any ~~such~~
1619 revenue bonds issued ~~for the additional purpose of paying to pay~~ all or any part of the cost of
1620 constructing and acquiring additions, improvements, extensions, or enlargements of a project
1621 ~~may be invested and reinvested~~ in direct obligations of the United States ~~of America, or in~~
1622 certificates of deposit or time deposits secured by direct obligations of the United States ~~of~~
1623 ~~America, maturing that mature~~ not later than the time ~~or times~~ when such proceeds ~~will be are~~

1624 needed ~~for the purpose of paying to pay~~ all or any part of such cost. The Authority may apply
1625 any interest, income, and profits, ~~if any,~~ earned or realized on such investment ~~may be applied~~
1626 to the payment of all or any part of such cost or ~~may be used by the Authority use such interest,~~
1627 income, and profits in any lawful manner.

1628 ~~(e) E.~~ All such refunding revenue bonds ~~shall be issued pursuant to this section are~~
1629 subject to the provisions of this ~~chapter article~~ in the same manner and to the same extent as
1630 other revenue bonds issued pursuant to this ~~chapter article~~.

1631 **Drafting note: Technical changes are made. The phrase "in the discretion of the**
1632 **Authority," used in conjunction with the phrase "may," is deleted as superfluous.**

1633 § 23-30.49 23.1-1230. Revenue bonds not obligations of Commonwealth or political
1634 subdivision.

1635 Revenue bonds issued under the provisions of this ~~chapter shall~~ article (i) do not ~~be~~
1636 deemed to constitute a debt ~~or,~~ liability, or pledge of the faith and credit of the Commonwealth
1637 ~~or of any political subdivision thereof or a pledge of the faith and credit of the Commonwealth~~
1638 ~~or of any such political subdivision, but shall be~~ of the Commonwealth and (ii) are payable
1639 solely from the funds herein provided ~~therefor~~ from revenues as set forth in this article. ~~All Each~~
1640 such revenue bonds bond shall contain state on the its face ~~thereof a statement to the effect~~ that
1641 (a) neither the Commonwealth of Virginia nor the Authority ~~shall be~~ is obligated to pay ~~the~~
1642 same such revenue bonds or the interest thereon except from revenues of the project ~~or projects~~
1643 or the portion ~~thereof of the project~~ for which they are issued and ~~that~~ (b) neither the faith and
1644 credit nor the taxing power of the Commonwealth ~~of Virginia~~ or ~~of~~ any political subdivision
1645 thereof of the Commonwealth is pledged to the payment of the principal of or the interest on
1646 such bonds. The issuance of revenue bonds under the provisions of this ~~chapter article~~ shall not
1647 directly ~~or,~~ indirectly, or contingently obligate the Commonwealth or any political subdivision
1648 thereof of the Commonwealth to levy or ~~to~~ pledge any form of taxation ~~whatever therefor for~~
1649 such bonds or ~~to~~ make any appropriation for their payment.

1650 **Drafting note: Technical changes.**

1651 § ~~23-30.51~~ 23.1-1231. Moneys received deemed trust funds.

1652 All moneys ~~received that the Authority receives~~ pursuant to ~~the authority of this chapter~~
1653 article, whether as proceeds from the sale of bonds or as revenues, ~~shall be deemed to be~~ are
1654 trust funds to be held and applied solely as provided in this ~~chapter~~ article. Any officer with
1655 whom, or any bank or trust company with which, such moneys ~~shall be~~ are deposited shall act as
1656 trustee of such moneys and shall hold and apply the same for the purposes ~~hereof, subject to~~
1657 ~~such regulations as of~~ this ~~chapter and~~ article, the resolution authorizing the bonds of any issue,
1658 or the trust agreement securing such bonds ~~may provide~~.

1659 **Drafting note: Technical changes.**

1660 § ~~23-30.52~~ 23.1-1232. Remedies of bondholders, ~~etc or holders of other obligations~~.

1661 Any (i) holder of revenue bonds, notes, bond anticipation notes, other notes, or other
1662 obligations of the Authority, issued under the provisions of this ~~chapter~~ article or any of the
1663 coupons appertaining ~~thereto, and the~~ to any such obligation and (ii) trustee ~~or trustees~~ under
1664 any trust agreement, except to the extent ~~the that such~~ rights ~~herein given may be~~ are restricted
1665 by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds
1666 or other obligations, may, either at law or in equity, by suit, action, mandamus, or other
1667 proceedings, (a) protect and enforce ~~any and~~ all rights under the laws of the Commonwealth ~~or~~
1668 ~~granted hereunder~~ or ~~under~~ such resolution or trust agreement; and ~~may~~ (b) enforce and compel
1669 the performance of all duties required by this ~~chapter~~ article or by such resolution or trust
1670 agreement to be performed by the Authority or any officer, employee, or agent ~~thereof of the~~
1671 Authority, including the fixing, charging, and collecting of the rates, rents, fees, and charges
1672 ~~herein~~ authorized by this article and required by the provisions of such resolution or trust
1673 agreement to be fixed, ~~established and,~~ charged, and collected.

1674 **Drafting note: Technical changes.**

1675 § ~~23-30.53~~ 23.1-1233. Exemption from taxation.

1676 ~~The exercise of the powers granted by this chapter will be in all respects for the benefit~~
1677 ~~of the people of this Commonwealth, for the increase of their commerce, welfare and prosperity,~~

1678 ~~and for the improvement of their health and living conditions, and as the operation and~~
1679 ~~maintenance of a project by the Authority or its agent will constitute the performance of an~~
1680 ~~essential public function, neither~~ Neither the Authority nor its agent shall be required to pay any
1681 taxes or assessments upon or ~~in respect of~~ with respect to a project ~~or~~, any property acquired or
1682 used by the Authority or its agent under the provisions of this ~~chapter article~~, or ~~upon~~ the
1683 income ~~therefrom, and any from any such project or property.~~ Any bonds issued under the
1684 provisions of this ~~chapter article~~, ~~their~~ the transfer of such bonds, and the income ~~therefrom~~
1685 from such bonds, including any profit made on the sale ~~thereof of such bonds~~, ~~shall at all times~~
1686 ~~be free~~ are exempt from taxation of ~~every~~ any kind by the Commonwealth and ~~by~~ the
1687 municipalities localities and other political subdivisions ~~in of~~ the Commonwealth.

1688 **Drafting note: Language at the beginning of this section related to the exercise of**
1689 **the powers granted by this section is deleted as duplicative of provisions contained in**
1690 **proposed § 23.1-1220. A reference to "municipalities" in the last sentence is replaced with**
1691 **"localities." Technical changes are made.**

1692 § ~~23-30.55~~ 23.1-1234. Bonds ~~to be as~~ legal investments.

1693 Bonds issued by ~~[the]~~ the Authority under the provisions of this ~~chapter article~~ are
1694 ~~hereby made~~ securities (i) in which all public officers and ~~public~~ bodies of the Commonwealth
1695 and its political subdivisions, ~~all~~ insurance companies, trust companies, banking associations,
1696 investment companies, executors, administrators, trustees, and other fiduciaries may properly
1697 and legally invest funds, including capital in their control or belonging to them. ~~Such bonds are~~
1698 ~~hereby made securities which and~~ (ii) that may properly and legally be deposited with and
1699 received by any ~~Commonwealth or municipal~~ officer of the Commonwealth or any of its
1700 localities or any agency or political subdivision of the Commonwealth for any lawful purpose
1701 ~~for which the deposit of bonds or obligations of the Commonwealth is now or may hereafter be~~
1702 ~~authorized by law.~~

1703 **Drafting note: A reference to "municipal officer" is replaced with local officer.**
1704 **Technical changes are made.**

1705 § ~~23-30.56~~ 23.1-1235. ~~Chapter supplemental; application of other laws; Authority not~~
1706 ~~subject to supervision, etc., by other agencies~~ Nature of article.

1707 ~~The foregoing sections of this chapter shall be deemed to provide a complete, additional~~
1708 ~~and alternative method for the doing of the things authorized thereby and shall be regarded as~~
1709 This article is supplemental and additional to powers conferred by other laws; ~~provided, but~~ the
1710 issuance of revenue bonds and revenue refunding bonds under the provisions of this ~~chapter~~
1711 article need not comply with the requirements of any other law applicable to the issuance of
1712 bonds. Except as otherwise expressly provided in this ~~chapter article~~, ~~none of the powers no~~
1713 power granted to the Authority under the provisions of this ~~chapter shall be~~ article is subject to
1714 the supervision or regulation of or ~~require~~ requires the approval or consent of the
1715 Commonwealth, any ~~municipality~~ locality or political subdivision ~~or any of the Commonwealth,~~
1716 or any department, division, commission, board, body, bureau, official, or agency ~~thereof or of~~
1717 the Commonwealth of any such locality or political subdivision.

1718 **Drafting note: A reference to "municipality" in the last sentence is replaced with**
1719 **"locality." Technical changes are made.**

1720 § ~~23-30.57~~ 23.1-1236. ~~Chapter Article~~ liberally construed.

1721 This ~~chapter article~~, being necessary for the welfare of the Commonwealth and its
1722 inhabitants, shall be liberally construed to effect the purposes hereof of this article.

1723 **Drafting note: Technical changes.**

1724 § ~~23-30.58~~ 23.1-1237. ~~Chapter Article~~ controls inconsistent laws.

1725 To the extent that the provisions of this ~~chapter article~~ are inconsistent with the
1726 provisions of any general statute or special act or parts thereof, the provisions of this ~~chapter~~
1727 shall be deemed controlling article control.

1728 **Drafting note: Technical changes.**

1729 #

1730

1731

1732 CHAPTER 30.

1733 EASTERN VIRGINIA MEDICAL SCHOOL.

1734 **Drafting note: Eastern Virginia Medical School, established as the Norfolk Area**
1735 **Medical Center Authority by Chapter 471 of the Acts of Assembly of 1964, is**
1736 **recommended for inclusion in Title 23.1 as proposed Chapter 30. Sections of Chapter 471**
1737 **(1964) were amended as follows: by Chapter 396 of the Acts of Assembly of 1975 (§§ 1 and**
1738 **2; name changed to Eastern Virginia Medical Authority), Chapter 217 of the Acts of**
1739 **Assembly of 1979 (§ 2), Chapter 121 of the Acts of Assembly of 1981 (§ 2), Chapter 329 of**
1740 **the Acts of Assembly of 1987 (§§ 1 through 14, 16, 17, 18; name changed to Medical**
1741 **College of Hampton Roads), Chapter 386 of the Acts of Assembly of 1988 (§ 11), Chapter**
1742 **454 of the Acts of Assembly of 1991 (§§ 2 through 6, 8, 8.1 [added], 10 through 14, 16, 17),**
1743 **Chapters 87 and 478 of the Acts of Assembly of 2002 (§§ 1 through 8.1, 8.2 [added], 8.3**
1744 **[added], 9 through 19; name changed to Eastern Virginia Medical School), Chapter 658 of**
1745 **the Acts of Assembly of 2008 (§ 2), Chapters 820 and 844 of the Acts of Assembly of 2009**
1746 **(§ 2), and Chapter 168 of the Acts of Assembly of 2013 (§ 2). Amendments made by the**
1747 **foregoing acts of assembly are incorporated in this proposed chapter. Existing §§ 1**
1748 **through 19 are logically reorganized, and technical changes are made.**

1749 § 23.1-3000. Definitions.

1750 As used in this chapter, unless the context requires a different meaning:

1751 "Board of visitors" means the board of visitors of the Eastern Virginia Medical School.

1752 "Bonds" includes bonds, notes, revenue certificates, lease participation certificates, and
1753 other evidences of indebtedness, payment obligations, or deferred purchase financing
1754 arrangements.

1755 "Costs" means (i) costs of construction, reconstruction, renovation, site work, and
1756 acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights
1757 and interests; (ii) costs of demolition, removal, or relocation of buildings or structures; (iii) costs
1758 of labor; (iv) costs of materials, machinery, and all other kinds of equipment; (v) financing

1759 charges; (vi) costs of issuance of bonds, including printing, engraving, advertising, legal, and
1760 other similar expenses; (vii) credit enhancement and liquidity facility fees; (viii) fees for interest
1761 rate caps, collars, and swaps; (ix) interest on bonds and other borrowing in connection with a
1762 project prior to and during construction of the project and for a period not exceeding one year
1763 after the completion of such construction; (x) costs of engineering, inspection, financial, legal,
1764 and accounting services, plans, specifications, studies, surveys, estimates of costs and revenues,
1765 and feasibility studies; (xi) administrative expenses, including administrative expenses during
1766 the start-up of any project; (xii) working capital to be used in connection with any project; (xiii)
1767 reserve funds and other reserves for the payment of principal of and interest on bonds; and (xiv)
1768 all other expenses necessary, desirable, or incidental to the construction, reconstruction,
1769 renovation, acquisition, financing, refinancing, or placing in operation of projects.

1770 "Medical School" means the Eastern Virginia Medical School.

1771 "Operating project" means any project (i) owned, in whole or in part, (ii) controlled,
1772 directly or indirectly, in whole or in part, or (iii) operated, directly or indirectly, by the Medical
1773 School, including parking, utility, and similar essential and related facilities operated by the
1774 Medical School or its agents either for itself or for itself and other health-related entities and
1775 institutions on a shared-support basis.

1776 "Project" means any medical educational institution and medical facility, including
1777 colleges, schools, and divisions offering undergraduate and graduate programs for the health
1778 professions and sciences and such other branches of learning as may be appropriate; medical
1779 and paramedical facilities; such other facilities deemed by the board of visitors as consistent
1780 with the powers and purposes of Eastern Virginia Medical School; all related and supporting
1781 facilities; and all necessary, desirable, or incidental lands, buildings, improvements, and other
1782 appurtenances and equipment.

1783 **Drafting note: Definitions for bonds, costs, operating project, and project,**
1784 **currently located in §§ 5 and 11 of Chapter 471 of the Acts of Assembly of 1964, as**

1785 amended, are consolidated in this section. Definitions for board of visitors and Medical
1786 School are provided for the chapter. Technical changes are made.

1787 § 1 23.1-3001. Eastern Virginia Medical School established.

1788 ~~There Eastern Virginia Medical School is hereby created established as a public~~
1789 ~~instrumentality, public~~ body politic and corporate, and ~~a~~ political subdivision of the
1790 Commonwealth ~~to be known as the "Eastern Virginia Medical School" hereinafter referred to as~~
1791 ~~"the Medical School," with such public and corporate powers as are hereinafter set forth.~~ The
1792 ~~primary offices and facilities of the~~ Medical School ~~may sue and be sued, plead and be~~
1793 ~~impleaded, and shall have the power and authority to contract and be contracted with and to~~
1794 ~~exercise and discharge all the powers and duties imposed and conferred upon it, as hereinafter~~
1795 ~~provided be located in the Hampton Roads area of the Commonwealth.~~

1796 **Drafting note: This proposed section is derived from § 1 and portions of § 3 of**
1797 **Chapter 471 of the Acts of Assembly of 1964, as amended. Powers of the Medical School in**
1798 **existing § 1 are relocated to proposed § 23.1-3003. Technical changes are made.**

1799 § 2 23.1-3002. Board of visitors; membership; officers; meetings; committees.

1800 A. The Medical School shall be governed by a ~~Board board~~ of ~~Visitors (the Board)~~
1801 ~~visitors~~ composed of 17 members as follows: two nonlegislative citizen members ~~to be~~
1802 appointed ~~at large~~ by the Governor; two nonlegislative citizen members ~~to be~~ appointed ~~at large~~
1803 by the Senate Committee on Rules; three nonlegislative citizen members ~~to be~~ appointed ~~at~~
1804 ~~large~~ by the Speaker of the House of Delegates; six nonlegislative citizen members ~~to be~~
1805 appointed by the Eastern Virginia Medical School Foundation; and four nonlegislative citizen
1806 members ~~of whom shall be~~ appointed by their respective city councils as follows: two members
1807 for the City of Norfolk, one member for the City of Virginia Beach, and one member appointed
1808 by the following city councils in a rotating manner ~~beginning with:~~ the City of Chesapeake, the
1809 City of Hampton, the City of Portsmouth, the City of Suffolk, and the City of Newport News.

1810 ~~Effective June 30, 2009, as terms expire on the Board among those members previously~~
1811 ~~appointed by the region's city councils, the Commonwealth's three appointing bodies B.~~

1812 Members shall ~~make appointments in a rotating manner, in the following order: in 2009, two~~
1813 ~~Governor's appointments and two Senate appointments; and in 2010, three House of Delegates~~
1814 ~~appointments. In 2011, four appointments shall be made by the region's city councils as~~
1815 ~~previously described. Thereafter, all Board appointments will be made by the initial appointing~~
1816 ~~body. Any vacancy that occurs prior to the completion of the term shall be appointed by the~~
1817 ~~appointing authority, for the remainder of the term only.~~

1818 ~~Appointments by the Eastern Virginia Medical School Foundation (the Foundation) shall~~
1819 ~~represent the broad involvement of the Medical School in the Commonwealth at large. All~~
1820 ~~appointments shall be for~~ serve for terms of three years, commencing on ~~the first day of July 1~~
1821 ~~of the appointment year. However, appointments to fill vacancies~~ Vacancies occurring other
1822 than by expiration of a term shall be ~~made~~ filled by the ~~appropriate original~~ appointing
1823 authority, ~~as the case may be, to commence on appropriate dates~~ for the unexpired ~~terms~~ term.
1824 No ~~person~~ member shall ~~be eligible to~~ serve for more than two ~~successive full consecutive~~
1825 three-year terms; however, ~~after the expiration of (i) a term of two years or less, or after the~~
1826 ~~expiration of the remainder of a term to which the member was appointed to fill a vacancy, or~~
1827 ~~after one year following the expiration of a second full three-year term, two additional three-~~
1828 ~~year terms may be served by a member, if appointed. In addition, an officer of the Board may~~
1829 ~~serve up to three additional one-year terms~~ serve an unexpired term is eligible to serve two
1830 consecutive three-year terms immediately succeeding such unexpired term and (ii) an officer is
1831 eligible to serve up to three additional one-year terms. Except as otherwise provided in this
1832 subsection, no member who has served two consecutive three-year terms is eligible to serve on
1833 the board until at least one year has passed since the end of his second consecutive three-year
1834 term. Members shall continue to hold office until their successors have been appointed and
1835 confirmed.

1836 C. Members shall receive no salaries but shall be entitled to reimbursement for necessary
1837 traveling and other expenses incurred while engaged in the performance of their duties. ~~Each~~
1838 ~~member shall continue to hold office until his successor has been appointed and qualified.~~

1839 D. Each appointing authority shall have the right to remove any member it appointed for
1840 malfeasance ~~or~~, misfeasance, incompetence, or gross neglect of duty.

1841 E. Each member shall take an appropriate oath of office before the clerk of any circuit
1842 court of the Commonwealth, and the oath shall be filed with such clerk.

1843 ~~Members of the Board~~ F. The board shall ~~elect, on an annual basis, one of their number~~
1844 ~~as annually elect a~~ rector ~~and another as,~~ vice-rector, treasurer, and ~~shall also elect a~~ secretary
1845 ~~and treasurer and such from among its membership and may elect~~ assistant secretaries and
1846 treasurers ~~as the Board may authorize for terms to be determined by them, who may or may are~~
1847 not required to be ~~one members~~ of the ~~members board~~. The same ~~person member~~ may serve as
1848 both secretary and treasurer.

1849 ~~The Board shall appoint a President, who shall be the chief executive officer, with such~~
1850 ~~duties as may be prescribed by the Board. The Board shall also appoint a dean, a provost, such~~
1851 ~~vice presidents, and other administrative and academic officers as the Board may authorize, and~~
1852 ~~such professors, teachers, staff members, and agents as it deems proper. The Board may~~
1853 ~~prescribe the duties of such staff and faculty, and provide for the employment of other personnel~~
1854 ~~as may be necessary. The Board shall generally direct the affairs of the Medical School.~~

1855 ~~The Board shall make such rules, regulations and bylaws for its own government and~~
1856 ~~procedures as it shall determine. The Board may generally, in respect to the government and~~
1857 ~~management of the Medical School adopt such rules and regulations as it may deem expedient,~~
1858 ~~which are not contrary to law. The Board~~ G. The board shall meet at least four times each year
1859 and may hold such special meetings as it deems necessary. The rector or any three members
1860 may call special meetings of the ~~Board~~ board.

1861 H. The ~~Board~~ board may appoint an executive committee composed of at least three ~~and~~
1862 but no more than five members for the transaction of business in the recess of the ~~Board~~ board.

1863 ~~The Board shall have the right to confer degrees, including honorary degrees, consistent~~
1864 ~~with the approval authority of the State Council of Higher Education pursuant to Title 23 of the~~
1865 ~~Code of Virginia.~~

1866 **Drafting note: This proposed section is derived from portions of § 2 of Chapter 471**
1867 **of the Acts of Assembly of 1964, as amended, related to board membership and**
1868 **organization. Subsection B conforms provisions on appointment and reappointment of**
1869 **members to the provisions of § 23.1-1300. Technical changes are made.**

1870 § 23.1-3003. Board of visitors; duties and powers.

1871 A. The board shall generally direct the affairs of the Medical School and adopt such
1872 regulations and bylaws for its own government and procedures as it shall determine.

1873 B. The board shall appoint a president of the Medical School who shall be the chief
1874 executive officer with such duties as may be prescribed by the board.

1875 C. The board shall appoint a dean and a provost of the Medical School.

1876 D. The board may appoint such vice presidents, administrative and academic officers,
1877 professors, teachers, staff members, agents, and other personnel as it deems proper and
1878 necessary for the transaction of its business within and outside the Commonwealth or the United
1879 States.

1880 E. The board may confer degrees, including honorary degrees, consistent with the
1881 approval authority of the Council pursuant to § 23.1-203.

1882 **Drafting note: This proposed section is derived from portions of § 2 of Chapter 471**
1883 **of the Acts of Assembly of 1964, as amended, related to specific board duties and powers.**
1884 **Technical changes are made.**

1885 § 23.1-3004. Medical School; powers.

1886 A. The Medical School ~~shall be deemed to be a public instrumentality, having its~~
1887 ~~primary offices and facilities located in the Hampton Roads area of the Commonwealth of~~
1888 ~~Virginia. The Medical School shall have the power to exercise and the purpose of exercising~~
1889 ~~may:~~

1890 1. Exercise public and essential governmental functions to provide for the public health,
1891 welfare, convenience, knowledge, benefit, and prosperity of the residents of the Commonwealth
1892 of Virginia and such other persons as may be served by the Medical School. ~~In the exercise of~~

1893 ~~such power and purpose, the Medical School shall deliver and support the delivery of high~~
1894 ~~quality medical and health care and related services to such residents and persons regardless of~~
1895 ~~their ability to pay, by providing educational opportunities and conducting and facilitating~~
1896 ~~research. Further, the Medical School is hereby authorized to exercise the powers conferred by~~
1897 ~~this chapter.;~~

1898 ~~§ 4. The~~ 2. Adopt regulations for the government and management of the Medical
1899 School ~~may identify that it deems expedient and that are not contrary to law;~~

1900 3. Sue and be sued;

1901 4. Plead and be impleaded;

1902 5. Contract and be contracted with;

1903 6. Identify, document, and evaluate needs, problems, and resources relating to medical
1904 and health care, education, and research; and ~~may~~ plan, develop, and implement programs to
1905 meet such needs on both an immediate and long-range basis.;

1906 ~~§ 5. The Medical School may plan~~ 7. Plan, design, construct, possess, own, remove,
1907 renovate, enlarge, equip, maintain, and operate projects ~~for the purpose of providing to provide~~
1908 medical and health care, education, ~~and~~ research, and related ~~and,~~ supporting, ~~services,~~ and
1909 other appropriate ~~purposes. The Medical School may lease~~ services;

1910 8. Lease, sell, or otherwise convey any or all of its projects to others who agree to
1911 ~~provide for operate~~ the ~~operation of the same~~ projects if the Medical School determines that
1912 such lease, sale, or other conveyance will assist, promote, or further the purposes ~~and intent~~ of
1913 this ~~act. chapter;~~

1914 ~~"Projects," as used in this act, mean any medical educational institutions and facilities,~~
1915 ~~including, but not limited to, colleges, schools, and divisions offering undergraduate and~~
1916 ~~graduate programs for the health professions and sciences and such other branches of learning~~
1917 ~~as may be appropriate; medical and paramedical facilities; and such other facilities as shall be~~
1918 ~~deemed by the Board as consistent with the powers and purposes of the Medical School,~~
1919 ~~together with all related and supporting facilities; and all lands, buildings, improvements, and~~

1920 ~~any other appurtenances and equipment necessary or desirable in connection therewith or~~
1921 ~~incidental thereto.~~

1922 "Operating project," as used in this act, means any project owned, in whole or in part, or
1923 controlled, directly or indirectly, in whole or in part, or operated, directly or indirectly, by the
1924 Medical School, and shall also include, without limitation, parking, utility, and similar essential
1925 and related facilities operated by the Medical School or an agent therefor, either for itself or for
1926 itself and other health-related entities and institutions on a shared support basis.

1927 § 6. ~~The Medical School may acquire~~ 9. Acquire property, real or personal, and right,
1928 easement, or estate in such property that it deems necessary by purchase, lease, gift, devise ~~or by~~
1929 ~~the exercise of the power of,~~ or eminent domain, on such terms and conditions, and in such a
1930 manner as it may deem proper, ~~and such rights, easements or estates therein as may be~~
1931 ~~necessary for its purposes,~~ and sell, lease, and dispose of ~~the same,~~ such property or any portion
1932 thereof or interest ~~therein whenever it shall become expedient to do so in such property.~~ The
1933 Medical School shall exercise the power of eminent domain ~~shall be exercised~~ in accordance
1934 with Chapter ~~1.1 2~~ (§ ~~25-46.1 25.1-200~~ et seq.) of Title ~~25 of the Code of Virginia 25.1~~ and only
1935 (i) within the corporate limits of the City of Norfolk and ~~only for the purpose of acquiring (ii) to~~
1936 acquire property to be used for operating projects. ~~No~~ The Medical School shall not condemn,
1937 pursuant to this chapter, the property of any corporation ~~itself having that has~~ the power of
1938 eminent domain ~~may be condemned hereunder.;~~

1939 § 7. ~~The Medical School may fix and~~ 10. Fix, revise ~~from time to time and,~~ charge, and
1940 collect ~~rates, rentals~~ revenues, fees, rents, and other charges for the services and facilities
1941 furnished by the Medical School, and establish and revise ~~from time to time~~ regulations, ~~in~~
1942 ~~respect to~~ regarding the use, occupancy, or operation of all or part of any such facility or ~~part~~
1943 ~~thereof, or~~ service rendered.;

1944 § 8. ~~The Medical School may accept~~ 11. Accept loans, grants, contributions, or
1945 assistance from the federal government, the Commonwealth ~~of Virginia,~~ any municipality
1946 ~~thereof of the Commonwealth,~~ or ~~from~~ any other sources, public or private, ~~to carry out any of~~

1947 ~~its purposes and may source and~~ enter into any agreement or contract regarding ~~or relating to~~ the
1948 acceptance ~~or~~, use₂, or repayment of any such loan, grant, contribution, or assistance_;

1949 ~~§ 8.1. The Medical School shall have the following powers to carry out the purposes and~~
1950 ~~intent of this act:~~

1951 ~~(a) To provide or assist in providing medical and health care, education, and research~~
1952 ~~and related and supporting services within or without the Commonwealth of Virginia or the~~
1953 ~~United States.~~

1954 ~~(b) To develop~~ 12. Develop, undertake, conduct, and provide programs, alone or in
1955 conjunction with any other public or private person or entity₂, for medical, biomedical, and
1956 health care research and any associated disciplines ~~relating related~~ to (i) the knowledge ~~about~~
1957 ~~and the~~₂ causes₂ and cures of diseases, conditions, syndromes, or disorders ~~or to~~, (ii) health care
1958 services₂, or (iii) the delivery of health care_;

1959 ~~(c) To foster~~ 13. Foster the utilization of information, discoveries, data, and material
1960 produced through medical, biomedical, and health care research; ~~to~~ obtain patents, copyrights,
1961 and trademarks for such intellectual ~~properties~~ property; ~~to~~ administer and manage such
1962 intellectual ~~properties~~ property or ~~to~~ contract for such administration and management by
1963 entities organized for such purpose; and ~~to~~ market, transfer, and convey, in whole or in part, any
1964 ~~interests~~ interest in such information, discoveries, data, materials, patents, copyrights,
1965 trademarks, or other intellectual ~~properties~~ property in any manner that is consistent with the
1966 Medical School's patent and copyright policies and the terms of any grants or contracts
1967 providing financial support for the relevant research_;

1968 ~~(d) To promote~~ 14. Promote, develop, improve, and increase the health, welfare,
1969 convenience, commerce, and prosperity of the Commonwealth ~~of Virginia~~_;

1970 ~~(e) To assist~~ 15. Assist in or provide for the creation of domestic or foreign stock and
1971 nonstock corporations; and ~~to~~ purchase, receive, subscribe for, or otherwise acquire, own, hold,
1972 vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of_; (i) shares of or other
1973 interests in; or obligations of_; any domestic or foreign corporations, partnerships, associations,

1974 joint ventures, or other entities organized for any purpose, ~~or (ii)~~ direct or indirect obligations of
1975 the United States, ~~or of~~ any other government, state, territory, governmental district, or
1976 municipality, or ~~of (iii)~~ any other obligations of any association, partnership, or individual or
1977 any other domestic or foreign corporation organized for any purpose.;

1978 ~~(f) To provide~~ 16. Provide appropriate assistance in carrying out any activities
1979 authorized by this ~~act chapter~~ to any domestic or foreign ~~corporations corporation, partnerships~~
1980 ~~partnership, associations association,~~ joint ~~ventures venture,~~ or other ~~entities entity~~ owned in
1981 whole or in part or controlled, directly or indirectly, in whole or in part, by the Medical School,
1982 including, ~~but not limited to,~~ making loans and providing employees.;

1983 ~~(g) To make~~ 17. Make loans and provide other assistance to corporations, partnerships,
1984 associations, joint ventures, or other entities.;

1985 ~~(h) To make~~ 18. Make contracts or guarantees, incur liabilities, borrow money, or secure
1986 any obligations of others.;

1987 ~~(i) To transact~~ 19. Transact its business, establish and locate its offices, facilities, and
1988 any satellite offices and facilities, other than its primary Hampton Roads offices and facilities, at
1989 other locations within and ~~without outside~~ the Commonwealth ~~of Virginia~~ or the United States,
1990 and control, directly or through domestic or foreign stock or nonstock corporations or other
1991 entities, facilities that ~~will~~ assist or aid the Medical School in carrying out the purposes ~~and~~
1992 ~~intent set forth in of~~ this ~~act chapter~~, including, ~~but not limited to,~~ the power to own or operate,
1993 directly, or indirectly, medical educational and research institutions, medical, research, and
1994 paramedical facilities, ~~together with and~~ related and supporting facilities and projects, within or
1995 ~~without outside~~ the Commonwealth ~~of Virginia~~ or the United States.;

1996 ~~(j) To hire employees and staff as necessary for the transaction of its business within and~~
1997 ~~without the Commonwealth of Virginia and the United States.~~

1998 ~~(k) To participate~~ 20. Participate in joint ventures, within or ~~without outside~~ the
1999 Commonwealth ~~of Virginia~~ or the United States, with individuals, corporations, partnerships,
2000 associations, or other entities for providing such medical and health care, education, and

2001 research, or related services or other activities that the Medical School may determine to
2002 undertake;

2003 ~~(l) To conduct~~ 21. Conduct or engage, directly or indirectly, in any lawful business,
2004 activity, effort, or project, that is necessary, convenient, or desirable to assist the Medical School
2005 in carrying out its public purposes or for the exercise of any of its powers, within or ~~without~~
2006 outside the Commonwealth ~~of Virginia~~ or the United States, ~~so long as provided that~~ any private
2007 benefit resulting to any other corporation or other entity from any such business, activity, effort,
2008 or project is merely incidental to the resulting public benefit. ~~However, nothing contained in this~~
2009 ~~section shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia~~
2010 ~~or of the Medical School;~~

2011 ~~(m) To have and exercise, in addition to its other powers,~~ 22. Exercise all the corporate
2012 powers granted to corporations by the provisions of Title 13.1 ~~of the Code of Virginia~~, except in
2013 those cases ~~where in which~~, by the express terms of the provisions ~~thereof of such title, it is such~~
2014 powers are confined to corporations created under such title; and, ~~further, to have the power to~~
2015 accept

2016 23. Accept, execute, and administer any trust in which it may have an interest under the
2017 terms of the instrument creating the trust.

2018 B. Nothing in this chapter shall be deemed a waiver of the sovereign immunity of the
2019 Commonwealth or the Medical School.

2020 **Drafting note: This proposed section is derived from the provisions of §§ 1 and 3**
2021 **through 8.1 of Chapter 471 of the Acts of Assembly of 1964, as amended, relating to**
2022 **Medical School powers. Portions of § 3 and the definitions of "projects" and "operating**
2023 **project" from § 5 of Chapter 471 (1964) are relocated to §§ 23.1-3000 and 23.1-3006.**
2024 **Technical changes are made.**

2025 § 23.1-3005. Medical School; exercise of powers.

2026 A. The exercise of the powers granted by this chapter are for the benefit of the residents
2027 of the Commonwealth and the promotion of their safety, health, welfare, knowledge, benefit,
2028 convenience, and prosperity.

2029 B. The operation and maintenance of any project that the Medical School is authorized
2030 to undertake constitutes the performance of an essential governmental function.

2031 **Drafting note: This proposed section is derived from the first paragraph of § 17 of**
2032 **Chapter 471 of the Acts of Assembly of 1964, as amended, relating to the exercise of**
2033 **powers by the Medical School. Technical changes are made.**

2034 § 23.1-3006. Medical School; duties.

2035 The Medical School shall deliver and support the delivery of high quality medical and
2036 health care and related services to residents of the Commonwealth and such other persons as
2037 may be served by the Medical School regardless of their ability to pay, provide educational
2038 opportunities, and conduct and facilitate research.

2039 **Drafting note: This proposed section is derived from a portion of § 3 of Chapter**
2040 **471 of the Acts of Assembly of 1964, as amended, relating to Medical School duties.**
2041 **Technical changes are made.**

2042 § 23.1-3007. Medical School; powers and duties; bonds.

2043 A. The Medical School may ~~borrow money and~~ issue bonds ~~as hereinafter provided.~~

2044 § 11. The Medical School is hereby authorized to issue bonds from time to time in its
2045 discretion for the purpose of paying to pay all or any part of the cost of any project within the
2046 Commonwealth of Virginia, ~~financing~~ finance and refinance any of its programs or its general
2047 operations, or ~~refunding~~ refund any outstanding bonds or other obligations of the Medical
2048 School ~~now or hereafter outstanding~~ whether or not the bonds or obligations to be refunded have
2049 matured or are ~~then~~ subject to redemption.

2050 ~~Refunding bonds~~ B. The Medical School may ~~be issued~~ issue refunding bonds in
2051 exchange for bonds or obligations being refunded, to pay (i) the principal, premium, if any, and
2052 interest accrued and to accrue on such bonds or obligations, or any portion ~~thereof, of such~~

2053 bonds or obligations to maturity or earlier date of redemption ~~or to pay, (ii)~~ the purchase price of
2054 any such bonds or obligations to be retired upon such purchase, ~~as may be determined by the~~
2055 Medical School, or (iii) any related payment in connection with such refunding bonds.

2056 C. The Medical School may issue such types of bonds as it may determine, including
2057 ~~(without limiting the generality of the foregoing)~~ bonds payable as to principal and interest from
2058 any one or more of the following sources: (i) its revenues generally; (ii) the income and
2059 revenues of a particular project ~~(, including revenues from the sale or lease of such project);~~ (iii)
2060 the income and revenues of certain designated projects, whether ~~or not~~ they are financed in
2061 whole or in part from the proceeds of such bonds; (iv) the proceeds of the sale or lease of any
2062 project ~~or projects~~, whether ~~or not they are~~ it is financed from the proceeds of such bonds; (v)
2063 funds realized from the enforcement of security interests or other liens securing such bonds; (vi)
2064 proceeds from the sale of bonds of the Medical School; (vii) payments due under letters of
2065 credit, policies of municipal bond insurance, guarantees, or other credit enhancements securing
2066 payment of bonds of the Medical School; (viii) any reserve or sinking funds created to secure
2067 such payment; or (ix) other available funds of the Medical School.

2068 ~~As used in this act, unless the context requires otherwise:~~

2069 ~~"Bonds" includes bonds, notes, revenue certificates, lease participation certificates, and~~
2070 ~~other evidences of indebtedness or deferred purchase financing arrangements.~~

2071 ~~"Cost" means costs of construction, reconstruction, renovation, site work, acquisition of~~
2072 ~~lands, structures, rights of way, franchises, easements, and other property rights and interests;~~
2073 ~~costs of demolition, removal, or relocation of buildings or structures; costs of labor, materials,~~
2074 ~~machinery, and all other kinds of equipment; financing charges; costs of issuance of the bonds,~~
2075 ~~including printing, engraving, advertising, legal, and other similar expenses; credit enhancement~~
2076 ~~and liquidity facility fees; fees for interest rate caps, collars, and swaps; interest on bonds and~~
2077 ~~other borrowing in connection with a project prior to and during construction thereof and for a~~
2078 ~~period not exceeding one year after the completion of such construction; costs of engineering~~
2079 ~~and inspections, financial, legal, and accounting services, plans, specifications, studies, surveys,~~

2080 ~~estimates of costs and of revenues, feasibility studies, administrative expenses, including~~
2081 ~~administrative expenses during the start up of any project; provisions for working capital to be~~
2082 ~~used in connection with any project; reserve funds and other reserves for the payment of~~
2083 ~~principal and interest on bonds; and all other expenses necessary, desirable, or incidental to the~~
2084 ~~construction, reconstruction, renovation, and acquisition of projects, the financing of same, or~~
2085 ~~placing of the same in operation.~~

2086 ~~Any such bonds may be additionally guaranteed by, or secured by a pledge of any grant,~~
2087 ~~contribution, or appropriation from, a participating political subdivision, the Commonwealth or~~
2088 ~~any political subdivision, agency or instrumentality thereof, any federal agency or any unit,~~
2089 ~~private corporation, copartnership, association, or individual, or a pledge of any income or~~
2090 ~~revenues of the Medical School, or a mortgage of, or a deed of trust or other lien or a security~~
2091 ~~interest in, any particular project or projects or other property of the Medical School or any~~
2092 ~~individual or entity referred to above.~~

2093 ~~Neither the members of the Board of the Medical School nor any person executing any~~
2094 ~~bonds issued under the provisions of this act shall be liable personally on the bonds by reason of~~
2095 ~~the issuance thereof. The bonds of the Medical School (and such bonds shall so state on their~~
2096 ~~face) shall not be a debt of the Commonwealth or any political subdivision thereof; neither the~~
2097 ~~Commonwealth nor any political subdivision thereof, other than the Medical School, shall be~~
2098 ~~liable thereon, nor shall such bonds be payable out of any funds or properties of the~~
2099 ~~Commonwealth or any political subdivision thereof, other than those of the Medical School. The~~
2100 ~~bonds shall not constitute indebtedness within the meaning of any debt limitation or restriction~~
2101 ~~on any Virginia local government. Bonds of the Medical School are declared to be issued for an~~
2102 ~~essential public and governmental purpose.~~

2103 ~~§ 12. Bonds of the Medical School shall be authorized by resolution and D. Bonds of the~~
2104 ~~Medical School may be (i) issued in one or more series, shall be dated, shall mature at such time~~
2105 ~~or times not exceeding forty years from their date or dates and shall bear interest payable at such~~
2106 ~~time or times at such rate or rates, as may be determined by the Medical School, or as may be~~

2107 ~~determined in such manner as the Medical School may provide, including the determination by~~
2108 ~~agents designated by the Medical School under guidelines established by the Medical School.~~
2109 ~~Such bonds may be and (ii)~~ made redeemable or subject to tender before maturity, ~~at the option~~
2110 ~~of the Medical School,~~ at such price ~~or prices~~ and under such terms and conditions as may be
2111 fixed by the Medical School prior to the issuance of the bonds and shall be authorized by
2112 resolution, be dated, mature no later than 40 years of their date, and bear interest payable at such
2113 time and rate as may be determined by the Medical School and in such a manner as may be
2114 determined by the Medical School, including a determination by agents designated by the
2115 Medical School pursuant to the Medical School's guidelines.

2116 E. The Medical School shall determine the form ~~of the bonds~~, including any interest
2117 coupons to be attached ~~thereto, and to the bonds,~~ the manner of execution ~~of the bonds, and~~
2118 ~~shall fix,~~ the denomination ~~or denominations of the bonds,~~ and the place ~~or places~~ of payment of
2119 principal and interest of the bonds, which may be at any bank ~~or,~~ trust company, or securities
2120 depository within or ~~without~~ outside the Commonwealth.

2121 ~~In case F. If~~ any officer whose signature or a facsimile of whose signature ~~shall appear~~
2122 appears on any ~~bonds bond~~ or ~~coupons shall cease coupon ceases~~ to be such officer before
2123 delivery of such bond or coupon, such signature or ~~such~~ facsimile ~~shall nevertheless be is~~ valid
2124 and sufficient for all purposes ~~the same~~ as if ~~he~~ such officer had remained in office until such
2125 delivery.

2126 G. Notwithstanding any ~~of the other provisions provision~~ of this ~~act chapter~~ or any
2127 recitals in any bonds issued under the provisions of this ~~act chapter~~, all ~~such bonds shall be~~
2128 ~~deemed to be~~ of the Medical School are negotiable instruments under the laws of the
2129 Commonwealth ~~of Virginia.~~

2130 H. The Medical School may (i) issue bonds ~~may be issued~~ in coupon or registered form
2131 or both, ~~as the Medical School may determine, and provision may be made (ii) provide~~ for (a)
2132 the registration of any coupon bonds as to principal alone and ~~also~~ as to both principal and
2133 interest; and ~~for (b)~~ the reconversion ~~into coupon bonds~~ of any bonds registered as to both

2134 principal and interest. ~~Bonds~~ into coupon bonds, and (iii) issue bonds issued in registered form
2135 ~~may be issued~~ under a system of book-entry for recording the ownership and transfer of
2136 ownership of rights to receive payments of principal of ~~and~~, premium, if any, and interest on
2137 such bonds.

2138 I. The Medical School may contract for the services of ~~one or more~~ banks, trust
2139 companies, financial institutions, or other entities or persons; within or outside the
2140 Commonwealth; for the authentication, registration, transfer, exchange, and payment of the
2141 bonds; or may ~~provide~~ perform such ~~services~~ actions itself.

2142 J. The Medical School may determine a price for its bonds and sell such bonds ~~in such~~
2143 ~~manner, either~~ at public or private sale; and for such price; as it ~~may determine~~ determines to be
2144 for the best interests of the Medical School.

2145 K. Prior to the preparation of definitive bonds, the Medical School may, under like
2146 restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable
2147 for definitive bonds when such bonds ~~shall have been~~ are executed and ~~are~~ available for
2148 delivery.

2149 L. The Medical School may ~~also~~ provide for the replacement of any bonds that ~~shall~~
2150 ~~become~~ are mutilated ~~or shall be~~, destroyed, stolen, or lost.

2151 ~~Bonds~~ M. The Medical School may ~~be issued~~ issue bonds under the provisions of this
2152 ~~act~~ chapter without obtaining the consent of any commission, board, bureau, or agency of the
2153 Commonwealth or ~~of~~ any political subdivision; and ~~without~~ is not subject to any ~~other~~
2154 proceedings or ~~the happening of other~~ conditions ~~or things~~ in the issuance of such bonds other
2155 than those ~~proceedings, conditions or things that are specifically required by~~ set forth in this ~~act~~
2156 chapter.

2157 § 13. In the discretion of the ~~N. The~~ Medical School; may issue or secure any bonds
2158 ~~issued~~ under the provisions of this ~~act~~ may be issued chapter pursuant to ~~or secured by~~ (i) a trust
2159 indenture or other agreement by way of conveyance, deed of trust, or mortgage of any project or
2160 any other property of the Medical School, whether or not financed in whole or in part from the

2161 proceeds of such bonds, ~~or by (ii)~~ a trust or other agreement ~~by and~~ between the Medical School
2162 and ~~a corporate trustee (which may be either (a)~~ any trust company or bank having the powers
2163 of a trust company within or ~~without outside~~ the Commonwealth) ~~or other acting as corporate~~
2164 ~~trustee or another~~ agent for bondholders, ~~or a purchaser of any bonds~~ or (b) a purchaser of any
2165 ~~bond~~ or ~~by both (iii)~~ any combination of such conveyance, deed of trust, or mortgage and
2166 indenture, trust, or other agreement. Such trust, indenture, trust, or other agreement, or the
2167 resolution providing for the issuance of such bonds, may pledge or assign revenues, fees, rents,
2168 and other charges to be received. Such trust indenture ~~or~~, trust, or other agreement, or the
2169 resolution providing for the issuance of such bonds, may contain such provisions for protecting
2170 and enforcing the rights and remedies of the bondholders as may be reasonable and proper and
2171 not in violation of law, including covenants (i) providing for the repossession and sale of any or
2172 part of any project by the Medical School or any trustees under any trust indenture or agreement
2173 ~~of any project, or part thereof,~~ upon any default under the lease or sale of such project, and (ii)
2174 setting forth (a) the duties of the Medical School in relation to the acquisition of property and
2175 the construction, improvement, maintenance, repair, operation, and insurance of any project or
2176 other property of the Medical School, (b) the amounts of revenues, fees, rents, and other charges
2177 to be charged, (c) the collection of such revenues, fees, rents, and other charges, ~~and (d)~~ the
2178 custody, safeguarding, and application of all moneys of the Medical School, and (e) conditions
2179 or limitations with respect to the issuance of additional bonds.

2180 ~~It shall be lawful for any O. Any~~ national bank with its main office in the
2181 Commonwealth or any other state or any bank or trust company incorporated under the laws of
2182 the Commonwealth or another state that ~~may act~~ acts as depository of the proceeds of ~~such~~
2183 bonds or ~~of~~ other revenues of the Medical School ~~to~~ may furnish indemnifying bonds or ~~to~~
2184 pledge such securities as may be required by the Medical School.

2185 ~~Such~~ P. Each trust indenture, trust, or other agreement, or the resolution providing for
2186 the issuance of such bonds, may set forth the rights and remedies of the bondholders and ~~of the~~

2187 ~~any~~ trustee or other agent for the bondholders, ~~and may~~ restrict the individual right of action by
2188 bondholders.

2189 ~~In addition to the foregoing, such trust indenture, trust or other agreement or resolution~~
2190 ~~may, and~~ contain such other provisions as the Medical School ~~may deem~~ deems reasonable and
2191 proper for the security of the bondholders, including, ~~without limitation,~~ provisions for the
2192 assignment ~~to a corporate trustee or other agent for bondholders~~ of any rights of the Medical
2193 School in any project owned, operated, or controlled by, or leases or sales of any projects made
2194 by, the Medical School to a corporate trustee or other agent for bondholders or the purchaser of
2195 such bonds.

2196 Q. All expenses incurred in carrying out the provisions of such trust indenture ~~or, trust,~~
2197 or other agreement, or the resolution ~~or other agreements~~ providing for the issuance of such
2198 bonds, relating to any project, including those to which the Medical School may not be a party,
2199 may be treated as a part of the cost of a project.

2200 § 18. R. Bonds issued by the Medical School under the provisions of this ~~act~~ chapter are
2201 ~~hereby made~~ securities in which all public officers and public bodies of the Commonwealth and
2202 its political subdivisions, ~~all~~ insurance companies, trust companies, banking associations,
2203 investment companies, executors, administrators, trustees, and other fiduciaries may properly
2204 and legally invest funds, including capital in their control or belonging to them. Such bonds are
2205 ~~hereby made~~ securities ~~which that~~ may properly and legally be deposited with and received by
2206 any state or municipal officer or any agency or political subdivision of the Commonwealth for
2207 any purpose for which the deposit of bonds or obligation is ~~now or may hereafter be~~ authorized
2208 by law.

2209 § 16. S. Any (i) holder of bonds, issued under the provisions of this ~~act~~ chapter or ~~of any~~
2210 ~~of the~~ coupons appertaining ~~thereto, and the~~ to such bonds and (ii) trustee or other agent for
2211 bondholders under any trust indenture ~~or, trust,~~ or other agreement, or the resolution providing
2212 for the issuance of such bonds, except to the extent that the rights ~~herein~~ given in this subsection
2213 may be restricted by such trust indenture ~~or, trust,~~ or other agreement, or the resolution

2214 providing for the issuance of such bonds, may, either at law or in equity, by suit, action,
2215 injunction, mandamus, or other proceedings, protect and enforce any and all rights under the
2216 laws of the Commonwealth~~or,~~ granted by this~~act~~ chapter, or under such trust indenture~~or,~~
2217 trust, or other agreement, or the resolution ~~authorizing~~ providing for the issuance of such bonds,
2218 and ~~may~~ enforce and compel the performance of all duties required by this~~act~~ chapter or ~~by~~
2219 such trust indenture~~or,~~ trust, or other agreement, or the resolution providing for the issuance of
2220 such bonds, to be performed by the Medical School or ~~by~~ any officer or agent ~~thereof of the~~
2221 Medical School, including the fixing, charging, and collection of revenues, fees, rents, and other
2222 charges.

2223 T. Any bond of the Medical School may be guaranteed or secured by a pledge of any (i)
2224 grant, contribution, or appropriation from a participating political subdivision, the
2225 Commonwealth, any political subdivision, agency, or instrumentality of the Commonwealth,
2226 any federal agency, or any unit, private corporation, copartnership, association, or individual,
2227 (ii) income or revenues of the Medical School, or (iii) mortgage of or deed of trust or other lien
2228 or security interest in any project or other property of the Medical School or any individual or
2229 entity referred to in clause (i). No member of the board or any person executing any bonds
2230 issued under the provisions of this chapter shall be liable personally on the bonds for issuing
2231 such bonds.

2232 U. The bonds of the Medical School shall not be a debt of the Commonwealth or any
2233 other political subdivision of the Commonwealth, and such bonds shall so state on their face.
2234 Neither the Commonwealth nor any political subdivision of the Commonwealth other than the
2235 Medical School shall be liable on the bonds. Such bonds shall not be payable out of any funds or
2236 properties of the Commonwealth or any political subdivision of the Commonwealth other than
2237 those of the Medical School. The bonds shall not constitute indebtedness within the meaning of
2238 any debt limitation or restriction on any locality in the Commonwealth.

2239 V. Bonds of the Medical School are issued for an essential public and governmental
2240 purpose.

2241 **Drafting note: This proposed section is derived from §§ 9, 11, 12, 13, 16, and 18 of**
2242 **Chapter 471 of the Acts of Assembly of 1964, as amended, relating to bonds. Technical**
2243 **changes are made.**

2244 § ~~14~~ 23.1-3008. Medical School; additional powers; revenues, fees, rents, and other
2245 charges for projects.

2246 A. The Medical School ~~is hereby authorized to~~ may fix, revise, charge, and collect
2247 revenues, fees, rents, and other charges for the use of any project. Such revenues, fees, rents,
2248 and other charges shall ~~be~~ fixed and adjusted ~~as~~ to provide a fund sufficient with other
2249 revenues to pay the principal of and any interest on bonds secured by or otherwise to be paid by
2250 such revenues as ~~the same shall~~ such principal and interest become due and payable; ~~;~~ to create
2251 reserves for such purposes and for other purposes of the Medical School; and to pay the cost of
2252 maintaining, repairing, and operating the project. Such revenues, fees, rents, and charges ~~shall~~
2253 are not ~~be~~ subject to supervision or regulation by any commission, board, bureau, or agency of
2254 the Commonwealth or any such participating political subdivision.

2255 B. The revenues, fees, rents, and other charges received by the Medical School may be
2256 applied and ~~be~~ set aside ~~from time to time in the~~ such order and ~~in the~~ manner as may be
2257 provided in such ~~resolution or~~ trust indenture, trust, or other agreement, or the resolution
2258 providing for the issuance of such bonds, including application to a sinking fund that may be
2259 pledged to, and charged with, the payment of the principal of and the interest on such bonds as
2260 ~~the same shall~~ such principal and interest become due, and the redemption price or ~~the~~ purchase
2261 price of such bonds retired by call or purchase as ~~therein~~ provided in such trust indenture, trust,
2262 or other agreement, or the resolution providing for the issuance of such bonds.

2263 C. All pledges of such revenues, fees, rents, and other charges to payment of bonds ~~shall~~
2264 be are valid and binding from the time when the pledge is made.

2265 D. The revenues, fees, rents, and charges ~~so~~ pledged and ~~thereafter~~ received by the
2266 Medical School ~~shall~~ are immediately ~~be~~ subject to the lien of such pledge without any physical
2267 delivery ~~thereof~~ or further act, and the lien of any such pledge ~~shall be~~ is valid and binding as

2268 against all parties having claims of any kind in tort, contract, or otherwise against the Medical
2269 School, regardless of whether such parties have notice ~~thereof. Neither of~~ the lien.

2270 ~~resolution, any~~ E. No trust indenture, trust, ~~nor or~~ other agreement, or resolution
2271 authorizing the issuance of such bonds, by which a pledge is created ~~need is required to~~ be filed
2272 or recorded except in the records of the Medical School.

2273 F. The use and disposition of moneys to the credit of such sinking fund shall be subject
2274 to the provisions of ~~the resolution authorizing the issuance of such bonds or of~~ such trust
2275 indenture ~~or,~~ trust, or other agreement, or the resolution providing for the issuance of such
2276 bonds. Except as ~~may~~ otherwise ~~be~~ provided in such ~~resolution or such,~~ trust indenture ~~or,~~ trust,
2277 or other agreement, or the resolution providing for the issuance of such bonds, such sinking fund
2278 ~~shall be is~~ a fund for all such bonds without distinction or priority of one over another.

2279 **Drafting note: This proposed section is derived from § 14 of Chapter 471 of the**
2280 **Acts of Assembly of 1964, as amended. Technical changes are made.**

2281 ~~§ 10~~ 23.1-3009. Cooperation of localities.

2282 In addition to the powers granted by general law or by its charter, any ~~county, city, or~~
2283 ~~town~~ locality in the Commonwealth ~~is empowered to~~ may cooperate with the Medical School ~~as~~
2284 ~~follows to:~~

2285 ~~(a) To make~~ 1. Make such appropriations and provide such funds by outright donation,
2286 loan, or agreement with the Medical School for ~~the operation~~ operating and carrying out the
2287 purposes of the Medical School as the local governing body may deem proper, ~~either by outright~~
2288 ~~donation or by loan, or the governing body may agree with the Medical School to take such~~
2289 ~~action.;~~

2290 ~~(b) To dedicate~~ 2. Dedicate, sell, convey, or lease any of its interest in property, or grant
2291 liens, easements, licenses, or any other privileges ~~therein in~~ or ~~thereon~~ on the property to or for
2292 the benefit of the Medical School.;

2293 ~~(c) To cause~~ 3. Cause parks, playgrounds, and recreational, community, educational,
2294 water, sewer, or drainage facilities, or any other works, ~~which that~~ it is otherwise empowered to

2295 may undertake, to be furnished adjacent to or in connection with any property ~~of or any~~, facility,
2296 or project of the Medical School;

2297 ~~(d) To furnish~~ 4. Furnish, dedicate, close, pave, install, grade ~~or~~, regrade, plan, or replan
2298 streets, roads, roadways, alleys, sidewalks, or other places, ~~which it is otherwise empowered to~~
2299 undertake;

2300 ~~(e) To plan or~~ 5. Plan, replan, zone, or rezone any part of ~~such county, city, or town the~~
2301 locality in connection with the use of any property of the Medical School or ~~any~~, property
2302 adjacent to the property of the Medical School ~~or any~~, facilities, or projects ~~that it is otherwise~~
2303 empowered to undertake, in accordance with general laws;

2304 ~~(f) To cause~~ 6. Furnish services to ~~be furnished to~~ the Medical School ~~of the character~~
2305 that such county, city, or town is empowered to furnish;

2306 ~~(g) To purchase~~ 7. Purchase any of the bonds of the Medical School or legally invest in
2307 such bonds any funds belonging to or within the control of ~~such county, city, or town the~~
2308 locality and exercise all the rights of any holder of such bonds;

2309 ~~(h) To do~~ 8. Do any and all things necessary or convenient to aid or cooperate in the
2310 planning, undertaking, construction, or operation of any of the plans, projects, or facilities of the
2311 Medical School; and

2312 ~~(i) To enter~~ 9. Enter into agreements with the Medical School ~~respecting regarding~~
2313 action to be taken by ~~such county, city, or town the~~ locality pursuant to any of the above powers
2314 set forth in this section.

2315 **Drafting note: This proposed section is derived from § 10 of Chapter 471 of the**
2316 **Acts of Assembly of 1964, as amended. Technical changes are made.**

2317 § ~~15~~ 23.1-3010. Proceeds; trust funds.

2318 All moneys received ~~pursuant to this act~~ by the Medical School pursuant to this chapter,
2319 whether as proceeds from the sale of bonds or as revenues, ~~shall be deemed to be~~ are trust funds
2320 to be held and applied solely as provided in this ~~act~~ chapter.

2321 **Drafting note: This proposed section is derived from § 15 of Chapter 471 of the**
2322 **Acts of Assembly of 1964, as amended. Technical changes are made.**

2323 § ~~8.3~~ 23.1-3011. Discrimination prohibited.

2324 In hiring practices and in the procurement of goods and services, the Medical School
2325 shall not discriminate against any person on the basis of race, color, religion, national origin,
2326 sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability.

2327 **Drafting note: This proposed section is derived from § 8.3 of Chapter 471 of the**
2328 **Acts of Assembly of 1964, as amended. A section catchline is added.**

2329 § ~~8.2~~ 23.1-3012. Exemptions.

2330 The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.), the Administrative
2331 Process Act (§ 2.2-4000, et seq.), and the Virginia Public Procurement Act (§ 2.2-4300 et seq.)
2332 ~~of Title 2.2 of the Code of Virginia shall do~~ not apply to the ~~Eastern Virginia~~ Medical School in
2333 ~~the its~~ exercise of any power conferred under this chapter, ~~as amended.~~

2334 **Drafting note: This proposed section is derived from § 8.2 of Chapter 471 of the**
2335 **Acts of Assembly of 1964, as amended and a clarifying reference to the Virginia Personnel**
2336 **Act is proposed. Technical changes are made.**

2337 § ~~17~~ 23.1-3013. Taxation.

2338 ~~The exercise of the powers granted by this act shall be in all respects for the benefit of~~
2339 ~~the inhabitants of the Commonwealth, for the promotion of their safety, health, welfare,~~
2340 ~~knowledge, benefit, convenience and prosperity, and as the operation and maintenance of any~~
2341 ~~project that the Medical School is authorized to undertake will constitute the performance of an~~
2342 ~~essential governmental function, no authority~~ A. The Medical School shall not be required to
2343 pay any taxes or assessments upon any project acquired and constructed by ~~it~~ the Medical
2344 School under the provisions of this ~~act, and the chapter.~~

2345 B. The bonds issued under the provisions of this ~~act, chapter,~~ their transfer ~~and,~~ the
2346 income ~~therefrom~~ from such bonds, and the income from the transfer of such bonds, including

2347 any profit made on the sale ~~thereof of such bonds, shall at all times be free and are~~ exempt from
2348 taxation by the Commonwealth and ~~by~~ any political subdivision ~~thereof of the Commonwealth.~~

2349 **Drafting note: This proposed section is derived from § 17 of Chapter 471 of the**
2350 **Acts of Assembly of 1964, as amended, relating to exemption from taxes for projects and**
2351 **the bonds issued for such projects. General provisions in the first sentence of existing § 17**
2352 **are relocated to proposed § 23.1-3005.**

2353 § ~~19~~ 23.1-3014. Scope of chapter.

2354 This ~~act~~ chapter shall constitute full and complete authority for the Medical School,
2355 without regard to the provisions of any other law, ~~for the purposes, activities, and powers herein~~
2356 ~~authorized,~~ and shall be liberally construed to effect ~~the its~~ purposes ~~hereof. The provisions of~~
2357 ~~this act are severable, and if any of its provisions shall be held unconstitutional by any court of~~
2358 ~~competent jurisdiction, the decision of such court shall not affect or impair any of the other~~
2359 ~~provisions of this act.~~

2360 **Drafting note: This proposed section is derived from § 19 of Chapter 471 of the**
2361 **Acts of Assembly of 1964, as amended. Provisions that deal with severability are removed**
2362 **per the Code-wide application of § 1-243. Technical changes are made.**

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2374 TITLE ~~23~~ 23.1.

2375 EDUCATIONAL INSTITUTIONS OF HIGHER EDUCATION; OTHER EDUCATIONAL
2376 AND CULTURAL INSTITUTIONS.

2377 SUBTITLE I.

2378 GENERAL PROVISIONS.

2379 CHAPTER 1.

2380 DEFINITIONS AND GENERAL PROVISIONS.

2381 **Drafting note: Proposed Chapter 1 contains separate articles for Definitions and**
2382 **General Provisions. Definitions of terms used throughout the title replace chapter-specific**
2383 **definitions or have been created for the sake of clarity.**

2384 Article 1.

2385 Definitions.

2386 **Drafting note: Definitions of terms used throughout the title replace chapter-**
2387 **specific definitions or have been created for the sake of clarity.**

2388 § 23.1-100. Definitions.

2389 As used in this title, unless the context requires a different meaning:

2390 "Associate-granting" means that an associate degree is the most advanced degree that is
2391 granted.

2392 "Associate-granting public institution of higher education" includes Richard Bland
2393 College and each comprehensive community college.

2394 "Baccalaureate" means that bachelor's degrees or more advanced degrees, or both, are
2395 granted.

2396 "Baccalaureate public institution of higher education" includes Christopher Newport
2397 University, George Mason University, James Madison University, Longwood University,
2398 University of Mary Washington, Norfolk State University, Old Dominion University, Radford
2399 University, University of Virginia, University of Virginia's College at Wise as a division of
2400 University of Virginia, Virginia Commonwealth University, Virginia Military Institute, Virginia

2401 Polytechnic and State University, Virginia State University, and the College of William and
2402 Mary in Virginia.

2403 "Comprehensive community college" means an associate-granting institution of higher
2404 education governed by the State Board that offers instruction in one or more of the following
2405 fields:

2406 1. Freshman and sophomore courses in arts and sciences acceptable for transfer to
2407 baccalaureate degree programs;

2408 2. Diversified technical curricula, including programs leading to the associate degree;

2409 3. Career and technical education leading directly to employment;

2410 4. Courses in general and continuing education for adults in the fields set out in
2411 subdivisions 1, 2, and 3; or

2412 5. Noncredit training and retraining courses and programs of varying lengths to meet the
2413 needs of business and industry in the Commonwealth.

2414 "Council" means the State Council of Higher Education for Virginia.

2415 "For-profit private institution of higher education" means any postsecondary school, as
2416 that term is defined in § 23.1-213, in the Commonwealth that is privately owned, privately
2417 managed, and obligated to pay federal income taxes in the Commonwealth and is certified by
2418 the Council to offer degrees or exempt from such certification pursuant to Article 3 (§ 23.1-213
2419 et seq.) of Chapter 2.

2420 "Governing board" includes the State Board and the board of visitors of each
2421 baccalaureate public institution of higher education. "Governing board" does not include local
2422 community college boards.

2423 "In-state student" means any student who has established domicile in the
2424 Commonwealth pursuant to § 23.1-5xx.

2425 "In-state tuition" means the tuition rate for which an in-state student is eligible at a
2426 public institution of higher education.

2427 "Nonprofit private institution of higher education" means any postsecondary school, as
2428 that term is defined in § 23.1-213, in the Commonwealth that is exempt from paying federal
2429 income taxes under § 501(c)(3) of the Internal Revenue Code and is certified by the Council to
2430 offer degrees or exempt from such certification pursuant to Article 3 (§ 23.1-213 et seq.) of
2431 Chapter 2.

2432 "Out-of-state student" means any student who has not established domicile in the
2433 Commonwealth pursuant to § 23.1-5xx.

2434 "Public institution of higher education" includes the System as a whole and each
2435 associate-granting and baccalaureate public institution of higher education.

2436 "State Board" means the State Board for Community Colleges.

2437 "System" means the Virginia Community College System.

2438 **Drafting note: Definitions for "comprehensive community college," "State Board,"**
2439 **and "System" are moved from existing Chapter 16. The remaining definitions are**
2440 **proposed for the sake of title-wide clarity.**

2441 Article 2.

2442 General Provisions.

2443 **Drafting note: General provisions, including existing § 23-9.10:3 on contracts**
2444 **between private institutions of higher education and the Commonwealth or public**
2445 **institutions of higher education, are relocated to proposed Article 2.**

2446 ~~§ 23-9.2 23.1-101. Public policy of Commonwealth in respect to endowment~~
2447 Endowment funds of ~~state-supported public~~ institutions of higher education.

2448 ~~Whereas, the state-supported system of higher education can be greatly strengthened by~~
2449 ~~increases in the endowment funds and unrestricted gifts of the several institutions of higher~~
2450 ~~education derived from private sources; and~~

2451 ~~Whereas, prospective donors to the endowment funds and donors of unrestricted gifts of~~
2452 ~~the several institutions hesitate to contribute thereto on the ground that, to the extent that the~~

2453 ~~income of the respective institutions is increased from private sources, the Commonwealth will~~
2454 ~~withdraw its support; and~~

2455 ~~Whereas, in § 10 of Chapter 33 of the Acts of Assembly of 1927, the General Assembly,~~
2456 ~~by setting endowment funds and income therefrom apart from other revenues of and~~
2457 ~~appropriations to the institutions of higher education, indicated an intention that endowments~~
2458 ~~and unrestricted gifts from private sources are to be in addition to such other revenues and~~
2459 ~~appropriations; now, therefore,~~

2460 ~~(1) A. It is hereby declared to be the public policy of the Commonwealth to encourage~~
2461 ~~the state-supported institutions that:~~

2462 ~~1. Each public institution of higher education in Virginia, the Frontier Culture Museum,~~
2463 ~~Gunston Hall, the Jamestown-Yorktown Foundation, the Science Museum of Virginia, and the~~
2464 ~~Virginia Museum of Fine Arts shall be encouraged in their attempts to increase their endowment~~
2465 ~~funds and unrestricted gifts from private sources; and reduce the hesitation of prospective~~
2466 ~~donors to make contributions and unrestricted gifts; and~~

2467 ~~(2) It is further declared to be the public policy of the Commonwealth that, in~~

2468 ~~2. Consistent with § 10 of Chapter 33 of the Acts of Assembly of 1927, in measuring the~~
2469 ~~extent to which the Commonwealth shall finance higher education in Virginia the~~
2470 ~~Commonwealth, the availability of the endowment funds and unrestricted gifts from private~~
2471 ~~sources of institutions of higher education received by such public institutions of higher~~
2472 ~~education, the Frontier Culture Museum, Gunston Hall, the Jamestown-Yorktown Foundation,~~
2473 ~~the Science Museum of Virginia, and the Virginia Museum of Fine Arts shall not neither be~~
2474 ~~taken into consideration in, nor used to reduce, state appropriations or payments, but such funds~~
2475 ~~and shall be used in accordance with the wishes of the donors thereof of such funds to~~
2476 ~~strengthen the services rendered by these institutions to the people of the Commonwealth.~~

2477 **Drafting note: Technical changes.**

2478 ~~§ 23-4 23.1-102. Register of state property Chief executive officer of each public~~
2479 ~~institution of higher education; duties.~~

2480 The chief executive officer of ~~every state~~ each public institution of higher education
2481 shall ~~keep~~:

2482 ~~a book in which he shall cause to be registered~~ 1. Maintain a register that contains a
2483 description of all the property of the Commonwealth at ~~such the~~ the institution, ~~with a correct~~
2484 ~~description thereof~~, for the information of the board of visitors, and others interested. ~~Any~~
2485 ~~officer failing to comply with this section shall forfeit fifty dollars.~~

2486 ~~§ 23-4.4. Authorization to transfer interest; Governor's approval required under certain~~
2487 ~~circumstances.~~

2488 ~~A. The boards of visitors, the State Board for Community Colleges, or their designees~~
2489 ~~are authorized to assign any interest they possess in intellectual property or in materials in which~~
2490 ~~the institution claims an interest, provided such assignment is in accordance with the terms of~~
2491 ~~the institution's intellectual property policies adopted pursuant to subsection A of § 23-4.3.~~
2492 ~~However, the Governor's prior written approval shall be required for transfers of such property~~
2493 ~~developed wholly or predominately through the use of state general funds, exclusive of capital~~
2494 ~~assets, and either (i) such property was developed by an employee of the institution acting~~
2495 ~~within the scope of his assigned duties, or (ii) such property is to be transferred to an entity other~~
2496 ~~than the Innovation and Entrepreneurship Investment Authority, an entity whose purpose is to~~
2497 ~~manage intellectual properties on behalf of nonprofit organizations, colleges and universities, or~~
2498 ~~an entity whose purpose is to benefit the respective institutions. The Governor may attach~~
2499 ~~conditions to these transfers as he deems necessary. In the event the Governor does not approve~~
2500 ~~such transfer, the materials shall remain the property of the respective institutions and may be~~
2501 ~~used and developed in any manner permitted by law.~~

2502 ~~B. The president of each state-supported institution of higher education, including the~~
2503 ~~chancellor of the Virginia Community College System, shall, beginning with fiscal year 2016,~~
2504 ~~include~~ 2. Include in its six-year plan adopted pursuant to ~~§ 23-38.87:17~~ 23.1-306 the following
2505 for the most recently ended fiscal year: (i) the assignment during the year of any intellectual
2506 property interests to a person or nongovernmental entity by the institution, any foundation

2507 supporting the intellectual property research performed by the institution, or any entity affiliated
2508 with the institution; (ii) the value of externally sponsored research funds received during the
2509 year from a person or nongovernmental entity by the institution, any foundation supporting the
2510 intellectual property research performed by the institution, or any entity affiliated with the
2511 institution; and (iii) the number and types of patents awarded during the year to the institution,
2512 any foundation supporting the intellectual property research funded by the institution, or any
2513 entity affiliated with the institution that were developed in whole or part from externally
2514 sponsored research provided by a person or nongovernmental entity. The plan shall report
2515 separate aggregate data on (a) those persons or nongovernmental entities that have a principal
2516 place of business in Virginia as reflected in the assignment agreement or awarding documents
2517 and (b) those persons or nongovernmental entities that do not have a principal place of business
2518 in Virginia as reflected in the assignment agreement or awarding documents.

2519 ~~§ 23-1.1. Report of athletic receipts and disbursements.~~

2520 ~~It shall be the duty of the president or chairman of the board of visitors or trustees of~~
2521 ~~every state institution of higher learning which maintains an intercollegiate athletic program to~~
2522 ~~cause-3. For any institution that maintains an intercollegiate athletic program, cause~~ to be made
2523 out by the proper officer of such institution, and forwarded to the Comptroller annually by
2524 December ~~thirty first~~ 31 a detailed statement of all athletic receipts and disbursements of such
2525 institution and of any affiliated committee, group, corporation, or association charged with
2526 administering the athletic program. Such report shall include all receipts from admission tickets,
2527 programs, refreshment concessions, radio, television, newsreel or movie rights, and all other
2528 receipts related to any athletic contest or event. The report of disbursements shall include the
2529 name of each person, firm, or corporation to whom such disbursement was made and the
2530 amount ~~thereof of the disbursement~~. The report shall be kept on file by the Comptroller and
2531 shall be open to public inspection at all reasonable times.

2532 **Drafting note: Existing §§ 23-4 (as proposed subdivision 1) and 23-1.1 (as proposed**
2533 **subdivision 3) are combined in this proposed section concerning duties of the chief**

2534 executive officer of public institutions of higher education. Proposed subdivision 2
2535 incorporates subsection B of existing § 23-4.4. The provision that any chief executive
2536 officer failing to keep a record of an institution's property for inspection by its governing
2537 board and the public is required to forfeit \$50 is recommended for repeal as being
2538 obsolete. The current language is ambiguous as to who has the primary responsibility for
2539 making such a report. Technical changes are made.

2540 § ~~23-3.1~~ 23.1-103. ~~Conveyance~~ Localities; conveyance of property and appropriation of
2541 funds to Commonwealth for certain educational purposes.

2542 A. The governing body of any ~~county, city or town~~ locality may, subject to written
2543 advice from the Governor that the gift is acceptable, convey to the Commonwealth by deed of
2544 gift any land, ~~either heretofore or hereafter acquired, which, in the discretion of such governing~~
2545 ~~body, that~~ is not required for the purposes of such ~~county, city, or town~~ locality, provided such
2546 land is to be used for the establishment, operation, or maintenance of a branch or division of a
2547 ~~state-supported college or university~~ public institution of higher education, the Jamestown-
2548 Yorktown Foundation, the Science Museum of Virginia, or the Virginia Museum of Fine Arts.
2549 For the purpose of acquiring such land the governing body of the locality may appropriate a
2550 portion of the general funds of ~~such county, city or town~~ the locality.

2551 B. The governing body of any ~~county, city or town~~ locality may appropriate a portion of
2552 the locality's public funds ~~thereof~~ for capital outlays in connection with, ~~and~~ the operation or
2553 maintenance of, any ~~state-supported college or university~~ public institution of higher education
2554 or branch ~~thereof~~ or division of such institution, the Jamestown-Yorktown Foundation, the
2555 Science Museum of Virginia, or the Virginia Museum of Fine Arts.

2556 **Drafting note: Technical changes are made, including changing references to**
2557 **"counties, cities, and towns" to "localities" pursuant to § 1-221, which states that**
2558 **throughout the Code "locality" means a county, city, or town.**

2559 § ~~23-4.2~~ 23.1-104. Disposition of ~~unclaimed~~ lost or abandoned property.

2560 A. The ~~board of visitors or other~~ governing ~~body of every state~~ board of each public
2561 institution of higher education and ~~every private accredited nonprofit~~ each accredited nonprofit
2562 private institution of higher education ~~in the Commonwealth~~ may provide by regulation or
2563 institution policy for the care, restitution, sale, destruction, or disposal of unclaimed personal
2564 property, whether lost or abandoned, in the possession of the institution. Whenever procedures
2565 in accordance with such regulations or institution policies and this section are followed and
2566 ownership cannot be established with respect to certain property, neither the institution, ~~and the~~
2567 ~~employees and agents thereof, shall have no liability nor any of its agents or employees is liable~~
2568 to any person claiming any interest in the property.

2569 A.B. In the case of tangible personal property, other than registered motor vehicles, lost
2570 or abandoned at a public institution of higher education or accredited nonprofit private
2571 institution of higher education:

2572 1. The institution, upon receipt of ~~lost such~~ property, shall make reasonable efforts to
2573 give notice that the property has been found to any person that the institution determines to
2574 reasonably ~~appears~~ appear to be the owner. The institution shall hold such property ~~shall be held~~
2575 ~~by the institution for a period of not less than~~ for at least 120 days. The institution shall allow a
2576 claim upon satisfactory proof of it and payment of the institution's reasonable charges for
2577 storage or other services necessary to preserve the property.

2578 2. After the 120-day period, the institution may sell the property to the highest bidder at
2579 public auction or by sealed bid at whatever location that the institution reasonably determines
2580 affords to afford the most favorable market for the property. The institution may decline the
2581 highest bid and reoffer the property for sale if it considers the price bid insufficient. The net
2582 proceeds of any such sale ~~hereunder~~ shall be held for ~~a period of ninety~~ at least 90 days and if
2583 no claim is made ~~thereon~~ on the property within that time, such funds shall be credited to the
2584 institution's operating fund. If the institution determines that the probable cost of sale of
2585 property will exceed the sale proceeds, the property is inherently dangerous, or the property may
2586 not lawfully be sold or used, the institution may provide for any such property, as appropriate

2587 under the circumstances, to be destroyed or discarded at an appropriate location, retained for use
2588 by the institution, or donated to an appropriate charitable organization.

2589 3. Any sale ~~held hereunder pursuant to this subsection~~ shall be preceded by reasonable
2590 notice ~~thereof, considering of the sale, taking into consideration~~ the type and value of property.
2591 Such notice shall include ~~as a~~ at minimum the posting on a student bulletin board and
2592 publication in a school newspaper. The institution, by the same time, shall mail notice of the
2593 sale to the last known address of any person that the institution determines to reasonably ~~appears~~
2594 appear to be the owner.

2595 B-C. Whenever a motor vehicle is lost or abandoned on the campus of any public
2596 institution of higher education or accredited nonprofit private institution of higher education that
2597 ~~lies within a county, city, or town which is located in a locality that~~ has adopted an ordinance as
2598 provided in Chapter 12 of Title 46.2, such motor vehicle shall be disposed of as provided in that
2599 ordinance. Notwithstanding any provisions of Chapter 12 of Title 46.2, the proceeds of any sale
2600 of a motor vehicle lost or abandoned ~~and unclaimed~~ on institutional property shall be credited to
2601 the institution's operating fund after the ~~ninety-day~~ 90-day holding period. The ~~board of visitors~~
2602 ~~or other~~ governing ~~body~~ board of ~~an a~~ public institution of higher education having that has a
2603 campus or part of a campus ~~lying~~ in a locality ~~which that~~ has not adopted such an ordinance,
2604 may promulgate ~~a regulation~~ regulations dealing with motor vehicles abandoned ~~within on~~
2605 campus or such part of the campus. Such regulations shall comply with all provisions of Chapter
2606 12 of Title 46.2 and shall have the same legal effect as though the institution ~~were was~~ a
2607 political subdivision as defined in that chapter and the regulation was an ordinance. The
2608 proceeds from any sale resulting from such regulations shall be held for ~~a period of ninety at~~
2609 least 90 days and if no claim to the motor vehicle is made ~~therefor~~ within that time, such funds
2610 shall be credited to the institution's operating fund.

2611 C-D. Whenever any intangible personal property is believed to be lost or abandoned ~~or~~
2612 unclaimed on the campus of a ~~state~~ public institution of higher education, it shall be
2613 administered as provided in Article 4 (§ 55-210.12 et seq.) of Chapter 11.1 of Title 55.

2614 ~~D.E.~~ Whenever any personal property, tangible or intangible, has been accepted for
2615 safekeeping during a patient's stay by any hospital operated by a ~~state~~ public institution of
2616 higher education, and ~~said such~~ property is believed by the appropriately designated official to
2617 be lost or abandoned ~~or unclaimed~~, it shall be administered as provided in Article 4 (§ 55-
2618 210.12 et seq.) of Chapter 11.1 of Title 55.

2619 **Drafting note: Subsection A incorporates a reference to institution policies because**
2620 **private institutions of higher education are not capable of promulgating regulations**
2621 **pursuant to the Administrative Process Act (§ 2.2-400 et seq.). Technical changes are**
2622 **made.**

2623 § ~~23-9.10:3~~ 23.1-105. ~~Authorization for Commonwealth or any political subdivision~~
2624 ~~thereof to contract to furnish or to obtain educational or other related services to or from~~
2625 Contracts with certain nonprofit private institutions of higher education.

2626 A. For the purposes of this section:

2627 ~~1.~~ "Private college" means a nonprofit private, ~~nonprofit~~ institution of higher education
2628 ~~in the Commonwealth approved to confer degrees pursuant to Chapter 21.1 (§ 23-276.1 et seq.)~~
2629 ~~of this title~~ whose primary purpose is to provide collegiate or graduate education and not to
2630 provide religious training or theological education.

2631 ~~2.~~ "Public college" means ~~any of the institutions of higher education listed in § 23-9.5.~~

2632 ~~3.~~ "Services", "Services" includes ~~but is not limited to~~ a program or course of study
2633 offered, or approved ~~for offer, to be offered~~ by a public institution of higher education or private
2634 college ~~or by a public college~~; use of professional personnel; use of any real or personal
2635 property owned, controlled, or leased for educational or ~~educationally~~ related purposes by ~~such~~
2636 ~~private and public colleges~~ a public institution of higher education or private college; a study,
2637 research, or investigation or ~~the like~~ similar activity by employees or students, or both, of ~~such~~
2638 ~~colleges~~ a public institution of higher education or private college; or any other activity (i)
2639 dealing with scientific, technological, humanistic, or other educational or related subjects; or (ii)
2640 providing public service or student service activities.

2641 B. The Commonwealth ~~and or~~ any of its political subdivisions may contract to obtain
2642 from or furnish to private colleges educational or related services ~~from or to private colleges~~.

2643 ~~1. No~~ C. Except as otherwise provided in Chapter 10 (§ 23.1-1000 et seq.), no contract
2644 for services between private colleges ~~on the one hand~~ and public ~~colleges~~ institutions of higher
2645 education or educational agencies of the Commonwealth, including ~~but not limited to~~ the ~~State~~
2646 Board of Education, ~~on the other~~, shall be valid unless approved by the ~~State~~ Council ~~of Higher~~
2647 Education.

2648 ~~2. D.~~ D. Except as provided in ~~paragraph B 1 subsection C~~, contracts for services between
2649 private colleges ~~on the one hand~~ and the Commonwealth or any of its political subdivisions ~~on~~
2650 ~~the other~~ may be entered into in any ~~circumstances where~~ circumstance in which the
2651 Commonwealth or its political subdivisions would, by virtue of law, have authority to contract
2652 with private contractors for educational or related services and ~~with~~ public institutions of higher
2653 education ~~in Virginia. C. When contracts covered by paragraph B 2 of this section are made by~~
2654 ~~private colleges, such~~ Private colleges shall report ~~the such~~ contracts to the ~~State~~ Council ~~of~~
2655 Higher Education for information.

2656 ~~D. E.~~ D. E. The ~~State~~ Council shall provide continuing evaluation of the effectiveness of ~~such~~
2657 and make recommendations regarding contracts, ~~whether~~ made ~~under paragraph B 1 or B 2 of~~
2658 ~~this section, and shall make recommendations regarding such contracts pursuant to this section~~.

2659 ~~E. F.~~ E. F. The authority to contract for educational or related services shall include the
2660 authority to accept gifts, donations, ~~and or~~ matching funds to facilitate or advance programs.

2661 ~~F. G.~~ F. G. Unless an ~~appropriations~~ appropriation act specifically provides otherwise, all
2662 appropriations shall be construed to authorize contracts with private colleges for the provision of
2663 educational or related services ~~which that~~ may be the subject of or included in the appropriation.

2664 H. Nothing in this ~~chapter~~ section shall be construed to restrict or prohibit the use of any
2665 federal, state, or local funds made available under any federal, state, or local appropriation or
2666 grant.

2667 **Drafting note: Technical changes are made, including the incorporation of title-**
2668 **wide definitions.**

2669 § ~~23-4.2:1~~ [23.1-106](#). Formation of not-for-profit benefits consortium.

2670 A. As used in this section:

2671 "Benefits consortium" means a nonstock corporation formed pursuant to subsection B.

2672 "Benefits plan" means plans adopted by the board of directors of a benefits consortium
2673 to provide health and welfare benefits to employees of private educational institutions that are
2674 members of the benefits consortium, employees of the sponsoring association of the benefits
2675 consortium, employees of the benefits consortium, and their dependents.

2676 "Employee welfare benefit plan" has the meaning set forth in § 3(1) of the Employee
2677 Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1).

2678 "Private educational institution" means a ~~nonpublic, nonprofit college or university~~
2679 [private institution of higher education](#) that is accredited by a nationally recognized regional
2680 accreditation body or by the Board of Governors of the American Bar Association; and

- 2681 1. Has its primary campus located within the Commonwealth;
- 2682 2. Is owned and operated by a corporation, trust, association, or religious institution or
2683 any subsidiary or affiliate of any such entity;
- 2684 3. Has been in existence as a private educational institution in the Commonwealth for at
2685 least 10 years;
- 2686 4. Is a member in good standing of the sponsoring association; and
- 2687 5. Otherwise qualifies as an institution of higher education as defined in § ~~23-276.1~~ [23.1-](#)
2688 [213](#).

2689 "Sponsoring association" means an association of private educational institutions that is
2690 incorporated under the laws of the Commonwealth, has been in existence for at least 20 years,
2691 and exists for purposes other than arranging for or providing health and welfare benefits to
2692 members.

2693 B. Notwithstanding any provision of law to the contrary, five or more private
2694 educational institutions may form a not-for-profit benefits consortium for the purpose of
2695 establishing a self-funded employee welfare benefit plan by acting as incorporators of a
2696 nonstock corporation pursuant to the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.). In
2697 addition to provisions required or permitted by the Virginia Nonstock Corporation Act, the
2698 organizational documents of the benefits consortium shall:

2699 1. Limit membership in the benefits consortium to private educational institutions, the
2700 sponsoring association of the benefits consortium, and the benefits consortium;

2701 2. Set forth the name and address of each of the initial members of the corporation;

2702 3. Set forth requirements for the admission of additional private educational institutions
2703 to the corporation and the procedure for admission of additional members;

2704 4. Require that each initial member of the corporation and each additional private
2705 educational institution admitted to membership agree to remain a member of the benefits
2706 consortium for a period of at least five years from the date the consortium begins operations or
2707 the date of its admission to membership, as the case may be;

2708 5. Provide that the number of directors of the corporation shall be equal to the number of
2709 members and include one person employed by each member and may provide for an additional
2710 director who shall be an employee of the sponsoring association; however, two individuals
2711 affiliated with the same member ~~may~~ shall not serve on the board of directors at the same time;

2712 6. Provide that the board of directors shall have exclusive fiscal control over and be
2713 responsible for the operation of the benefits plan and shall govern the benefits consortium in
2714 accordance with the fiduciary duties defined in the federal Employee Retirement Income
2715 Security Act of 1974;

2716 7. Vest in the board of directors the power to make and collect special assessments
2717 against members and, if any assessment is not timely paid, to enforce collection of same in the
2718 name of the corporation;

2719 8. State the purposes of the benefits consortium, including the types of risks to be shared
2720 by its members;

2721 9. Provide that each member shall be liable for its allocated share of the liabilities of the
2722 benefits consortium as determined by the board of directors;

2723 10. Require that the benefits consortium purchase and maintain (i) a bond that satisfies
2724 the requirements of the Employee Retirement Income Security Act of 1974, (ii) fiduciary
2725 liability insurance, and (iii) a policy or policies of excess insurance with a retention level
2726 determined in accordance with sound actuarial principles from an insurer licensed to transact the
2727 business of insurance in the Commonwealth;

2728 11. Require that the benefits consortium be audited annually by an independent certified
2729 public accountant engaged by the board of directors;

2730 12. Prohibit the payment of commissions or other remuneration to any person on account
2731 of the enrollment of persons in any benefit plan offered by the benefits consortium; and

2732 13. Not include in the name of the corporation the words "insurance," "insurer,"
2733 "underwriter," "mutual," or any other word or term or combination of words or terms that is
2734 uniquely descriptive of an insurance company or insurance business unless the context of the
2735 remaining words or terms clearly indicate that the corporation is not an insurance company and
2736 is not carrying on the business of insurance.

2737 C. ~~A.~~ Each benefits consortium shall establish and maintain reserves determined in
2738 accordance with sound actuarial principles. Capital may be maintained in the form of an
2739 irrevocable letter of credit issued to the benefits consortium by a state or national bank
2740 authorized to engage in the banking business in the Commonwealth.

2741 D. Except to the extent specifically provided in this section, ~~a~~ each benefits consortium
2742 organized under and operated in conformity with this section, ~~so long as it~~ that remains in good
2743 standing under the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and otherwise meets
2744 the requirements set forth in this section, shall be governed solely by and be subject only to the
2745 provisions of the Employee Retirement Income Security Act of 1974 as implemented by the

2746 United States Department of Labor, shall be exempt from all state taxation, and shall not
2747 otherwise be subject to the provisions of Title 38.2, including regulation as a multiple employer
2748 welfare arrangement.

2749 **Drafting note: Technical changes.**

2750 [§ 23.1-107. Private institutions of higher education; human research review committees.](#)

2751 [The human research review committee at each for-profit and nonprofit private institution](#)
2752 [of higher education that conducts human research as that term is defined in § 32.1-162.16 shall](#)
2753 [submit to the Governor, the General Assembly, and the president of the institution or his](#)
2754 [designee at least annually a report on the human research projects reviewed and approved by the](#)
2755 [committee and require the committee to report any significant deviations from approved](#)
2756 [proposals.](#)

2757 **Drafting note: The provisions of existing § 23-9.2:3.3 related to the human research**
2758 **review committee at private institutions of higher education are incorporated into**
2759 **proposed § 23.1-107. A substantive change is made to exclude the provisions of existing §**
2760 **23-9.2:3.3 requiring such institutions to promulgate regulations as such provisions are**
2761 **inconsistent with the Administrative Process Act (§ 2.2-4000 et seq.).**

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2773 § 2.2-108. Removal of members of certain boards, commissions, etc.

2774 A. ~~Notwithstanding any provision of law to the contrary, the Governor may remove from~~
2775 ~~office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the~~
2776 ~~board of any public institution of higher education or other educational institution in Virginia,~~
2777 ~~and fill the vacancy resulting from the removal. Each appointment to fill a vacancy shall be~~
2778 ~~subject to confirmation by the General Assembly.~~

2779 B. Notwithstanding any provision of law to the contrary, the Governor may remove from
2780 office for malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism,
2781 conflict of interests, failure to carry out the policies of the Commonwealth as established in the
2782 Constitution or by the General Assembly, or refusal to carry out a lawful directive of the
2783 Governor any member of any board, commission, council or other collegial body established by
2784 the General Assembly in the executive branch of state government except those boards provided
2785 for in subsection ~~A C~~ of § 23.1-1300, and fill the vacancy resulting from the removal subject to
2786 confirmation by the General Assembly.

2787 C. ~~B.~~ The Governor shall set forth in a written public statement his reasons for removing
2788 any member pursuant to this section at the time the removal occurs. The Governor shall be the
2789 sole judge of the sufficiency of the cause for removal as set forth in this section.

2790 **Drafting note: The provisions of subsection A of this section regarding the removal**
2791 **of board members from public institutions of higher education or other educational**
2792 **institutions are moved into proposed subsection C of § 23.1-1300 in Chapter 13.**

2793 CHAPTER 13.

2794 GOVERNING BOARDS OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

2795 **Drafting note: Existing provisions that apply generally to governing boards of**
2796 **public institutions of higher education are consolidated in proposed Chapter 13.**

2797 ~~§ 23-1.~~

2798 **Drafting note: Repealed by Acts 1984, c. 734.**

2799 ~~§ 23-2. Penalty for failure to make report.~~

2800 ~~If the report required by § 23-1.01 is not made from any educational institution which~~
2801 ~~receives any portion of the revenue of the Literary Fund, or to which any loan has been made~~
2802 ~~out of the fund, the Comptroller shall withhold, until the report is made, the payment of such~~
2803 ~~portion of the Literary Fund, or proceed to enforce payment of the loan.~~

2804 **Drafting note: § 23-2 is recommended for repeal as obsolete.**

2805 § ~~23-2.06~~ 23.1-1300. Members of governing boards; removal; terms.

2806 A. Members appointed by the Governor to the governing boards of public institutions of
2807 higher education shall serve for terms of four years. Vacancies occurring other than by
2808 expiration of a term shall be filled for the unexpired term. No member appointed by the
2809 Governor to such a governing board shall serve for more than two consecutive four-year terms;
2810 however, a member appointed by the Governor to serve an unexpired term shall be eligible to
2811 serve two consecutive four-year terms immediately succeeding such unexpired term. Except as
2812 otherwise provided in § 23.1-2601, all appointments shall be subject to confirmation by the
2813 General Assembly. Members appointed by the Governor to the board shall continue to hold
2814 office until their successors have been appointed and confirmed. Ex officio members shall serve
2815 a term coincident with their term of office.

2816 B. No member appointed by the Governor to the governing board of a public institution
2817 of higher education who has served two consecutive four-year terms on such board is eligible to
2818 serve on the same board until at least four years have passed since the end of his second
2819 consecutive four-year term.

2820 C. Notwithstanding the provisions of subsection E or any other provision of law, the
2821 Governor may remove from office for malfeasance, misfeasance, incompetence, or gross
2822 neglect of duty any member of the board of any public institution of higher education and fill
2823 the vacancy resulting from the removal.

2824 D. The Governor shall set forth in a written public statement his reasons for removing
2825 any member pursuant to subsection C at the time the removal occurs. The Governor shall be the
2826 sole judge of the sufficiency of the cause for removal as set forth in subsection C.

2827 E. If any member of the governing board of a ~~four-year~~ public institution of
2828 higher education ~~or the State Board for Community Colleges~~ fails to attend (i) the meetings of
2829 the board for one year without sufficient cause, as determined by a majority vote of the board, or
2830 (ii) the educational programs required by ~~§ 23-9.14:1~~ 23.1-1304 in his first two years of
2831 membership without sufficient cause, as determined by a majority vote of the board, the
2832 remaining members of the board shall record such failure in the minutes at its next meeting and
2833 notify the Governor, and the office of such member shall be vacated. ~~However, no member~~
2834 ~~-serving as of January 1, 2015 shall be removed for failing to attend the educational programs~~
2835 ~~required by § 23-9.14:1 if he attends such training by January 1, 2016.~~

2836 B.F. The ~~board of visitors~~ governing board of each ~~four-year~~ public institution of higher
2837 education ~~and the State Board for Community Colleges~~ shall adopt in its bylaws policies (i) for
2838 removing members pursuant to subsection ~~A~~ E and (ii) referencing the Governor's power to
2839 remove members described in ~~§ 2.2-108~~ subsection C.

2840 C. ~~No person who has served two consecutive four-year terms on the board of visitors of~~
2841 ~~a four-year public institution of higher education or the State Board for Community Colleges~~
2842 ~~shall be eligible to serve on the same board until at least four years have passed since the end of~~
2843 ~~his second consecutive four-year term.~~

2844 **Drafting note: Existing provisions relating to the terms and removal of members of**
2845 **the board of visitors of each public institution of higher education or other educational**
2846 **institution are incorporated into subsections A and B of this proposed section with**
2847 **technical changes. Subsections C and D are moved from subsections A and C of § 2.2-108.**

2848 § 23.1-1301. Governing boards; powers.

2849 A. The board of visitors of each baccalaureate public institution of higher education or
2850 its designee may:

2851 1. Make regulations and policies concerning the institution;

2852 2. Manage the funds of the institution and approve an annual budget;

2853 3. Appoint the president, or in the case of the Virginia Military Institute, the
2854 superintendent, who shall be the chief executive officer of the institution;

2855 4. Appoint professors and fix their salaries; and

2856 5. Fix the rates charged to students for tuition, fees, and other necessary charges.

2857 B. The governing board of each public institution of higher education or its designee
2858 may:

2859 ~~§ 23-4.1. Sale or lease of interest in real property granted by purchase, deed or gift;~~
2860 ~~granting of easements.~~

2861 ~~The boards of visitors or trustees of all State educational institutions, with the approval~~
2862 ~~of the Governor first obtained, are hereby authorized to lease or~~ 1. In addition to the powers set
2863 forth in Chapter 10 (§ 23.1-1000 et seq.), lease or sell and convey whatever its interest ~~they may~~
2864 have in any real property that it has ~~been or may hereafter be~~ acquired by purchase, will, or deed
2865 of gift, subject to the prior approval of the Governor and any terms and conditions of the will or
2866 deed of gift, if applicable. ~~The proceeds from such leases, sales and conveyances shall be held,~~
2867 used, and administered in the same manner as all other gifts and bequests ~~are held, used and~~
2868 administered;

2869 ~~Nothing in this section shall be construed as authorizing or empowering the lease, or sale~~
2870 ~~and conveyance of such real property contrary to the terms and conditions of the will or deed of~~
2871 ~~gift.~~

2872 ~~Such boards of visitors or trustees are authorized to grant~~ 2. Grant easements for roads,
2873 streets, sewers, waterlines, electric and other utility lines, or other purposes on any property ~~now~~
2874 ~~owned or hereafter acquired by such boards of visitors or trustees, when, in the discretion of~~
2875 ~~such visitors or trustees it is deemed proper to grant such easements.~~ by the institution;

2876 3. Adopt regulations or institution policies for parking and traffic on property owned,
2877 leased, maintained, or controlled by the institution;

2878 4. Adopt regulations or institution policies for the employment and dismissal of
2879 professors, teachers, instructors, and other employees;

2880 5. Adopt regulations or institution policies for the acceptance and assistance of students
2881 in addition to the regulations or institution policies required pursuant to § 23.1-1303;

2882 6. Adopt regulations or institution policies for the conduct of students in attendance and
2883 for the rescission or restriction of financial aid, suspension, and dismissal of students who fail or
2884 refuse to abide by such regulations or policies;

2885 7. Establish programs, in cooperation with the Council and the Office of the Attorney
2886 General, to promote (i) student compliance with state laws on the use of alcoholic beverages and
2887 (ii) the awareness and prevention of sexual crimes committed upon students;

2888 8. Establish guidelines for the initiation or induction of students into any social fraternity
2889 or sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

2890 9. Assign any interest it possesses in intellectual property or in materials in which the
2891 institution claims an interest, provided such assignment is in accordance with the terms of the
2892 institution's intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior
2893 written approval shall be required for transfers of such property (i) developed wholly or
2894 predominately through the use of state general funds, exclusive of capital assets and (ii) (a)
2895 developed by an employee of the institution acting within the scope of his assigned duties or (b)
2896 for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship
2897 Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf
2898 of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit
2899 the respective institutions. The Governor may attach conditions to these transfers as he deems
2900 necessary. In the event the Governor does not approve such transfer, the materials shall remain
2901 the property of the respective institutions and may be used and developed in any manner
2902 permitted by law;

2903 ~~§ 23-2.01. Boards of visitors; public access to information.~~

2904 ~~Notwithstanding § 2.2-4342 and the Virginia Freedom of Information Act (§ 2.2-3700 et~~
2905 ~~seq.), the board of visitors of each public institution of higher education and the State Board for~~
2906 ~~Community Colleges may conduct 1. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-~~

2907 3712 and may conduct business as a "state public body" for purposes of subsection B of § 2.2-
2908 3708; and

2909 11. Adopt a resolution to require the governing body of a locality that is contiguous to
2910 the institution to enforce state statutes and local ordinances with respect to offenses occurring on
2911 the property of the institution. Upon receipt of such resolution, the governing body of such
2912 locality shall enforce statutes and local ordinances with respect to offenses occurring on the
2913 property of the institution.

2914 **Drafting note: Provisions related to powers of governing boards are consolidated in**
2915 **this proposed section. Subsection A is derived from provisions common to the majority of**
2916 **baccalaureate public institutions of higher education in existing Title 23. Subdivisions B 1**
2917 **and 2 incorporate the provisions of existing § 23-4.1. Subdivisions B 3 through 8 of**
2918 **incorporate the provisions of subsection A of existing § 23-9.2:3. Subdivision B 9**
2919 **incorporates the provisions of subsection A of existing § 23-4.4. Subdivision B 10**
2920 **incorporates the provisions of existing § 23-2.01. Subdivision B 11 incorporates the first**
2921 **sentence of subsection B of proposed § 23.1-1303. Technical changes are made.**

2922 § ~~23-9.2:3.1~~ 23.1-1302. ~~Authority to establish incentives for~~ Governing boards;
2923 additional powers; voluntary early retirement; ~~eligibility;~~ ~~contents of plans.~~

2924 A. The ~~board of visitors or other~~ governing body board of ~~any each~~ public institution of
2925 higher education may establish a compensation plan designed to provide incentives for
2926 voluntary early retirement of teaching and research staff employed in nonclassified, faculty
2927 positions. Participation in such compensation plan shall be voluntary for eligible employees and
2928 no employee shall be penalized in any way for not participating.

2929 B. In order to qualify for participation in such compensation plan, an eligible faculty
2930 employee shall (i) be at least 60 years of age; (ii) have completed at least 10 years of full-time
2931 service at the institution offering the plan; (iii) have been awarded tenure or have a contractual
2932 right to continued employment; (iv) agree to withdraw from active membership in the Virginia

2933 Retirement System; and (v) comply with any additional criteria established by the governing
2934 body board of the institution.

2935 C. Any compensation plan established pursuant to this section shall include the
2936 institutional needs and objectives to be served, the kind of incentives to be offered, the sources
2937 of available funding for implementation, and any additional qualifications required of eligible
2938 faculty employees established by the governing ~~body of the institution~~ board. Any such
2939 compensation plan shall explicitly reserve to the governing ~~body of the institution~~ board the
2940 authority to modify, amend, or repeal the plan. However, no such amendment, modification, or
2941 repeal shall be effective as to any individual who retires under the plan prior to the effective date
2942 of the amendment, modification, or repeal.

2943 D. The cash payments offered under any such compensation plan shall not exceed 150
2944 percent of the employee's base annual salary reflected in the Personnel Management
2945 Information System at the time of election to participate. Any such payment shall be allocated
2946 over at least two years. Such compensation may include payment of insurance benefits by the
2947 institution until the participant reaches the age of 65. The total cost in any fiscal year for any
2948 compensation plan established under this section shall not exceed one percent of the institution's
2949 corresponding fiscal year state general fund appropriation for faculty salaries and associated
2950 benefits.

2951 E. The Governor may establish, with the assistance of the ~~State Council of Higher~~
2952 Education, uniform criteria for such compensation plans. Prior to the adoption, modification,
2953 amendment, or repeal of any such compensation plan, the governing board shall obtain the
2954 Governor's approval ~~shall be obtained by the governing body of the institution~~. The Governor
2955 shall provide a copy of each approved plan to the Chairmen of the House Committee on
2956 Appropriations and the Senate Committee on Finance. All compensation plans shall be reviewed
2957 for legal sufficiency by the Office of the Attorney General prior to adoption, modification,
2958 amendment, or repeal.

2959 F. The Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to the
2960 establishment of such compensation plans or any implementing regulations or criteria.

2961 **Drafting note: Technical changes.**

2962 ~~§ 23-9.2:3 23.1-1303. Power of governing body of educational institution to establish~~
2963 ~~rules and regulations; offenses occurring on property of institution; state direct student financial~~
2964 ~~assistance; release of educational records~~ Governing boards; duties.

2965 A. ~~In addition to the powers now enjoyed by it, the board of visitors or other governing~~
2966 ~~body of every educational institution shall have the power:~~

2967 1. ~~To establish rules and regulations for the acceptance and assistance of students except~~
2968 ~~that (i) individuals who have failed to meet the federal requirement to register for the selective~~
2969 ~~service shall not be eligible to receive any state direct student assistance; (ii) the accreditation~~
2970 ~~status of a Virginia public high school shall not be considered in making admissions~~
2971 ~~determinations for students who have earned a diploma pursuant to the requirements established~~
2972 ~~by the Board of Education; and (iii) the governing boards of the four year institutions shall~~
2973 ~~establish policies providing for the admission of certain graduates of Virginia community~~
2974 ~~colleges as set forth in § 23-9.2:3.02.~~

2975 2. ~~To establish rules and regulations for the conduct of students while attending such~~
2976 ~~institution.~~

2977 3. ~~To establish programs, in cooperation with the State Council of Higher Education and~~
2978 ~~the Office of the Attorney General, to promote compliance among students with the~~
2979 ~~Commonwealth's laws relating to the use of alcoholic beverages.~~

2980 4. ~~To establish rules and regulations for the rescission or restriction of financial aid,~~
2981 ~~within the discretionary authority provided to the institution by federal or state law and~~
2982 ~~regulations, and the suspension and dismissal of students who fail or refuse to abide by such~~
2983 ~~rules and regulations for the conduct of students.~~

2984 ~~5. To establish rules and regulations for the employment of professors, teachers,~~
2985 ~~instructors and all other employees and provide for their dismissal for failure to abide by such~~
2986 ~~rules and regulations.~~

2987 ~~6. To provide parking and traffic rules and regulations on property owned by such~~
2988 ~~institution.~~

2989 ~~7. To establish guidelines for the initiation or induction into any social fraternity or~~
2990 ~~sorority in accordance with § 18.2-56.~~

2991 ~~8. To establish programs, in cooperation with the State Council of Higher Education for~~
2992 ~~Virginia and the Office of the Attorney General, to promote the awareness and prevention of~~
2993 ~~sexual crimes committed upon students.~~

2994 For purposes of this section, "intellectual property" means (i) a potentially patentable
2995 machine, article of manufacture, composition of matter, process, or improvement in any of
2996 those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is
2997 copyrightable.

2998 ~~B. Upon receipt of an appropriate resolution of the board of visitors or other governing~~
2999 ~~body of an educational institution, the governing body of a political subdivision which is~~
3000 ~~contiguous to the institution shall enforce state statutes and local ordinances with respect to~~
3001 ~~offenses occurring on the property of the institution. The governing bodies board of the each~~
3002 ~~public institutions institution of higher education shall assist:~~

3003 ~~§ 23-2.02. Boards of visitors; bylaws.~~

3004 ~~The board of visitors of each public institution of higher education and the State Board~~
3005 ~~for Community Colleges shall adopt bylaws for its own governance. This document shall be~~
3006 ~~posted-1. Adopt and post conspicuously on the board's its website and shall include bylaws for~~
3007 ~~its own governance, including provisions that: ~~1. Establish (i) establish the requirement of~~~~
3008 ~~transparency, to the extent required by law, in all board actions; ~~2. Describe (ii) describe the~~~~
3009 ~~board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set~~
3010 ~~forth in § ~~23-2:4~~ subdivision B 10 of § 23.1-1301, including the requirements that: ~~a. The (a) the~~~~

3011 board ~~shall~~ record minutes of each open meeting and post the minutes on the board's website, in
3012 accordance with subsection I of § 2.2-3707 and § 2.2-3707.1; ~~b. Discussions, (b) discussions~~
3013 and actions on any topic not specifically exempted by § 2.2-3711 shall be held in an open
3014 meeting; ~~c. The, (c) the~~ board ~~shall give~~ gives public notice of all meetings, in accordance with
3015 subsection C of § 2.2-3707; ~~and d. Any official (d) any~~ action taken in a closed meeting ~~shall~~ be
3016 approved in an open meeting before it can have any force or effect, in accordance with
3017 subsection B of § 2.2-3711; and ~~3. Require (iii) require~~ that the board notify and invite the
3018 Attorney General's appointee or representative to all meetings of the board, executive
3019 committee, and board committees;:

3020 2. Establish regulations or institution policies for the acceptance and assistance of
3021 students that include provisions providing (i) that individuals who have knowingly and willfully
3022 failed to meet the federal requirement to register for the selective service shall not be eligible to
3023 receive any state direct student assistance, (ii) that the accreditation status of a public high
3024 school in the Commonwealth shall not be considered in making admissions determinations for
3025 students who have earned a diploma pursuant to the requirements established by the Board of
3026 Education, and (iii) for the admission of certain graduates of comprehensive community
3027 colleges as set forth in 23.1-907;

3028 3. Assist the ~~State Council of Higher Education~~ in enforcing the provisions related to
3029 eligibility for financial aid;:

3030 ~~C. 4.~~ Notwithstanding any other provision of state law, ~~the board of visitors or other~~
3031 ~~governing body of every public institution of higher education in Virginia shall~~ establish
3032 policies and procedures requiring the notification of the parent of a dependent student when
3033 such student receives mental health treatment at the institution's student health or counseling
3034 center and such treatment becomes part of the student's educational record in accordance with
3035 the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and
3036 may be disclosed without prior consent as authorized by the federal Family Educational Rights
3037 and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such

3038 notification shall only be required if it is determined that there exists a substantial likelihood
3039 that, as a result of mental illness the student will, in the near future, (i) cause serious physical
3040 harm to himself or others as evidenced by recent behavior or any other relevant information or
3041 (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for
3042 his basic human needs. However, notification may be withheld if any person licensed to
3043 diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board
3044 within the Department of Health Professions who is treating the student has made a part of the
3045 student's record a written statement that, in the exercise of his professional judgment, the
3046 notification would be reasonably likely to cause substantial harm to the student or another
3047 person. No public institution of higher education or employee of a public institution of higher
3048 education making a disclosure pursuant to this subsection shall be civilly liable for any harm
3049 resulting from such disclosure unless such disclosure constitutes gross negligence or willful
3050 misconduct by the institution or its employees.;

3051 ~~D. The board of visitors or other governing body of every public institution of higher~~
3052 ~~education in Virginia shall establish~~ 5. Establish policies and procedures requiring the release of
3053 the educational record of a dependent student, as defined by 20 U.S.C. § 1232g, to a parent at
3054 his request.;

3055 ~~E. In order to improve the quality of the Commonwealth's work force and educational~~
3056 ~~programs, the governing bodies of the public institutions of higher education shall establish~~ 6.
3057 Establish programs to seek to ensure that all graduates have the technology skills necessary to
3058 compete in the ~~21st Century~~ twenty-first century and, ~~particularly,~~ that all students matriculating
3059 in teacher-training programs receive instruction in the effective use of educational technology.;

3060 ~~§ 23-2.5. Student athlete discipline policies.~~

3061 ~~The board of visitors or other governing board of each public institution of higher~~
3062 ~~education in the Commonwealth shall establish~~ 7. Establish policies for the discipline of
3063 students who participate in varsity intercollegiate athletics. ~~Such policies shall include~~ including

3064 a provision requiring an annual report by the administration of the institution to the board of
3065 visitors or other governing board regarding enforcement actions taken pursuant to such policies;

3066 ~~§ 23-2.03. Boards of visitors; annual meeting with the president of the institution.~~

3067 ~~A. 8.~~ In addition to all meetings prescribed in Chapters ~~5 14~~ (§ ~~23-39 23.1-1400~~ et seq.)
3068 through ~~16 29~~ (§ ~~23-214 23.1-2900~~ et seq.), ~~the board of visitors of each public institution of~~

3069 ~~higher education and the State Board for Community Colleges shall~~ meet with the president of

3070 ~~that the~~ institution at least once annually, in a closed meeting pursuant to subdivision A 1 of §

3071 2.2-3711; and deliver an evaluation of the president's performance. ~~B.~~ Any change to the

3072 president's employment contract during any such meeting or any other meeting of the board

3073 shall be made only by a vote of the majority of the board's members;

3074 ~~§ 23-9.2:3.3. Human research.~~

3075 ~~Each board of visitors or other governing body of any public or private institution of~~

3076 ~~higher education in which~~ 9. If human research, as defined in § 32.1-162.16, is conducted ~~shall~~

3077 ~~at the institution,~~ promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000

3078 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for

3079 human research. ~~The~~ Such regulations shall require the human research committee to submit to

3080 the Governor, the General Assembly, and the president of the institution or his designee at least

3081 annually a report on the human research projects reviewed and approved by the committee and

3082 ~~shall~~ require the committee to report any significant deviations from approved proposals;

3083 ~~§ 23-1.01. Annual reports required of boards of visitors.~~

3084 ~~The board of visitors of each institution of higher education shall submit~~ 10. Submit the

3085 annual financial statements for the year ending the preceding June 30 and the accounts and

3086 status of any ongoing capital projects to the Auditor of Public Accounts for the audit of such

3087 statements pursuant to § 30-133;

3088 ~~§ 23-2.05. Boards of Visitors; annual executive summaries.~~

3089 ~~The board of visitors of each public institution of higher education and the State Board~~

3090 ~~for Community Colleges shall submit~~ 11. Submit to the General Assembly and the Governor an

3091 annual executive summary of its interim activity and work no later than the first day of each
3092 regular session of the General Assembly. The executive summary shall be submitted as
3093 provided in the procedures of the Division of Legislative Automated Systems for the processing
3094 of legislative documents and reports and shall be posted on the General Assembly's website.;

3095 ~~§ 23-9.1:1. Reports of certain acts to State Police.~~

3096 ~~The board of visitors or the governing body of any public institution of higher education~~
3097 ~~in Virginia shall make~~ 12. Make available to any interested party upon request a copy of ~~that the~~
3098 portion of the most recent report of the Uniform Crime Reporting Section of the Department of
3099 State Police entitled "Crime in Virginia" pertaining to ~~colleges and universities.~~ institutions of
3100 higher education; and

3101 ~~§ 23-4.3. Adoption of intellectual property policies; employees to be bound by such~~
3102 ~~policies.~~

3103 ~~A. The boards of visitors of state-supported institutions of higher education and the State~~
3104 ~~Board for Community Colleges shall adopt~~ 13. Adopt policies or institution regulations
3105 regarding the ownership, protection, assignment, and use of intellectual property.

3106 ~~B. All employees of state-supported institutions of higher education, including the~~
3107 ~~Virginia Community College System, as a condition of employment, shall be bound by the~~
3108 ~~intellectual property policies of the institution employing them.~~

3109 ~~C. Upon adoption, the boards of visitors of state-supported institutions of higher~~
3110 ~~education, including the State Board for Community Colleges, shall provide a copy of their~~
3111 ~~intellectual property policies to the Governor and the Joint Commission on Technology and~~
3112 ~~Science.~~

3113 ~~D. For purposes of this section, "intellectual property" means (i) a potentially patentable~~
3114 ~~machine, article of manufacture, composition of matter, process, or improvement in any of~~
3115 ~~those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is~~
3116 ~~copyrightable and provide a copy of such policies to the Governor and the Joint Commission on~~

3117 [Technology and Science. All employees of public institutions of higher education shall be](#)
3118 [bound by the intellectual property policies of the institution employing them.](#)

3119 **Drafting note: Existing duties of governing boards are consolidated in subsection B**
3120 **of this proposed section as follows: subdivision 1, existing § 23-2.02; subdivision 2,**
3121 **subdivision A 1 of existing § 23-9.2:3; subdivision 7, existing § 23-2.5 with the addition of a**
3122 **reference to knowing and willful failure in accordance with the federal Military Selective**
3123 **Service Act (50 U.S.C. § 451 et seq.); subdivision 8, existing § 23-2.03; subdivision 9, the**
3124 **provisions of existing § 23-9.2:3.3 related to public institutions of higher education;**
3125 **subdivision 10, existing § 23-1.01; subdivision 11, existing § 23-2.05; subdivision 12,**
3126 **existing § 23-9.1:1; and subdivision 13, existing § 23-4.3. Technical changes are made.**
3127 **Powers of governing boards located in existing subdivisions A 1 through 8 are moved to §**
3128 **23.1-1301 as subdivisions C 3 through 8. The first sentence of subsection B of this proposed**
3129 **section is moved to subdivision B 12 of proposed § 23.1-1301. The definition of**
3130 **"intellectual property" provided in subsection A is taken from subsection D of existing §**
3131 **23-4.3, with subsections A, B, and C moved to subdivision B 13 of this proposed section.**

3132 [§ 23-9.14:1 23.1-1304. Educational Governing boards; additional duties; educational](#)
3133 [programs for governing boards.](#)

3134 A. From such funds as are appropriated for such purpose, the Council shall develop, in
3135 consultation with public institutions of higher education and members of their governing boards,
3136 and annually deliver educational programs for the governing boards of such institutions. New
3137 members of such governing boards shall participate, at least once during their first two years of
3138 membership, in the programs, which shall be designed to address the role, duties, and
3139 responsibilities of the governing boards and may include in-service programs on current issues
3140 in higher education. In developing such programs, the Council may consider similar educational
3141 programs for institutional governing boards in other states.

3142 B. Educational programs for the governing boards of public institutions of higher
3143 education shall include presentations related to:

- 3144 1. Board members' duty to the Commonwealth;
- 3145 2. Governing board committee structure and function;
- 3146 3. The duties of the executive committee set forth in § ~~23-2.04~~ 23.1-1306;
- 3147 4. Professional accounting and reporting standards;
- 3148 5. Methods for meeting the statutory, regulatory, and fiduciary obligations of the board;
- 3149 6. The requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.),
- 3150 developed and delivered in conjunction with the Freedom of Information Advisory Council;
- 3151 7. Institutional ethics and conflicts of interest;
- 3152 8. Creating and implementing ~~institution wide rules and~~ regulations and institution
- 3153 policies;
- 3154 9. Business operations, administration, budgeting, financing, financial reporting, and
- 3155 financial reserves, including a segment on endowment management;
- 3156 10. Fixing student tuition ~~and~~ fees, and other necessary charges;
- 3157 11. Overseeing planning, construction, maintenance, expansion, and renovation projects
- 3158 that impact the ~~University's~~ institution's consolidated infrastructure, physical facilities, and
- 3159 natural environment, including its lands, improvements, and capital equipment;
- 3160 12. Workforce planning, strategy, and investment;
- 3161 13. Institutional advancement, including philanthropic giving, fundraising initiatives,
- 3162 alumni programming, communications and media, government and public relations, and
- 3163 community affairs;
- 3164 14. Student welfare issues, including academic studies; curriculum; residence life;
- 3165 student governance and activities; and the general physical and psychological well-being of
- 3166 undergraduate and graduate students;
- 3167 15. Current national and state issues in higher education;
- 3168 16. Future national and state issues in higher education;

3169 17. Relations between the governing board ~~of visitors~~ and the president chief executive
3170 officer of the institution, including perspectives from presidents chief executive officers of
3171 public institutions of higher education ~~in the Commonwealth~~;

3172 18. Best practices for board governance, including perspectives from current board
3173 members; and

3174 19. Any other topics that the Council, public institutions of higher education, and
3175 members of their governing boards deem necessary or appropriate.

3176 C. The Council shall submit to the General Assembly and the Governor an annual
3177 executive summary of the interim activity and work of the Council pursuant to this section no
3178 later than the first day of each regular session of the General Assembly. The executive summary
3179 shall be submitted as provided in the procedures of the Division of Legislative Automated
3180 Systems for the processing of legislative documents and reports and shall be posted on the
3181 General Assembly's website.

3182 **Drafting note: Technical changes.**

3183 § 23.1-1305. Governing boards; student accounts; collections.

3184 ~~F. The board of visitors or other No governing body of every public institution of higher~~
3185 ~~education board~~ shall ~~not~~ refer a student account to collections for nonpayment before required
3186 by the provisions of § 2.2-4806. This ~~subsection section~~ shall not apply to public institutions of
3187 higher education that have entered into Management Agreements with the Commonwealth.

3188 **Drafting note: Subsection F of existing § 23-9.2:3 is moved into this proposed**
3189 **section and technical changes are made.**

3190 ~~§ 23-2.04~~ 23.1-1306. Boards of visitors; Governing board executive committee; duties.

3191 The executive committee of ~~the each governing~~ board ~~of visitors of each public~~
3192 ~~institution of higher education and the State Board for Community Colleges~~ shall (i) organize
3193 the working processes of the board ~~and~~; (ii) recommend best practices for board governance.
3194 ~~The committee shall: 1. Develop;~~ (iii) develop and recommend to the board a statement of
3195 governance setting out the board's role; ~~2. Periodically~~ (iv) periodically review the board's

3196 bylaws and recommend amendments; ~~3. Provide~~ (v) provide advice to the board on committee
3197 structure, appointments, and meetings; ~~4. Develop~~ (vi) develop an orientation and continuing
3198 education process for visitors that includes training on the Virginia Freedom of Information Act
3199 (§ 2.2-3700 et seq.); ~~5. Create~~ (vii) create, monitor, oversee, and review compliance with a code
3200 of ethics for visitors; and ~~6. Develop~~ (viii) develop a set of qualifications and competencies for
3201 membership on the board for approval by the board and recommendation to the Governor.

3202 **Drafting note: Technical changes.**

3203 § ~~23-3~~ 23.1-1307. ~~Expenses Governing boards; expenses of visitors~~ members.

3204 ~~The members of the board of visitors of each educational institution owned and~~
3205 ~~controlled by the Commonwealth shall receive their actual expenses, when properly itemized,~~
3206 ~~incurred in the discharge of their duties in attending the meetings of the board.~~ Members of the
3207 the governing board of each public institution of higher education shall be reimbursed for all
3208 reasonable and necessary expenses incurred in the performance of their duties. Funding for the
3209 expenses of the members shall be provided by the institution.

3210 **Drafting note: The language in this proposed section related to expenses of**
3211 **members of governing boards is updated.**

3212 § ~~23-4.3:1~~ 23.1-1308. ~~Policies addressing Governing board procedures;~~ textbook sales
3213 and bookstores.

3214 A. No employee ~~at of a Virginia public college or university~~ institution of higher
3215 education shall demand or receive any payment, loan, subscription, advance, deposit of money,
3216 services, or anything, present or promised, as an inducement for requiring students to purchase a
3217 specific textbook required for coursework or instruction; ~~with the exception that the.~~ However,
3218 such employee may receive (i) sample copies, instructor's copies, or instructional material; not
3219 to be sold; and (ii) royalties or other compensation from sales of textbooks that include such
3220 instructor's own writing or work.

3221 B. ~~The Each~~ Each governing ~~boards~~ board shall implement procedures for making available to
3222 students in a central location and in a standard format on the relevant institutional website

3223 listings of textbooks required or assigned for particular courses at the institution. The lists of
3224 those required or assigned textbooks for each particular course shall include the International
3225 Standard Book Number (ISBN) along with other relevant information.

3226 ~~Institutions~~ C. Public institutions of higher education maintaining a bookstore supported
3227 by auxiliary services or operated by a private contractor shall post the listing of such textbooks
3228 when the relevant instructor or academic department identifies the required textbooks for order
3229 and subsequent student purchase.

3230 ~~C. The D. Each~~ governing ~~boards of public institutions of higher education board~~ shall
3231 implement policies, procedures, and guidelines that encourage efforts to minimize the cost of
3232 textbooks for students ~~at public colleges and universities~~ while maintaining the quality of
3233 education and academic freedom. The guidelines shall ensure ~~the following that~~:

3234 1. ~~That faculty~~ Faculty textbook adoptions are made with sufficient lead time to
3235 ~~university~~ university-managed or contract-managed bookstores so as to confirm availability of
3236 the requested materials and, ~~where~~ when possible, ensure maximum availability of used
3237 textbooks;

3238 2. ~~That in~~ In the textbook adoption process, the intent to use all items ordered,
3239 particularly each individual item sold as part of a bundled package, is affirmatively confirmed
3240 by the faculty member before the adoption is finalized. If the faculty member does not intend to
3241 use each item in the bundled package, he shall notify the bookstore, and the bookstore shall
3242 order the individualized items when their procurement is cost effective for both ~~institutions~~ the
3243 institution and students and such items are made available by the publisher;

3244 3. ~~That faculty~~ Faculty members affirmatively acknowledge the bookstore's quoted retail
3245 price of textbooks selected for use in each course;

3246 4. ~~That faculty~~ Faculty members are encouraged to limit their use of new edition
3247 textbooks when previous editions do not significantly differ in a substantive way as determined
3248 by the appropriate faculty member; and

3249 5. ~~That the establishment of policies shall include provisions for~~ Provisions address the
3250 availability of required textbooks to students otherwise unable to afford the cost.

3251 ~~D. E.~~ No funds provided for financial aid from university bookstore revenue shall be
3252 counted in the calculation for state appropriations for student financial aid.

3253 **Drafting note: Technical changes.**

3254 § ~~23-1.2~~ 23.1-1309. Interscholastic Boards of visitors; baccalaureate public institutions
3255 of higher education; intercollegiate athletics programs.

3256 A. ~~For the purposes of~~ As used in this section:

3257 "Athletics revenue" means the total revenue received by an institution that is generated
3258 by any of the institution's intercollegiate athletics programs. "Athletics revenue" includes
3259 contributions; game guarantees; income received from endowments and investments; income
3260 received from the sale of food, game programs, novelties, and other concessions at an
3261 intercollegiate athletics contest; income received from intercollegiate athletics conferences for
3262 participation in bowl games, tournaments, and other intercollegiate athletics contests; income
3263 received from the provision of parking at intercollegiate athletics contests or other events
3264 associated with intercollegiate athletics; rights and licensing; school funds; student fees; support
3265 from third parties guaranteed by the institution, such as income received from athletics camps,
3266 income received from television, and housing allowances; and all other income from any other
3267 source generated by the institution's intercollegiate athletics programs.

3268 "Contributions" means any income received directly from individuals, corporations,
3269 associations, foundations, clubs, or other donors for the operation of an institution's
3270 intercollegiate athletics programs. "Contributions" includes amounts paid in excess of the face
3271 value of an admissions ticket to an intercollegiate athletics contest or any other event associated
3272 with intercollegiate athletics; cash; marketable securities; income generated from preferential
3273 seating arrangements at intercollegiate athletics contests or other events associated with
3274 intercollegiate athletics; and in-kind contributions such as cars provided to an intercollegiate

3275 athletics program by car dealers at no cost and apparel and sports drink products provided to
3276 intercollegiate athletes and coaches at no cost.

3277 "Generated revenue" means all athletics revenue with the exception of the subsidy.

3278 "Institution" means a ~~four-year~~ baccalaureate public institution of higher education in the
3279 Commonwealth.

3280 "Intercollegiate athletics program" means any athletics program for a particular sport
3281 that is operated by an institution and governed by the National Collegiate Athletic Association
3282 (NCAA).

3283 "Rights and licensing" includes income from radio and television broadcasts; Internet
3284 and e-commerce rights resulting from institution-negotiated contracts; revenue-sharing
3285 agreements with the NCAA or an intercollegiate athletics conference; licensing; the sale of
3286 advertisements, trademarks, or royalties; corporate sponsorships; and the value of in-kind
3287 contributions of products and services provided to an intercollegiate athletics program at no cost
3288 as part of such corporate sponsorship, such as equipment, apparel, isotonic sports drinks, other
3289 sports drink products, or water.

3290 "School funds" means the direct and indirect financial support provided by the institution
3291 to any of its intercollegiate athletics programs. "School funds" includes state funds, tuition,
3292 tuition waivers, federal work awards for student athletes, administrative costs, facilities and
3293 grounds maintenance, security, risk management, utilities, and depreciation and debt services.

3294 "Student fees" means any fees assessed by an institution against a student that are used
3295 to support any of the institution's intercollegiate athletics programs.

3296 "Subsidy" means the sum of school funds and student fees.

3297 "Subsidy percentage" means the subsidy divided by the athletics revenue, provided that
3298 revenues allocated to (i) support spirit groups associated with any intercollegiate athletics
3299 program, (ii) meet any indirect cost policy requirements, or (iii) debt service for previously
3300 approved intercollegiate athletics capital outlay projects may be excluded from the subsidy for
3301 the purposes of such calculation.

3302 "Ticket sales" means the sale of the right to gain admission to an intercollegiate athletics
3303 contest or any other event associated with intercollegiate athletics. "Ticket sales" includes sums
3304 received from any associated shipping and handling charges and includes sales to the public,
3305 faculty, and students. "Ticket sales" does not include (i) amounts paid in excess of the face value
3306 of an admissions ticket to an intercollegiate athletics contest or any other event associated with
3307 intercollegiate athletics such as preferential seating arrangements or (ii) pass-through sales
3308 transactions such as sales for admission tickets to bowl games and conference and national
3309 tournaments.

3310 B. ~~No later than November 1, 2015, the~~ The Auditor of Public Accounts, in
3311 collaboration with the ~~State Council of Higher Education for Virginia, the~~ State Comptroller, ~~the~~
3312 Department of Planning and Budget, and each institution, shall develop and implement a
3313 standardized reporting format for each institution to annually report its intercollegiate athletics
3314 revenue and expenses to the Auditor of Public Accounts that shall include treatment of student
3315 fees and classification of specific intercollegiate athletics programs and shall require expenses
3316 for spirit groups, indirect cost policy requirements, and debt service for previously approved
3317 intercollegiate athletics capital outlay projects and other intercollegiate athletics capital outlay
3318 projects to be reported on separate lines.

3319 C. The subsidy percentage shall not exceed:

3320 1. 20 percent for NCAA Division I-A institutions affiliated with the Atlantic Coast
3321 Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern
3322 Conference;

3323 2. 55 percent for NCAA Division I-A institutions affiliated with conferences other than
3324 the Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or
3325 Southeastern Conference;

3326 3. 70 percent for NCAA Division I-AA institutions;

3327 4. 78 percent for NCAA Division I-AAA institutions;

3328 5. 81 percent for NCAA Division II institutions that operate intercollegiate football
3329 programs;

3330 6. 85 percent for NCAA Division II institutions that do not operate intercollegiate
3331 football programs;

3332 7. 89 percent for NCAA Division III institutions that operate intercollegiate football
3333 programs; and

3334 8. 92 percent for NCAA Division III institutions that do not operate intercollegiate
3335 football programs.

3336 D. ~~Effective with the~~ Each fiscal year ~~beginning July 1, 2016~~, any percentage increase in
3337 the subsidy at an institution that complies with subsection C shall be matched by a like
3338 percentage increase in generated revenue, except that each such institution shall utilize a rolling
3339 average of the change in generated revenue and student fees over the immediately preceding
3340 five years for the purposes of such calculation.

3341 E. When necessary, each institution shall submit to the Governor and the General
3342 Assembly for approval a plan that reduces the subsidy in accordance with targets outlined in the
3343 plan over a five-year period until the subsidy percentage complies with the requirements of
3344 subsection C.

3345 F. The Auditor of Public Accounts shall annually review each institution's progress
3346 towards meeting the requirements of each plan approved pursuant to subsection E as part of his
3347 annual audit pursuant to § 30-133.

3348 G. Failure to meet the progress requirements of each plan approved pursuant to
3349 subsection E for one year, as determined by the Auditor of Public Accounts, shall result in such
3350 reduction of the financial and administrative operations authority granted to the institution
3351 pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§
3352 ~~23-38.88~~ 23.1-1000 et seq.) as the Governor or General Assembly determines.

3353 H. Failure to meet the progress requirements of each plan approved pursuant to
3354 subsection E for two consecutive years, as determined by the Auditor of Public Accounts, shall

3355 result in revocation of all financial and administrative operations authority granted to the
3356 institution pursuant to the Restructured Higher Education Financial and Administrative
3357 Operations Act (§ ~~23-38.88~~ [23.1-1000](#) et seq.).

3358 I. The board of visitors of any institution that seeks to add a major intercollegiate
3359 athletics program such as football or basketball or change the division level of any of its existing
3360 intercollegiate athletics programs shall first submit to the Intercollegiate Athletics Review
3361 Commission (Commission) established pursuant to Chapter 57 (§ 30-359 et seq.) of Title 30 a
3362 plan and recommendations for financing the addition or change. The institution shall not in any
3363 way undertake any such addition or agree or commit to any such change until it has received the
3364 findings and recommendations of the Commission pursuant to § 30-360. Any such addition or
3365 change shall be subject to the approval of the General Assembly expressed in the general
3366 appropriation act. The board of visitors of any institution that adds a non-major intercollegiate
3367 athletics program shall report such decision within 15 days of the board's action.

3368 **Drafting note: Obsolete references to November 1, 2015 and July 1, 2016 are**
3369 **stricken. Technical changes are made, including use of "regulations" rather than "rules**
3370 **and regulations" per recommendation of the Code Commission.**

3371 [§ 23.1-1310. Boards of visitors; baccalaureate public institutions of higher education;](#)
3372 [property of predecessor institutions.](#)

3373 [All real estate and personal property standing in the name of any predecessor institution](#)
3374 [of a baccalaureate public institution of higher education shall be transferred to, known and taken](#)
3375 [as standing in the name of, and controlled by the board of visitors of such public institution of](#)
3376 [higher education. All such real estate and personal property is the property of the](#)
3377 [Commonwealth.](#)

3378 **Drafting note: This proposed section incorporates and standardized institution-**
3379 **specific provisions related to the real estate and property of predecessor institutions.**

3380 #

3381

3382 CHAPTER ~~9.2~~ 18.

3383 UNIVERSITY OF MARY WASHINGTON.

3384 **Drafting note: Existing Chapter 9.2 of Title 23 is logically reorganized as proposed**
3385 **Chapters 13 and 18 of Title 23.1. Existing provisions that apply generally to governing**
3386 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
3387 **Existing provisions relating to the incorporation, membership and meetings, and powers**
3388 **and duties of the governing board that are unique to the University are retained in**
3389 **proposed Chapter 18.**

3390 ~~§ 23-91.34 23.1-1800. Board of visitors a corporation and under control of General~~
3391 ~~Assembly Corporate name; name of the University.~~

3392 ~~There is hereby established a corporate body composed of the~~ A. The board of visitors of
3393 the University of Mary Washington (the board) shall be a corporation under the name and style
3394 of "The Rector and Visitors of the University of Mary Washington" hereinafter referred to in
3395 this chapter as the board, which and shall have, in addition to its other powers, all the corporate
3396 powers given to corporations by the provisions of Title 13.1; except ~~in those cases where by the~~
3397 express terms of the provisions thereof, it is powers that are confined to corporations created
3398 under such title, and the board shall also have the power to accept, execute and administer any
3399 trust in which it may have an interest under the terms of the instrument creating the trust. Such
3400 corporation pursuant to Title 13.1. The exercise of such corporate powers shall not be deemed a
3401 waiver or relinquishment of any sovereign immunity to which the board or any of its members
3402 is otherwise entitled. The board shall ~~be subject~~ at all times ~~to be under~~ the control of the
3403 General Assembly.

3404 B. The institution shall be known as the University of Mary Washington (the
3405 University).

3406 **Drafting note: Technical changes are made to conform the language in this section**
3407 **to that of each other four-year public institution of higher education.**

3408 ~~§ 23-91.35. Transfer of certain property.~~

3409 ~~Upon July 1, 1972, all real estate and personal property held by the University of Mary~~
3410 ~~Washington prior to its union with the rector and visitors of the University of Virginia; control~~
3411 ~~of the real estate acquired from Corinne Lawton Melchers and known as "Belmont" (see~~
3412 ~~Chapter 51 of the Acts of Assembly, 1960), and the real estate known as the James Monroe Law~~
3413 ~~Office—Museum and Memorial Library (see Chapter 641 of the Acts of Assembly, 1964),~~
3414 ~~together with the personal property associated with the respective real estate, all of such real and~~
3415 ~~personal properties existing and standing in the name of the Commonwealth of Virginia but~~
3416 ~~controlled by the rector and visitors of the University of Virginia; and all real and personal~~
3417 ~~property acquired in the name of the rector and visitors of the University of Virginia for the use~~
3418 ~~of the University of Mary Washington during the time in which the University of Mary~~
3419 ~~Washington was a part of the University of Virginia, hereby is transferred to and shall be known~~
3420 ~~and taken as standing in the name and under the control of the rector and visitors of the~~
3421 ~~University of Mary Washington (the term "control" shall include, without limitation,~~
3422 ~~"management, control, operation and maintenance"). Such real estate and personal property~~
3423 ~~shall be the property of the Commonwealth.~~

3424 **Drafting note: The provisions of existing § 23-91.35 are stricken here and**
3425 **incorporated instead into proposed § 23.1-1310.**

3426 ~~§ 23-91.36~~ 23.1-1801. Appointment of visitors generally; terms Membership.

3427 ~~(a) A.~~ The board shall consist of twelve 12 members, ~~who shall be~~ appointed by the
3428 Governor. ~~Of the twelve members, no more than three may be nonresidents of Virginia, of~~
3429 ~~whom at least nine shall be residents of the Commonwealth and at least six shall be alumni of~~
3430 ~~the University.~~

3431 ~~(b) In 1972 the Governor shall appoint the members of the board for terms beginning~~
3432 ~~July 1, 1972. Three of such appointments shall be for terms of four years each, three for terms of~~
3433 ~~three years, three for terms of two years, and three for terms of one year. Subsequent~~
3434 ~~appointments shall be for terms of four years; provided, however, that appointments to fill~~
3435 ~~vacancies occurring otherwise than by expiration of terms shall be for the unexpired terms.~~

3436 ~~(c) All appointments shall be subject to confirmation by the General Assembly.~~
3437 ~~Members shall continue to hold office until their successors have been appointed and have~~
3438 ~~qualified.~~

3439 B. The alumni association of the University may submit to the Governor a list of at least
3440 three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a
3441 term or otherwise. The Governor may appoint a member from the list of nominees.

3442 **Drafting note: Existing provisions relating to the membership of the board of**
3443 **visitors are logically combined in this proposed section, existing provisions relating to the**
3444 **terms and removal of members of the board are stricken and incorporated instead into**
3445 **proposed § 23.1-1300, existing provisions related to the initial staggering of terms are**
3446 **stricken as obsolete, and technical changes are made to conform the language to that of**
3447 **each other four-year public institution of higher education.**

3448 ~~§ 23-91.37. Appointment of visitors from nominees of alumni association.~~

3449 ~~(a) The Governor may, if his discretion so dictates, appoint visitors from a list of~~
3450 ~~qualified persons submitted to him by the alumni association of the University of Mary~~
3451 ~~Washington on or before the first day of December of any year next preceding a year in which~~
3452 ~~the terms of any of such visitors will expire.~~

3453 ~~(b) Whenever a vacancy occurs otherwise than by expiration of term, the Governor shall~~
3454 ~~certify this fact to the association and nominations may be submitted of qualified persons. The~~
3455 ~~Governor may fill the vacancy, if his discretion so dictates, from among the eligible nominees of~~
3456 ~~the association, whether or not alumni or alumnae.~~

3457 ~~(c) Every such list of prospective appointees shall contain at least three names for each~~
3458 ~~vacancy to be filled.~~

3459 ~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

3460 ~~(e) At no time shall fewer than six of the members of the board be alumni or alumnae of~~
3461 ~~the University.~~

3462 **Drafting note: The provisions of existing § 23-91.37 are stricken and incorporated**
3463 **instead into proposed § 23.1-1801.**

3464 ~~§ 23-91.38. Eligibility to serve for more than two terms.~~

3465 ~~No person shall be eligible to serve on the board of visitors for or during more than two~~
3466 ~~successive four year terms; but after the expiration of a term of two years or less, or after the~~
3467 ~~expiration of the remainder of a term to which appointed to fill a vacancy, a member may serve~~
3468 ~~two additional four year terms if appointed thereto.~~

3469 **Drafting note: The December deadline for alumni association nominations is**
3470 **recommended for repeal as obsolete. The remaining provisions of existing § 23-91.38 are**
3471 **stricken and incorporated instead into proposed § 23.1-1300.**

3472 ~~§ 23-91.39.~~

3473 **Drafting note: Repealed by Acts 2015, c. 560.**

3474 ~~§ 23-91.40 23.1-1802. Powers and duties of visitors generally; meetings; rector,~~
3475 ~~secretary and vice rector; executive committee Meetings; officers; committees.~~

3476 ~~(a) The board of visitors shall be vested with all the rights and powers conferred by the~~
3477 ~~provisions of this title insofar as the same are not inconsistent with the provisions of this chapter~~
3478 ~~and the general laws of the Commonwealth.~~

3479 ~~The board shall control and expend the funds of the University and any appropriation~~
3480 ~~hereafter provided, and shall make all needful rules and regulations concerning the University;~~
3481 ~~appoint the president, who shall be its chief executive officer, and all teachers, and fix their~~
3482 ~~salaries, and provide for the employment of other personnel as required, and generally direct the~~
3483 ~~affairs of the University.~~

3484 ~~(b) A. The board of visitors shall meet at the University once a year, and at such other~~
3485 ~~times as they shall determine, the days of meetings to be fixed by them it determines.~~

3486 ~~B. A majority of the members shall constitute a quorum.~~

3487 ~~C. At the first meeting after July 1, 1972, and every second year thereafter, they in every~~
3488 ~~even-numbered year, the board shall appoint from their own body its membership a rector, ~~who~~~~

3489 ~~shall to~~ preside at ~~their its~~ meetings, ~~a secretary and~~ a vice-rector to preside at its meetings in the
3490 absence of the rector, and a secretary who shall preside at its meetings in the absence of the
3491 rector and vice-rector.

3492 ~~In the absence of the rector or vice-rector at any meeting, the secretary shall preside, and~~
3493 ~~in the absence of all three, the~~ D. The board may appoint a pro tempore officer to preside at its
3494 meetings in the absence of the rector, vice-rector, and secretary.

3495 ~~Any vacancies~~ E. Vacancies in the offices of rector, vice-rector ~~or, and~~ secretary may be
3496 filled by the board for the unexpired term.

3497 F. Special meetings of the board may be called by the rector or any three members. In
3498 either ~~of such cases case,~~ the secretary shall give notice of the time of meetings ~~shall be given~~
3499 ~~by the secretary~~ to every each member.

3500 ~~(e)~~ G. At every regular annual meeting of the board ~~they, it~~ may appoint an executive
3501 committee for the transaction of business in the recess of the board, ~~not less than~~ consisting of at
3502 least three ~~nor and not~~ more than five members, to serve for a period of one year or until the
3503 next regular annual meeting.

3504 **Drafting note: Technical changes are made to conform provisions relating to**
3505 **meetings, officers, and committees of the board of visitors to those of each other four-year**
3506 **public institution of higher education. Board duties set forth in subsection (a) of existing §**
3507 **23-91.40 are stricken and incorporated instead into proposed § 23.1-1301, if the duty**
3508 **applies generally to boards of public institutions of higher education, or § 23.1-1803, if the**
3509 **duty applies specifically to the University.**

3510 ~~§ 23-91.41. Rates, fees and charges.~~

3511 ~~The board may fix, in its discretion, the rates charged the students of the University for~~
3512 ~~tuition, fees and other necessary charges.~~

3513 **Drafting note: The provisions of existing § 23-91.41 are stricken and incorporated**
3514 **instead into proposed § 23.1-1301.**

3515 ~~§ 23-91.42~~ 23.1-1803. Degrees Powers and duties.

3516 A. The board shall appoint all teachers and fix their salaries, provide for the employment
3517 of other personnel as required, and generally direct the affairs of the University.

3518 B. The board shall have the right to may confer degrees.

3519 § 23-91.43. Curriculum.

3520 The existing collegiate curriculum of the University shall be continued; however, the
3521 board may make such alterations therein as it shall from time to time deem necessary and,
3522 subject to the provisions of § 23.1-203, approve new academic programs and discontinue
3523 academic programs offered by the University.

3524 **Drafting note: Subsection A incorporates board duties set forth in subsection (a) of**
3525 **existing § 23-91.40. Board powers related to degrees (existing § 23-91.42) and curriculum**
3526 **(existing § 23-91.43) are combined in subsection B of this proposed section. A clarifying**
3527 **reference to the Council's powers related to academic programs is proposed in subsection**
3528 **B. Technical changes are made.**

3529 § 23-91.44. Sale, etc., of real estate.

3530 The rector and visitors of the University of Mary Washington, with the approval of the
3531 Governor first obtained, are hereby authorized to lease, sell and convey any and all real estate to
3532 which it has acquired title by gift, devise or purchase since the commencement of the University
3533 under any previous names, or which may hereafter be conveyed or devised to it. The proceeds
3534 derived from any such lease, sale or conveyance shall be held by the rector and visitors of the
3535 University of Mary Washington, upon identical trusts, and subject to the same uses, limitations
3536 and conditions, if any, that are expressed in the original deed or will under which its title was
3537 derived; or if there be no such trusts, uses, limitations or conditions expressed in such original
3538 deed or will, then such funds shall be applied by the rector and visitors of the University to such
3539 purposes as said board may deem best for the University.

3540 **Drafting note: The provisions of existing § 23-91.44 are stricken and incorporated**
3541 **instead into proposed § 23.1-1301.**

3542 #

CHAPTER ~~13.1~~ 19.

NORFOLK STATE UNIVERSITY.

Drafting note: Existing Chapter 13.1 of Title 23 is logically reorganized as proposed Chapters 13 and 19 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 powers and duties of the governing board that are unique to the University are retained in proposed Chapter 19.

~~§ 23-174.1 23.1-1900. Corporation established under control of General Assembly~~
Corporate name; name of the University.

~~A. The corporation composed of the board of visitors of Norfolk State College, heretofore established by law, is continued as the~~ board of visitors of Norfolk State University ~~(the board) shall be a corporation~~ under the name and style of "The Visitors of Norfolk State University;" and ~~which 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 ~~shall~~ be under the control of the General Assembly.

B. The institution shall be known as Norfolk State University (the University).

~~Whenever the term "C. All laws relating to Norfolk State College" is used in any law of this Commonwealth, it or the board of visitors of Norfolk State College shall be construed as relating to mean Norfolk State the University or the board, respectively.~~

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

~~§ 23-174.2. Corporation to establish and maintain University.~~

~~The corporation is formed for the purpose of establishing and maintaining a university in the name and style of "Norfolk State University."~~

3569 **Drafting note: The provisions of existing § 23-174.2 are stricken and incorporated**
3570 **instead into proposed § 23.1-1900.**

3571 ~~§ 23-174.3. Transfer of property.~~

3572 ~~All real estate and personal property existing and standing in the name of the Visitors of~~
3573 ~~Norfolk State College shall be known and taken as standing in the name, and to be under the~~
3574 ~~control, of the Visitors of Norfolk State University. Such real estate and personal property shall~~
3575 ~~be the property of the Commonwealth.~~

3576 **Drafting note: The provisions of existing § 23-174.3 are stricken here and**
3577 **incorporated instead into proposed § 23.1-1310.**

3578 ~~§ 23-174.4 23.1-1901. Composition of board of visitors; appointment, terms, etc.~~
3579 ~~Membership; executive committee.~~

3580 A. The board of visitors shall consist of 13 members ~~who shall be~~ appointed, ~~on or~~
3581 ~~before June 30 of any year in which their terms shall expire,~~ by the Governor ~~for terms of four~~
3582 ~~years, of whom at least four shall be alumni of the University.~~ Of the ~~persons so~~ alumni
3583 ~~appointed, four shall be alumni of Norfolk State University of which three may be nonresidents~~
3584 ~~of the Commonwealth at least one shall be a resident of the Commonwealth.~~ ~~Vacancies~~
3585 ~~occurring other than by expiration of term shall be filled by the Governor for the unexpired~~
3586 ~~term.~~

3587 B. ~~The Governor may appoint alumni visitors from a list of qualified persons submitted~~
3588 ~~to him upon the recommendation of the National Alumni Association of Norfolk State~~
3589 ~~University on or before November 1 of any year in which the terms of such visitors shall expire.~~
3590 ~~The National Alumni Association of Norfolk State University shall submit the names of four~~
3591 ~~qualified alumni for each vacancy.~~

3592 C. ~~All appointments shall be subject to confirmation by the General Assembly. Members~~
3593 ~~shall continue to hold office until their successors have been appointed and qualified. Members~~
3594 ~~shall be eligible for two consecutive terms of four years, exclusive of that portion of any term on~~
3595 ~~the initial board of less than four years or any unexpired term.~~ The alumni association of the

3596 University may submit to the Governor a list of four nominees for each vacancy on the board,
3597 whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a
3598 member from the list of nominees.

3599 C. The board may appoint at least three and not more than five of its members to an
3600 executive committee that shall have and may exercise such powers as the board may prescribe.

3601 **Drafting note: The November deadline for alumni association recommendations is**
3602 **recommended for repeal as obsolete. The remaining existing provisions relating to the**
3603 **terms and removal of members of the board are stricken and incorporated instead into**
3604 **proposed § 23.1-1300. Subsection C incorporates the last sentence of existing § 23-174.5.**
3605 **Technical changes are made to conform the language to that of each other four-year**
3606 **public institution of higher education.**

3607 § 23-174.6 23.1-1902. Control of funds; rules and regulations; appointment, etc., of
3608 president, faculty and staff Powers and duties.

3609 A. The board shall control and expend the funds of the corporation and any
3610 appropriation hereafter provided, and shall make all necessary rules and regulations concerning
3611 the University, appoint a president, who shall be its chief executive officer, and (i) make all
3612 provisions for teachers, staff members, and agents, and shall, fix their salaries, and shall
3613 prescribe their duties and (ii) generally direct the affairs of the University.

3614 § 23-174.5. Rights and powers of board of visitors generally; executive committee.

3615 The board shall be vested with all the rights and powers conferred by the provisions of
3616 this chapter and the provisions relating to similar corporations under the laws of this
3617 Commonwealth so far as they are applicable. B. The corporation shall also have the power to
3618 board may take, hold, receive, and enjoy any gift, grant, devise, or bequest to Norfolk State the
3619 University, the same to be held for the uses and purposes designated by the donor, if any, or if
3620 not so designated, for the general purposes of the corporation board. The board may designate
3621 not less than three nor more than five of its members to constitute an executive committee
3622 which shall have and may exercise such authority of the board as the board may provide.

3623 ~~§ 23-174.7. Right to confer degrees; tuition, fees and other charges.~~

3624 ~~C. The board shall have the right to may confer degrees, and may fix the rates charged~~
3625 ~~the students of the University for tuition, fees and other necessary charges.~~

3626 **Drafting note: The board's duties to control and expend funds, make regulations,**
3627 **and appoint a president, as set forth in existing § 23-174.6, are stricken and incorporated**
3628 **instead into proposed § 23.1-1301. Language related to the duty to generally direct the**
3629 **affairs of the University is added to conform the board's duties to those of the majority of**
3630 **other four-year public institutions of higher education. The provisions of existing § 23-**
3631 **174.5 related to gifts, grants, devises, and bequests are incorporated into subsection B of**
3632 **this proposed section. The provisions of existing § 23-174.5 related to the executive**
3633 **committee of the board are stricken and incorporated instead as subsection C of proposed**
3634 **§ 23.1-1901. The provisions of existing § 23-174.7 related to conferring degrees are**
3635 **incorporated into subsection C of this proposed section. The provisions of existing § 23-**
3636 **174.7 related to fixing tuition and fees are stricken and incorporated instead into proposed**
3637 **§ 23.1-1301. Technical changes are made.**

3638 ~~§ 23-174.8, 23-174.9.~~

3639 **Drafting note: Repealed by Acts 1979, c. 146.**

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3650 CHAPTER ~~5.2~~ 20.

3651 OLD DOMINION UNIVERSITY.

3652 **Drafting note: Existing Chapter 5.2 of Title 23 is logically reorganized as proposed**
3653 **Chapters 13 and 20 of Title 23.1. Existing provisions that apply generally to governing**
3654 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
3655 **Existing provisions relating to the incorporation, membership and meetings, and powers**
3656 **and duties of the governing board that are unique to the University are retained in**
3657 **proposed Chapter 20.**

3658 ~~Article 1.~~

3659 ~~General Provisions.~~

3660 **Drafting note: Article 2 and its contents are recommended for repeal as obsolete,**
3661 **which renders the Article 1 designation unnecessary in proposed Chapter 20.**

3662 § ~~23-49.11~~ 23.1-2000. Corporate name; ~~powers; subject to control of General Assembly~~
3663 ~~name of the University.~~

3664 A. The board of visitors of ~~the~~ Old Dominion University (the board) shall be a
3665 corporation under the name and style of "Old Dominion University;" and shall have, in addition
3666 to its other powers, all the corporate powers given to corporations by the provisions of Title
3667 13.1; ~~except in those cases where, by the express terms of the provisions thereof, it is powers~~
3668 ~~that are~~ confined to corporations created ~~under such title; and shall also have the power to~~
3669 ~~accept, execute and administer any trust in which it may have an interest under the terms~~
3670 ~~creating the trust pursuant to Title 13.1.~~ The ~~rector and visitors of Old Dominion University~~
3671 board shall at all times be ~~subject to~~ under the control of the General Assembly.

3672 B. The institution shall be known as Old Dominion University (the University).

3673 C. All laws relating to Norfolk College or the board of visitors of Norfolk College shall
3674 be construed as relating to the University or the board, respectively.

3675 **Drafting note: Existing §§ 23-49.11 and 23-49.12 are combined as proposed § 23.1-**
3676 **2000. Technical changes are made to conform the language in this section to that of each**

3677 other four-year public institution of higher education, including the specification in
3678 subsection C that all laws relating to Norfolk College relate to the University or the board.

3679 ~~§ 23-49.12. Visitors empowered to choose title.~~

3680 ~~"The board of visitors of Old Dominion University" is empowered to choose and~~
3681 ~~maintain a distinctive and appropriate title, in addition to its other powers.~~

3682 **Drafting note: The corporate name and style is already delineated in proposed §**
3683 **23.1-2000. As such, existing § 23-49.12 is recommended for repeal.**

3684 ~~§ 23-49.14 23.1-2001. Appointment of visitors generally; number and terms; vacancies;~~
3685 ~~confirmation Membership.~~

3686 ~~(a) A.~~ The board ~~of visitors is to shall~~ consist of ~~seventeen 17~~ members ~~to be~~ appointed
3687 by the Governor, ~~three of whom may be nonresidents of whom at least 14 shall be residents~~ of
3688 the Commonwealth ~~of Virginia~~ and at least three ~~of whom~~ shall be alumni of ~~Old Dominion the~~
3689 University.

3690 ~~(b) Prior to July 1, 1980, the Governor shall appoint successors to the members whose~~
3691 ~~terms expire in 1980 for terms of four years and four additional members, one for a term of one~~
3692 ~~year, one for a term of two years, one for a term of three years and one for a term of four years.~~
3693 ~~Annually thereafter, the Governor shall appoint members to fill vacancies caused by the~~
3694 ~~expiration of terms for terms of four years.~~

3695 ~~(c) All vacancies, whether occasioned by failure to make an appointment within the sixty~~
3696 ~~days preceding any regular expiration as required, or otherwise, are to be filled by the Governor~~
3697 ~~for the unexpired term.~~

3698 ~~(d) All appointments are subject to confirmation by the General Assembly if in session~~
3699 ~~when such appointments are made, and if not in session, then at its next succeeding session.~~
3700 ~~Visitors shall continue to discharge their duties after their terms have expired until their~~
3701 ~~successors have been appointed and have qualified.~~

3702 B. The alumni association of the University may submit to the Governor a list of at least
3703 three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a
3704 term or otherwise. The Governor may appoint a member from the list of nominees.

3705 **Drafting note: Existing provisions relating to the membership of the board of**
3706 **visitors are logically combined in this proposed section, existing provisions relating to the**
3707 **terms and removal of members of the board are stricken and incorporated instead into**
3708 **proposed § 23.1-1300, and technical changes are made to conform the language to that of**
3709 **each other four-year public institution of higher education.**

3710 ~~§ 23-49.15. Nominations for appointment to board of visitors.~~

3711 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him,~~
3712 ~~by the alumni association of Old Dominion University, or its titular successor, on or before~~
3713 ~~April 1 of any year in which the terms of any visitors will expire.~~

3714 ~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall~~
3715 ~~certify this fact to the association and nominations may be submitted of qualified persons and~~
3716 ~~the Governor may fill the vacancy, if his discretion so dictates, from among the eligible~~
3717 ~~nominees of the association, whether or not alumni or alumnae.~~

3718 ~~(c) [Repealed.]~~

3719 ~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

3720 **Drafting note: The provisions of existing § 23-49.15 are stricken and incorporated**
3721 **instead into proposed § 23.1-2001.**

3722 ~~§ 23-49.16. Visitor ineligible for more than two successive terms.~~

3723 ~~No person shall be eligible to serve for or during more than two successive four-year~~
3724 ~~terms.~~

3725 **Drafting note: The provisions of existing § 23-49.16 are stricken and incorporated**
3726 **instead into proposed § 23.1-1300.**

3727 ~~§ 23-49.17. 23.1-2002. Rights, powers and duties of board in general; meetings; rector,~~
3728 ~~vice-rector and secretary; executive committee Meetings; officers; committees.~~

3729 A. ~~The board of visitors shall be vested with all the rights and powers conferred by the~~
3730 ~~provisions of this chapter insofar as the same are not inconsistent with the provisions of this~~
3731 ~~chapter and the general laws of the Commonwealth.~~

3732 ~~The board shall control and expend the funds of the University and any appropriation~~
3733 ~~hereafter provided, and shall make all needful rules and regulations concerning the University,~~
3734 ~~appoint the president, who shall be its chief executive officer, and all professors, teachers, staff~~
3735 ~~members and agents, and fix their salaries, and generally direct the affairs of the University.~~

3736 ~~B.~~ The board of visitors shall meet at the University once a year, and at such other times
3737 ~~as they shall determine, the days of meetings to be fixed by them~~ it determines. Special
3738 meetings of the board may be called by the rector or any three members. The secretary shall
3739 provide notice of any special meeting to each member.

3740 B. A majority of ~~voting~~ members shall constitute a quorum.

3741 C. At the first meeting after July 1, ~~1962, and every second year thereafter, they in every~~
3742 even-numbered year, the board shall elect from ~~their own body its membership~~ a rector, ~~who~~
3743 shall to preside at ~~their its~~ meetings, ~~a secretary and~~ a vice-rector to preside at its meetings in the
3744 absence of the rector, and a secretary to preside at its meetings in the absence of the rector and
3745 vice-rector.

3746 ~~In the absence of the rector or vice-rector at any meeting, the secretary shall preside, and~~
3747 ~~on the absence of all three, the~~ D. The board may appoint a pro tempore officer to preside at its
3748 meetings in the absence of the rector, vice-rector, and secretary.

3749 ~~Any vacancies~~ E. Vacancies in the offices of rector, vice-rector ~~or, and~~ secretary may be
3750 filled by the board for the unexpired term. ~~Special meetings of the board may be called by the~~
3751 ~~rector or any three members. In either of such cases, notice of the time of meetings shall be~~
3752 ~~given by the secretary to every member.~~

3753 C. F. At every regular annual meeting of the board, an executive committee of no fewer
3754 than five members may be appointed for the transaction of business in the recess of the board
3755 may be appointed, consisting of at least five members. The executive committee shall be consist

3756 of the officers of the board and such other members as ~~shall be appointed by~~ the rector may
3757 appoint.

3758 **Drafting note: Technical changes are made to conform provisions relating to**
3759 **meetings, officers, and committees of the board to those of each other four-year public**
3760 **institution of higher education. Board duties set forth in subsection A of existing § 23-49.17**
3761 **are relocated to §§ 23.1-1301 and 23.1-2003.**

3762 ~~§ 23-49.18. Board may fix tuition, fees and other necessary charges.~~

3763 ~~The board of visitors may fix, in their discretion, the rates charged the students of the~~
3764 ~~University for tuition, fees and other necessary charges.~~

3765 **Drafting note: The provisions of existing § 23-49.18 are stricken and incorporated**
3766 **instead into proposed § 23.1-1301.**

3767 ~~§ 23-49.19 23.1-2003. Right to confer degrees Powers and duties.~~

3768 A. The board shall (i) appoint all, teachers, staff members, and agents and fix their
3769 salaries and (ii) generally direct the affairs of the University.

3770 B. The board of visitors shall have the right to may confer degrees.

3771 ~~§ 23-49.13. Property transferred to visitors and owned by Commonwealth; gifts or~~
3772 ~~bequests.~~

3773 ~~All the real estate and personal property now existing and heretofore (before June 27,~~
3774 ~~1966) standing in the name of the corporate body designated "Norfolk College," located in~~
3775 ~~Norfolk, and heretofore exclusively used by the Norfolk College, shall be transferred to and be~~
3776 ~~known and taken as standing in the name, and to be under the control, of the corporate body~~
3777 ~~designated "The Visitors of Old Dominion University." Such real estate and personal property~~
3778 ~~shall be the property of the Commonwealth of Virginia.~~

3779 Every C. The board may take, hold, and enjoy any gift, grant, devise, or bequest
3780 heretofore or hereafter made to Old Dominion the University; for any use or purpose or
3781 purposes, designated by the donor, the corporation is empowered to receive, take, hold and
3782 enjoy the same for the uses and purposes designated by the donor if he or she shall so designate,

3783 or for the general purposes of the ~~corporation board~~ when ~~the gift, grant, devise or bequest is not~~
3784 ~~so no use or purpose is~~ designated, whether ~~the same be given such gift, grant, devise, or~~
3785 ~~bequest is made~~ directly to the corporation; or to trustees for its benefit.

3786 **Drafting note: Subsection A incorporates board duties set forth in subsection A of**
3787 **existing § 23-49.17. Subsection B incorporates the provisions of existing § 23-49.19. The**
3788 **first paragraph of existing § 23-49.13 is stricken here and incorporated instead into**
3789 **proposed § 23.1-1310. Subsection C incorporates the provisions of the second paragraph of**
3790 **existing § 23-49.13. Technical changes are made.**

3791 ~~§ 23-49.20 23.1-2004. Normal course to be maintained~~ Program of instruction to educate
3792 and train teachers.

3793 The University may maintain ~~in connection with its collegiate course, which shall be~~
3794 ~~continued, a system of normal~~ a program of instruction ~~and training for the purpose of educating~~
3795 ~~and training to educate and train~~ teachers for the public ~~free~~ elementary and secondary schools
3796 of the Commonwealth.

3797 **Drafting note: Technical changes.**

3798 ~~§ 23-49.21. Lease or sale of real estate.~~

3799 ~~The rector and visitors of Old Dominion University, with the approval of the Governor~~
3800 ~~first obtained, are hereby authorized to lease, sell and convey any and all real estate to which it~~
3801 ~~has acquired title by gift, devise or purchase since the commencement of the University under~~
3802 ~~any previous name or names, or which may hereafter be conveyed or devised to it. The proceeds~~
3803 ~~derived from any such lease, sale or sales shall be held by said rector and visitors of Old~~
3804 ~~Dominion University upon the identical trusts, and subject to the same uses, limitations and~~
3805 ~~conditions, if any, that are expressed in the original deed or will under which its title was~~
3806 ~~derived, or if there be no such trusts, uses, limitations or conditions expressed in such original~~
3807 ~~deed or will, then said funds shall be applied by the rector and visitors of the University to such~~
3808 ~~purposes as said board may deem best for the University.~~

3835 ~~shall have the power to grant appropriate diplomas or certificates upon the successful~~
3836 ~~completion of the curriculum of the center.~~

3837 **Drafting note: Existing § 23-49.22:2 is recommended for repeal as obsolete.**

3838 ~~§ 23-49.22:3. Curriculum.~~

3839 ~~The curriculum offered by the center shall be limited to upper level undergraduate and~~
3840 ~~graduate courses of instruction which are offered by Old Dominion University and Norfolk~~
3841 ~~State University. The approval of the State Council of Higher Education shall be required for~~
3842 ~~the addition of any new academic programs pursuant to § 23-9.6:1. In developing upper level~~
3843 ~~undergraduate educational programs, the boards shall consider articulation agreements and~~
3844 ~~course offerings at area community colleges to ensure the appropriate breadth and availability of~~
3845 ~~coursework.~~

3846 **Drafting note: Existing § 23-49.22:3 is recommended for repeal as obsolete.**

3847 ~~§ 23-49.22:4. Care, preservation, and acquisition of property; gifts and donations.~~

3848 ~~The boards of visitors of Old Dominion University and Norfolk State University shall be~~
3849 ~~charged with the care and preservation of all real and personal property belonging to the center.~~
3850 ~~The boards are authorized to lease or acquire by gift or purchase a suitable site for the center~~
3851 ~~and to accept and expend gifts and donations of any kind from individuals, firms, corporations,~~
3852 ~~and organizations.~~

3853 **Drafting note: Existing § 23-49.22:4 is recommended for repeal as obsolete.**

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3862 CHAPTER ~~11.1~~ 21.

3863 RADFORD UNIVERSITY.

3864 **Drafting note: Existing Chapter 11.1 of Title 23 is logically reorganized as proposed**
3865 **Chapters 13 and 21 of Title 23.1. Existing provisions that apply generally to governing**
3866 **boards of public institutions of higher education are consolidated in Chapter 13. Existing**
3867 **provisions relating to the incorporation, membership, and powers and duties of the**
3868 **governing board that are unique to the University are retained in Chapter 21.**

3869 ~~§ 23-155.1 23.1-2100. Corporation composed of board of visitors created; style~~
3870 ~~Corporate name; name of the University.~~

3871 ~~A. The corporation composed of the board of visitors of Radford College, heretofore~~
3872 ~~established by law, is continued as the~~ board of visitors of Radford University ~~(the board) shall~~
3873 ~~be a corporation~~ under the ~~name and~~ style of "The Visitors of Radford University" ~~in this~~
3874 ~~chapter hereinafter referred to as the board~~ and shall have, in addition to its other powers, all the
3875 ~~corporate powers given to corporations by the provisions of Title 13.1 except those powers that~~
3876 ~~are confined to corporations created pursuant to Title 13.1. The exercise of such corporate~~
3877 ~~powers shall not be deemed a waiver or relinquishment of any sovereign immunity to which the~~
3878 ~~board or any of its members is otherwise entitled. The board shall at all times be under the~~
3879 ~~control of the General Assembly.~~

3880 ~~All laws relating to Radford College or the board of visitors of Radford College shall be~~
3881 ~~construed as relating to Radford University or the board.~~

3882 ~~§ 23-155.2. Name of University.~~

3883 ~~B. The University institution shall be known as Radford University (the University).~~

3884 ~~C. All laws relating to Radford College or the board of visitors of Radford College shall~~
3885 ~~be construed as relating to the University or the board, respectively.~~

3886 **Drafting note: The provisions of existing §§ 23-155.1 and 23-155.2 are combined as**
3887 **proposed § 23.1-2100. Technical changes are made to conform the language in this section**
3888 **to that of each other four-year public institution of higher education.**

3889 ~~§ 23-155.3. Transfer of property from board of visitors of Radford College.~~
3890 ~~All the real estate and personal property now existing and heretofore standing in the~~
3891 ~~name of the visitors of Radford College shall be transferred to and be known and taken as~~
3892 ~~standing in the name, and to be under the control, of the visitors of Radford University. Such~~
3893 ~~real estate and personal property shall be the property of the Commonwealth.~~

3894 **Drafting note: The provisions of existing § 23-155.3 are stricken here and**
3895 **incorporated instead into proposed § 23.1-1310.**

3896 ~~§ 23-155.4~~ 23.1-2101. Appointment of visitors; terms; vacancies Membership.

3897 ~~(a)~~ A. The board shall consist of 15 members ~~who shall be~~ appointed by the Governor,
3898 of whom at least 11 shall be residents of the Commonwealth.

3899 ~~(b) Of the four members taking new seats of the board to be appointed by the Governor~~
3900 ~~for terms beginning July 1, 2007, two shall be appointed for initial terms of three years each and~~
3901 ~~two for terms of four years each. Successors to all members shall be appointed to serve for~~
3902 ~~terms of four years each. Vacancies occurring other than by expiration of term shall be filled for~~
3903 ~~the unexpired term. Of the persons so appointed four may be nonresidents of the~~
3904 ~~Commonwealth.~~

3905 ~~(c) All appointments shall be subject to confirmation by the General Assembly.~~
3906 ~~Members shall continue to hold office until their successors have been appointed and have~~
3907 ~~qualified.~~

3908 B. The alumni association of the University may submit to the Governor a list of at least
3909 three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a
3910 term or otherwise. The Governor may appoint a member from the list of nominees.

3911 **Drafting note: Existing provisions relating to the membership of the board of**
3912 **visitors are logically combined in this proposed section, existing provisions relating to the**
3913 **terms and removal of members of the board are stricken and incorporated instead into**
3914 **proposed § 23.1-1300, and technical changes are made to conform the language to that of**
3915 **each other four-year public institution of higher education.**

3916 ~~§ 23-155.5. Appointment of visitors from list submitted by alumni association.~~

3917 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him,~~
3918 ~~by the alumni association of the Radford College, or its titular successor, on or before the first~~
3919 ~~day of July of any year in which the terms of any visitors will begin or expire.~~

3920 ~~(b) Every list shall contain at least three names of each vacancy to be filled.~~

3921 ~~(c) The Governor is not to be limited in his appointments to the persons so nominated.~~

3922 **Drafting note: The July deadline for alumni association recommendations is**
3923 **recommended for repeal as obsolete. The remaining provisions of existing § 23-155.5 are**
3924 **stricken and incorporated instead into proposed § 23.1-2101.**

3925 ~~§ 23-155.6.~~

3926 **Drafting note: Repealed by Acts 2015, c. 560.**

3927 ~~§ 23-155.7 23.1-2102. Rights, powers Powers and duties of board generally.~~

3928 ~~A. The board shall be vested with all the rights and powers conferred by the provisions~~
3929 ~~of this chapter insofar as the same are not inconsistent with the laws of the Commonwealth.~~

3930 ~~The board shall control and expend the funds of the University and any appropriation~~
3931 ~~hereafter provided, and shall make all needful rules and regulations concerning the University,~~
3932 ~~appoint the president, who shall be its chief executive officer, and all professors, teachers and~~
3933 ~~agents; (i) provide for the employment of personnel as required and fix their salaries; and (ii)~~
3934 ~~generally direct the affairs of the University.~~

3935 ~~§ 23-155.9. Right to confer degrees.~~

3936 ~~B. The board shall have the right to may confer degrees.~~

3937 **Drafting note: Duties of the board set forth in the second paragraph of existing §**
3938 **23-155.7 are stricken and incorporated instead into proposed § 23.1-1301. The provisions**
3939 **of existing § 23-155.9 are incorporated as subsection B of this proposed section. Technical**
3940 **changes are made.**

3941 ~~§ 23-155.8. Board may fix rates, fees and charges.~~

3942 ~~The board may fix the rates charged the students of the University for tuition, fees and~~
3943 ~~other necessary charges.~~

3944 **Drafting note: The provisions of existing § 23-155.8 are stricken and incorporated**
3945 **instead into proposed § 23.1-1301.**

3946 ~~§ 23-155.10 23.1-2103. Curriculum Program of instruction to educate and train teachers.~~

3947 ~~The curriculum of Radford University shall embrace such branches of learning as relate~~
3948 ~~to teaching in the public free schools of Virginia, without excluding other studies in the arts and~~
3949 ~~sciences maintain a program of instruction to educate and train teachers for the public~~
3950 ~~elementary and secondary schools of the Commonwealth without excluding other programs of~~
3951 ~~instruction.~~

3952 **Drafting note: Technical changes.**

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3969 CHAPTER ~~9~~ 22.

3970 UNIVERSITY OF VIRGINIA.

3971 **Drafting note: Existing Chapter 9 of Title 23 is logically reorganized as proposed**
3972 **Chapters 10, 13, and 22 of Title 23.1. Existing provisions that apply generally to governing**
3973 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
3974 **Existing provisions relating to the incorporation, membership and meetings, and powers**
3975 **and duties of the board of visitors that are unique to the University of Virginia are**
3976 **retained in proposed Chapter 22.**

3977 Article 1.

3978 General Provisions.

3979 ~~§ 23-62. University continued.~~

3980 ~~The University of Virginia shall be continued.~~

3981 **Drafting note: The provisions of existing § 23-62 are recommended for repeal as**
3982 **obsolete.**

3983 ~~§ 23-69 23.1-2200. Board a corporation Corporate name; name of the University.~~

3984 A. The board of visitors of the University of Virginia ~~shall be and remain (the board) is~~ a
3985 corporation, under the name and style of "the Rector and Visitors of the University of Virginia,"
3986 and shall have, in addition to its other powers, all the corporate powers given to corporations by
3987 the provisions of Title 13.1; ~~except in those cases where, by the express terms of the provisions~~
3988 ~~thereof, it is confined to corporations created under such title; and shall also have the power to~~
3989 ~~accept, execute and administer any trust in which it may have an interest under the terms of the~~
3990 ~~instrument creating the trust those powers that are confined to corporations created pursuant to~~
3991 Title 13.1. The ~~rector and visitors of the University of Virginia board~~ shall be at all times ~~subject~~
3992 to be under the control of the General Assembly.

3993 B. The institution shall be known as the University of Virginia (the University).

3994 **Drafting note: Technical changes are made to conform the language in this section**
3995 **to that of each other baccalaureate public institution of higher education.**

3996 § ~~23-70~~ 23.1-2201. ~~Appointment of visitors generally; number and terms of office~~
3997 Membership.

3998 A. The board ~~of visitors is to~~ shall consist of 17 ~~visitors~~ members appointed by the
3999 Governor, of whom at least (i) ~~at least~~ 12 shall be appointed from the Commonwealth at large,
4000 (ii) ~~at least~~ 12 shall be alumni of the University of Virginia, and (iii) ~~at least~~ one shall be a
4001 physician with administrative and clinical experience in an academic medical center.

4002 B. ~~All appointments on or after July 1, 2008, shall be for terms of four years and~~
4003 ~~commence July 1 of the first year of appointment, except that appointments to fill vacancies~~
4004 ~~shall be made for the unexpired terms. Members shall complete their service on June 30 of the~~
4005 ~~year in which their respective terms expire, including appointments made prior to July 1, 2008.~~
4006 ~~All appointments for full terms, as well as to fill vacancies, shall be made by the Governor~~
4007 ~~subject to confirmation by the Senate and the House of Delegates.~~ The alumni association of the
4008 University may submit to the Governor a list of at least three nominees for each vacancy on the
4009 board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may
4010 appoint a member from the list of nominees.

4011 **Drafting note: Existing provisions relating to the membership of the board of**
4012 **visitors are logically combined in this proposed section, existing provisions relating to the**
4013 **terms and removal of members of the board are stricken and incorporated instead into**
4014 **proposed § 23.1-1300, and technical changes are made to conform the language to that of**
4015 **each other baccalaureate public institution of higher education.**

4016 § ~~23-71~~. ~~Appointment of visitors from nominees of alumni association.~~

4017 A. ~~The Governor may appoint visitors from a list of qualified persons submitted to him,~~
4018 ~~before or after induction into office, by the alumni association of the University of Virginia, on~~
4019 ~~or before the first day of April of any year in which the terms of any visitors will expire.~~

4020 B. ~~Whenever a vacancy occurs otherwise than by expiration of term, the Governor shall~~
4021 ~~certify this fact to the association and nominations may be submitted of qualified persons and~~

4022 ~~the Governor may fill the vacancy, if his discretion so dictates, from among the eligible~~
4023 ~~nominees of the association, whether or not alumni or alumnae.~~

4024 ~~C. Every list shall contain at least three names for each vacancy to be filled.~~

4025 ~~D. The Governor is not to be limited in his appointments to the persons so nominated.~~

4026 ~~E. At no time shall less than 12 of the visitors be alumni or alumnae of the University.~~

4027 **Drafting note: The provisions of existing § 23-71 are stricken and incorporated**
4028 **instead into proposed § 23.1-2201.**

4029 ~~§ 23-72. Eligibility to serve more than two successive terms.~~

4030 ~~No person shall be eligible to serve for or during more than two successive four year~~
4031 ~~terms; but after the expiration of a term of two years or less, or after the expiration of the~~
4032 ~~remainder of a term to which appointed to fill a vacancy, two additional four year terms may be~~
4033 ~~served by such a member if appointed thereto.~~

4034 **Drafting note: The provisions of existing § 23-72 are stricken and incorporated**
4035 **instead into proposed § 23.1-1300.**

4036 ~~§ 23-73.~~

4037 **Drafting note: Repealed by Acts 2015, c. 560.**

4038 ~~§ 23-74 23.1-2202. Meetings of board of visitors; quorum; rector and vice rector;~~
4039 ~~secretary; officers; committees.~~

4040 ~~A. The board of visitors shall meet at the University at least once a year; and at such~~
4041 ~~other times as they shall determine, the days of meeting to be fixed by them and places as it~~
4042 ~~determines. Special meetings of the board may be called by the rector or any three members.~~
4043 ~~The Secretary shall provide notice of any special meeting to each member.~~

4044 ~~B. Five members shall constitute a quorum.~~

4045 ~~C. The board of visitors shall appoint, from among its members, membership a rector to~~
4046 ~~preside at their its meetings and a vice-rector to preside at their its meetings in the absence of~~
4047 ~~the rector. The board may appoint a substitute pro tempore to preside in the absence of the~~
4048 ~~rector and vice-rector. The rector and the vice-rector shall also perform such any additional~~

4049 duties as ~~the board may prescribe~~ prescribed by the board. The terms of the rector and vice-
4050 rector shall be for two years, commencing and expiring as provided in the board's bylaws.

4051 D. The board shall ~~also~~ appoint a secretary ~~for such term and with such duties as the~~
4052 ~~board shall prescribe~~ who shall serve a term and perform duties as prescribed by the board.

4053 ~~The board may also appoint a substitute pro tempore, as provided in its bylaws, to~~
4054 ~~preside in the absence of the rector or the vice rector.~~

4055 E. Vacancies in the ~~office~~ offices of rector, vice-rector ~~or, and~~ secretary may be filled by
4056 the board for the unexpired term, ~~as provided in the Board's bylaws~~.

4057 ~~Special meetings of the board may be called by the rector or any three members. In~~
4058 ~~either of such cases, notice of the time of meeting shall be given by the secretary to every~~
4059 ~~member.~~

4060 ~~§ 23-75. Executive committee of board.~~

4061 F. At every ~~regular~~ annual meeting of the board, the ~~members~~ board shall appoint an
4062 executive committee for the transaction of business in the recess of the board, ~~which shall~~
4063 ~~consist~~ consisting of ~~not less than at least~~ three ~~nor and not~~ more than seven members, to serve
4064 for the period of one year or until the next regular annual meeting.

4065 **Drafting note: Existing provisions relating to meetings, officers, and committees of**
4066 **the board of visitors are logically combined in this proposed section, including relocating**
4067 **existing § 23-75 as proposed subsection F. Technical changes are made to conform the**
4068 **language to that of each other baccalaureate public institution of higher education.**

4069 ~~§ 23-63~~ 23.1-2203. Branches of learning to be taught.

4070 The following branches of learning shall be taught at the University: the Latin, Greek,
4071 Hebrew, French, Spanish, Italian, German, and Anglo-Saxon languages; the different branches
4072 of mathematics, pure and physical; natural philosophy, chemistry, and mineralogy, including
4073 geology; the principles of agriculture; botany, anatomy, surgery, and medicine; zoology, history,
4074 ideology, general grammar, ethics, rhetoric, and belles lettres; and civil government, political
4075 economy, the law of nature and of nations, and municipal law.

4076 **Drafting note: Technical changes.**

4077 § ~~23-64~~ 23.1-2204. Salary of president and professors; fees.

4078 The president and each of the professors shall receive a stated salary, ~~and~~. The board
4079 may ~~also receive such additional compensation~~ supplement such stated salary out of the fees for
4080 tuition and other revenues of the University ~~as the visitors may from time to time direct~~.

4081 **Drafting note: Technical changes.**

4082 § ~~23-65~~ 23.1-2205. Secured obligations.

4083 It shall ~~not~~ be ~~lawful~~ unlawful for the ~~rector and visitors of the University of Virginia~~
4084 board to issue its obligations, to be secured by deed of trust on its real estate, without the prior
4085 consent of the General Assembly ~~previously obtained~~.

4086 **Drafting note: Technical changes.**

4087 § ~~23-66~~ 23.1-2206. Payment of bonds of the University.

4088 For the payment of the bonds, with the interest ~~thereon~~ on such bonds, issued ~~in~~
4089 ~~pursuance of~~ pursuant to the act entitled "An act to authorize the rector and board of visitors of
4090 the University of Virginia to issue bonds to pay off and discharge their floating debt and
4091 maturing obligations," approved March 28, 1871, ~~not only~~ the current revenue of the University;
4092 ~~but also and~~ the property ~~now~~ held by the Commonwealth for the purposes of the University;
4093 shall continue liable.

4094 **Drafting note: Technical changes.**

4095 § ~~23-67~~ 23.1-2207. Payment of interest on debt of University; sinking fund.

4096 Out of the appropriation made by the General Assembly for the support of the University
4097 ~~of Virginia~~, there shall be first set apart, annually, a sum sufficient to pay the interest accruing
4098 on the existing interest-bearing debt of the University, except as provided in § ~~23-21~~ 23.1-1109,
4099 and to constitute a sinking fund for the liquidation of the principal of ~~the same; and~~ such debt.
4100 Such sum shall be applied to no other purpose or object ~~whatever~~.

4101 **Drafting note: Technical changes.**

4102 § ~~23-68~~ 23.1-2208. Provision for interest on certain bonds.

4103 ~~Two several~~ The Comptroller shall place in the state treasury a sum sufficient to pay
4104 semiannually six percent interest per annum on two sums of \$50,000 in consol bonds of the
4105 Commonwealth ~~having been~~ donated by William W. Corcoran, of Washington, D.C., to the
4106 University, and ~~the consol bonds, having,~~ under the act of January 13, 1877, and the act of April
4107 2, 1879, ~~been~~ converted into registered bonds in the name of the ~~rector and visitors of the~~
4108 University, bearing interest at the rate of six per centum per annum, payable semiannually. It is
4109 enacted, that for the continued payment of such interest, the Comptroller is authorized and
4110 required to place, from time to time, in the state treasury a sufficient sum to pay the same as it
4111 falls due board.

4112 **Drafting note: Technical changes.**

4113 § ~~23-76~~ 23.1-2209. Powers and duties of board; ~~president and other officers; professors~~
4114 ~~and instruction; regulations.~~

4115 A. The board shall ~~be charged with the~~ (i) care for and ~~preservation of~~ preserve all
4116 property belonging to the University. ~~They shall appoint a president, with such duties as may be~~
4117 ~~prescribed by the board, and who shall have~~ and (ii) grant to the president of the University
4118 supreme administrative direction ~~under the authority of the board~~ over all the schools, colleges,
4119 divisions, and branches of the University ~~wherever located, and they shall appoint as many~~
4120 ~~professors as they deem proper, and,~~

4121 B. The board may (i) remove the president of the University or any professor with the
4122 assent of two-thirds of ~~the whole number of visitors, may remove such president or any~~
4123 ~~professor. They may~~ its members, (ii) prescribe the duties of each professor, and the course and
4124 mode of instruction. ~~They may,~~ (iii) appoint a comptroller and proctor, and employ any other
4125 agents agent or ~~servants~~ servant, (iv) regulate ~~the government and discipline of the students, and~~
4126 the renting of the rooms and dormitories, ~~and, generally, in respect to the government and~~
4127 ~~management of the University, make such regulations as they may deem expedient, not being~~
4128 ~~contrary to law. To,~~ and (v) to enable the ~~proctor and visitors of the University board~~ to procure
4129 a supply of water; and ~~to~~ construct and maintain a system of waterworks, drainage, and

4130 sewerage for the University ~~they shall have power and authority to~~, acquire such springs, lands,
4131 and rights-of-way as may be necessary, according to the provisions of Title 25.1.

4132 **Drafting note: The provisions of existing § 23-76 regarding appointing a president**
4133 **and professors, disciplining students, and making regulations are stricken here and**
4134 **incorporated instead into proposed § 23.1-1301. Technical changes are made.**

4135 § ~~23-76.1~~ 23.1-2210. Investment of endowment funds, endowment income, ~~and gifts;~~
4136 ~~standard of care; liability; exemption from the Virginia Public Procurement Act etc.~~

4137 A. As used in this section:

4138 "Derivative" means a contract or financial instrument or a combination of contracts and
4139 financial instruments, including any contract commonly known as a "swap," that gives the
4140 University the right or obligation to deliver, receive delivery of, or make or receive payments
4141 based on changes in the price, value, yield, or other characteristic of a tangible or intangible
4142 asset or group of assets or changes in a rate, index of prices or rates, or other market indicator
4143 for an asset or group of assets.

4144 "Option" means an agreement or contract whereby the University may grant or receive
4145 the right to purchase, sell, or pay or receive the value of any personal property asset, including
4146 any agreement or contract that relates to any security, contract, or agreement.

4147 "Financial security" means any note, stock, treasury stock, bond, debenture, evidence of
4148 indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of
4149 subscription, transferable share, investment contract, voting-trust certificate, certificate of
4150 deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; any put,
4151 call, straddle, option, or privilege on any security, certificate of deposit, or group or index of
4152 securities (including any interest therein or based on the value thereof); any put, call, straddle,
4153 option, or privilege entered into on a national securities exchange relating to foreign currency; in
4154 general, any interest or instrument commonly known as a "security;" or any certificate of
4155 interest or participation in, temporary or interim security for, receipt for, guarantee of, or
4156 warrant or right to subscribe to or purchase any financial security.

4157 B. The board~~of visitors~~ shall invest and manage the endowment funds, endowment
4158 income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the
4159 University in accordance with this section and the provisions of the Uniform Prudent
4160 Management of Institutional Funds Act (§ 64.2-1100 et seq.).

4161 B.C. No member of the board~~of visitors~~ shall be personally liable for losses suffered by
4162 ~~an any~~ endowment fund, endowment income, ~~gifts gift,~~~~all~~ other nongeneral fund~~reserves~~
4163 ~~reserve~~ and~~balances~~ balance, or local funds of or held by the University, arising from
4164 investments made pursuant to the provisions of subsection A.

4165 C.D. The investment and management of endowment funds, endowment income, gifts,
4166 all other nongeneral fund reserves and balances, or local funds of or held by the University shall
4167 not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

4168 D.E. In addition to the investment practices authorized by the Uniform Prudent
4169 Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board~~of visitors~~ may~~also~~
4170 invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund
4171 reserves and balances, and local funds of or held by the University in derivatives, options, and
4172 financial securities.

4173 ~~1. In this section, "derivative" means a contract or financial instrument or a combination~~
4174 ~~of contracts and financial instruments, including, without limitation, any contract commonly~~
4175 ~~known as a "swap," which gives the University the right or obligation to deliver or receive~~
4176 ~~delivery of, or make or receive payments based on, changes in the price, value, yield or other~~
4177 ~~characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index~~
4178 ~~of prices or rates, or other market indicator for an asset or a group of assets.~~

4179 ~~2. In this section, an "option" means an agreement or contract whereby the University~~
4180 ~~may grant or receive the right to purchase or sell, or pay or receive the value of, any personal~~
4181 ~~property asset including, without limitation, any agreement or contract that relates to any~~
4182 ~~security, contract, or agreement.~~

4183 3. ~~In this section, "financial security" means any note, stock, treasury stock, bond,~~
4184 ~~debenture, evidence of indebtedness, certificate of interest, collateral trust certificate,~~
4185 ~~preorganization certificate of subscription, transferable share, investment contract, voting trust~~
4186 ~~certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other~~
4187 ~~mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit,~~
4188 ~~or group or index of securities (including any interest therein or based on the value thereof), or~~
4189 ~~any put, call, straddle, option, or privilege entered into on a national securities exchange relating~~
4190 ~~to foreign currency, or in general, any interest or instrument commonly known as a "security,"~~
4191 ~~or any certificate of interest or participation in, temporary or interim security for, receipt for,~~
4192 ~~guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

4193 E.F. The authority ~~as~~ provided in this section ~~as it relates~~ to invest and reinvest
4194 nongeneral fund reserves and balances of or held by the University is predicated upon an
4195 approved management agreement between the University and the Commonwealth ~~of Virginia~~.

4196 **Drafting note: Technical changes.**

4197 ~~§ 23-77. Confirmation of certain proceedings and contracts.~~

4198 ~~All proceedings heretofore had before any court or in any clerk's office, and all contracts~~
4199 ~~heretofore entered into, for acquiring land by condemnation or purchase, for any of the purposes~~
4200 ~~mentioned in § 23-76, are hereby confirmed and made valid.~~

4201 **Drafting note: The provisions of existing § 23-77 are recommended for repeal as**
4202 **obsolete.**

4203 ~~§ 23-77.1. Authority to sell and convey certain lands.~~

4204 ~~The rector and visitors of the University of Virginia, with the approval of the Governor~~
4205 ~~first obtained, are hereby authorized to sell and convey any and all real estate to which it has~~
4206 ~~acquired title by gift, devise or purchase since January 1, 1900, or which may hereafter be~~
4207 ~~conveyed or devised to it. The proceeds derived from any such sale or sales shall be held by said~~
4208 ~~rector and visitors of the University of Virginia upon the identical trusts, and subject to the same~~
4209 ~~uses, limitations and conditions, if any, that are expressed in the original deed or will under~~

4210 ~~which its title was derived, or if there be no such trusts, uses, limitations or conditions expressed~~
4211 ~~in such original deed or will, then said funds shall be applied by the rector and visitors of the~~
4212 ~~University to such purposes as said board may deem best for the University.~~

4213 **Drafting note: The provisions of existing § 23-77.1 are stricken here and**
4214 **incorporated instead into proposed § 23.1-1301.**

4215 ~~§ 23-77.2. Granting easements on property of the University.~~

4216 ~~The rector and visitors of the University of Virginia are hereby authorized to grant~~
4217 ~~easements for roads, streets, sewers, water lines, electric and other utility lines or other purpose~~
4218 ~~on any property now owned or hereafter acquired by said rector and visitors of the University of~~
4219 ~~Virginia, when in the discretion of the rector and visitors it is deemed proper to grant such~~
4220 ~~easement.~~

4221 **Drafting note: The provisions of existing § 23-77.2 are stricken here and**
4222 **incorporated instead into proposed § 23.1-1301.**

4223 ~~§ 23-78. Testimonials to students.~~

4224 ~~The board shall examine into the progress of the students in each year, and shall give to~~
4225 ~~those who excel in any branch of learning such honorary testimonials of approbation as they~~
4226 ~~deem proper.~~

4227 **Drafting note: The provisions of existing § 23-78 are recommended for repeal as**
4228 **obsolete.**

4229 ~~§ 23-79. Visitors' expenses.~~

4230 ~~Such reasonable expenses as the visitors may incur in the discharge of their duties shall~~
4231 ~~be paid out of the funds of the University.~~

4232 **Drafting note: The provisions of existing § 23-79 are stricken here and**
4233 **incorporated instead into § 23.1-1301.**

4234 ~~§ 23-80.~~

4235 **Drafting note: Repealed by Acts 2009, c. 72.**

4236 ~~Article 9.2.~~

4237 The University of Virginia's College at Wise.

4238 **Drafting note: The provisions of the first three sections in existing Article 9 (§ 23-**
4239 **91.20 et seq.) of Chapter 9 are logically combined as a single section, § 23.1-2211, in**
4240 **proposed Article 2 of this chapter. The fourth and final section in existing Article 9, § 23-**
4241 **91.23, is recommended for repeal as obsolete.**

4242 ~~§ 23-91.20 23.1-2211. Institution a division of The~~ University of ~~Virginia under~~
4243 ~~supervision, etc., of rector and visitors; authorized to grant degrees~~ Virginia's College at Wise.

4244 A. The University of Virginia's College at Wise (the College), established in Wise
4245 County, Virginia, shall be a division of the University ~~of Virginia. It shall be and~~ a ~~four-year~~
4246 ~~college with the right to prepare students for the granting of degrees upon graduation therefrom.~~
4247 ~~It shall be an integral part of the University of Virginia and be~~ baccalaureate public institution of
4248 higher education subject to the supervision, management, and control of the ~~rector and visitors~~
4249 ~~of the University of Virginia board.~~

4250 ~~§ 23-91.22. Expenditure of appropriations.~~

4251 ~~Appropriations, directly or indirectly,~~ B. Direct and indirect appropriations from the
4252 Commonwealth to ~~such division~~ the College shall be expended as directed by the ~~rector and~~
4253 ~~visitors of the University of Virginia board.~~

4254 ~~§ 23-91.21. Property, duties, contracts, etc., vested in rector and visitors of University;~~
4255 ~~principal administrative officer of division; powers of board of visitors generally; title of local~~
4256 ~~administrative officer.~~

4257 C. All property, property rights, duties, contracts, and agreements of ~~such division are~~
4258 the College shall be vested in the ~~rector and visitors of the University of Virginia board.~~ ~~The~~
4259 ~~president of the University of Virginia, by virtue of his office, shall be the principal~~
4260 ~~administrative officer of such division.~~ The board ~~of visitors of the University is charged with~~
4261 ~~the care and preservation of~~ shall care for and preserve all property belonging to ~~such division~~
4262 the College.

4263 D. With respect to ~~such division~~ the College, the board ~~of visitors~~ shall have all the ~~same~~
4264 powers ~~as to granting degrees, as to fixing tuitions, fees and charges, as to borrowing money and~~
4265 ~~issuing bonds, as to the appointment and removal of administrative officers, professors, agents~~
4266 ~~and servants, and the making of rules and regulations, as that~~ are ~~now~~ vested in ~~them~~ the board
4267 with respect to the University.

4268 E. The president of the University shall be the principal administrative officer of the
4269 College.

4270 F. The board shall fix the title of the chief ~~local administrative executive~~ officer of ~~such~~
4271 ~~division shall be fixed by the board of visitors~~ the College.

4272 **Drafting note: The provisions of the first three sections in existing Article 9 (§ 23-**
4273 **91.20 et seq.) of Chapter 9 are logically combined as a single section, § 23.1-2211, in**
4274 **proposed Article 2 of Chapter 22. Technical changes are made.**

4275 ~~§ 23-91.23. Validation of prior acts and proceedings of rector and visitors.~~

4276 ~~All acts and proceedings heretofore [before September 1, 1968] taken by the rector and~~
4277 ~~visitors of the University of Virginia with respect to the establishment and maintenance of the~~
4278 ~~University of Virginia's College at Wise, including all contracts, loan agreements and other~~
4279 ~~agreements of whatsoever nature, are hereby ratified, validated and confirmed.~~

4280 **Drafting note: The provisions of existing § 23-91.23 are recommended for repeal as**
4281 **obsolete.**

4282 Article 2.3.

4283 Board of Visitors Medical Center.

4284 **Drafting note: The provisions of existing Article 2, Board of Visitors, have been**
4285 **logically reorganized in proposed Chapter 22: Existing §§ 23-69 through 23-77.2 and §§**
4286 **23-78, 23-79, and 23-80 have been moved into and addressed in proposed Article 1,**
4287 **General Provisions. Existing §§ 23-77.3 and 23-77.4, relating to the University of Virginia**
4288 **Medical Center, are logically reorganized as five sections in proposed Article 2, Medical**
4289 **Center.**

4290 § ~~23-77.3~~ 23.1-2212. Operations of Medical Center.

4291 A. ~~In enacting this section, the General Assembly recognizes that the~~ The ability of the
4292 University ~~of Virginia~~ to provide medical and health sciences education and related research is
4293 dependent upon the maintenance of high quality teaching hospitals and related health care and
4294 health maintenance facilities, collectively referred to in this ~~section~~ article as the Medical
4295 Center, and ~~that~~ the maintenance of a Medical Center serving such purposes requires specialized
4296 management and operation that permit the Medical Center to remain economically viable and ~~to~~
4297 participate in cooperative arrangements reflective of changes in health care delivery.

4298 B. Notwithstanding the provisions of § 32.1-124 exempting hospitals and nursing homes
4299 owned or operated by an agency of the Commonwealth from state licensure, the Medical Center
4300 shall be, for so long as the Medical Center maintains its accreditation by a national accrediting
4301 organization granted authority by the Centers for Medicare and Medicaid Services to ensure
4302 compliance with Medicare conditions of participation pursuant to § 1865 of Title XVIII of the
4303 Social Security Act (42 U.S.C. § 1395bb), deemed to be licensed as a hospital for purposes of
4304 other law relating to the operation of hospitals licensed by the Board of Health. The Medical
4305 Center shall not, however, be deemed to be a licensed hospital to the extent that any law relating
4306 to licensure of hospitals specifically excludes the Commonwealth or its agencies. As an agency
4307 of the Commonwealth, the Medical Center shall, ~~in addition,~~ remain (i) exempt from licensure
4308 by the Board of Health pursuant to § 32.1-124 and (ii) subject to the Virginia Tort Claims Act (§
4309 8.01-195.1 et seq.). ~~Further, this~~ This subsection shall not be construed as a waiver of the
4310 Commonwealth's sovereign immunity.

4311 C. ~~Without limiting the powers provided in this chapter, the~~ The University ~~of Virginia~~
4312 may create, own in whole or in part, or otherwise control corporations, partnerships, insurers, or
4313 other entities whose activities ~~will~~ promote the operations of the Medical Center and its mission;
4314 may; cooperate or enter into joint ventures with such entities and with government bodies; and
4315 may enter into contracts in connection ~~therewith~~ with its operations. Without limiting the power
4316 of the University ~~of Virginia~~ to issue bonds, notes, guarantees, or other evidence of indebtedness

4317 ~~under pursuant to~~ subsection D in connection with such activities, no such creation, ownership,
4318 or control shall create any responsibility of the University, the Commonwealth, or any ~~other~~
4319 agency ~~thereof of the Commonwealth~~ for the operations or obligations of any such entity or in
4320 any way make the University, the Commonwealth, or any ~~other~~ agency ~~thereof of the~~
4321 ~~Commonwealth~~ responsible for the payment of debt or other obligations of such entity. All such
4322 interests shall be reflected on the financial statements of the Medical Center.

4323 D. Notwithstanding the provisions of Chapter ~~3 11~~ (§ ~~23-14 23.1-1100~~ et seq.) ~~of this~~
4324 ~~title~~, the University ~~of Virginia~~ may issue bonds, notes, guarantees, or other evidence of
4325 indebtedness without the approval of any other governmental body subject to the following
4326 provisions:

4327 1. Such debt is used solely for the purpose of paying not more than 50 percent of the cost
4328 of capital improvements in connection with the operation of the Medical Center or related
4329 issuance costs, reserve funds, and other financing expenses, including interest during
4330 construction ~~or and~~ acquisitions and for up to one year thereafter;.

4331 2. The only revenues of the University pledged to the payment of such debt are those
4332 derived from the operation of the Medical Center and related health care and educational
4333 activities, and ~~there are pledged therefor~~ no general fund appropriation and special Medicaid
4334 disproportionate share payments for indigent and medically indigent patients who are not
4335 eligible for the Virginia Medicaid Program; is pledged for the payment of such debt.

4336 3. Such debt states that it does not constitute a debt of the Commonwealth or a pledge of
4337 the faith and credit of the Commonwealth;.

4338 4. Such debt is not sold to the public;.

4339 5. The total principal amount of such debt outstanding at any one time does not exceed
4340 \$25 million;.

4341 6. The Treasury Board ~~has approved~~ approves the terms and structure of such debt;.

4342 7. The purpose, terms, and structure of such debt are promptly communicated to the
4343 Governor and the Chairmen of the House Appropriations and Senate Finance Committees; ~~and.~~

4344 8. All such indebtedness is reflected on the financial statements of the Medical Center.

4345 E. Subject to meeting the conditions set forth ~~above in subsection D~~, such debt may be in
4346 such form and have such terms as the board ~~of visitors~~ may provide and shall be in all respects
4347 debt of the University for the purposes of §§ ~~23-23~~ 23.1-1110, ~~23-25~~ 23.1-1115, and ~~23-26~~
4348 23.1-1116.

4349 **Drafting note: Technical changes.**

4350 § ~~23-77.4~~ 23.1-2213. Medical center management; capital projects; leases of property;
4351 procurement.

4352 A. The ~~General Assembly recognizes and finds that the~~ economic viability of the
4353 ~~University of Virginia~~ Medical Center, ~~hereafter referred to as the Medical Center, together with~~
4354 the requirement for its specialized management and operation, and the need of the Medical
4355 Center to participate in cooperative arrangements reflective of changes in health care delivery,
4356 as set forth in § ~~23-77.3~~ 23.1-2212, ~~are dependent~~ depend upon the ability of the management of
4357 the Medical Center to make and promptly implement ~~promptly~~ decisions necessary to conduct
4358 the affairs of the Medical Center in an efficient, competitive manner. ~~The General Assembly~~
4359 ~~also recognizes and finds that it~~ It is critical to, and in the best interests of, the Commonwealth
4360 that the University ~~continue~~ continues to fulfill its mission of providing quality medical and
4361 health sciences education and related research and, through the presence of its Medical Center,
4362 ~~continue~~ continues to provide for the care, treatment, health-related services, and education
4363 activities associated with Virginia patients, including indigent and medically indigent patients.
4364 Because ~~the General Assembly finds that~~ the ability of the University to fulfill this mission is
4365 highly dependent upon revenues derived from providing health care through its Medical Center,
4366 and because ~~the General Assembly also finds that~~ the ability of the Medical Center to continue
4367 to be a reliable source of such revenues is heavily dependent upon its ability to compete with
4368 other providers of health care that are not subject to the requirements of law applicable to
4369 agencies of the Commonwealth, the University ~~is hereby authorized to~~ may implement the

4370 following modifications to the management and operation of the affairs of the Medical Center in
4371 order to enhance its economic viability:

4372 ~~B. Capital projects; leases of property; procurement of goods, services and construction.~~

4373 1. ~~Capital projects.~~

4374 a. For any Medical Center capital project entirely funded by a nongeneral fund
4375 appropriation made by the General Assembly, all post-appropriation review, approval,
4376 administrative, and policy and procedure functions performed by the Department of General
4377 Services, the Division of Engineering and Buildings, the Department of Planning and Budget,
4378 and any other agency that supports the functions performed by these departments are ~~hereby~~
4379 delegated to the University, subject to the following stipulations and conditions: (i) the ~~Board of~~
4380 ~~Visitors board~~ shall develop and implement an appropriate system of policies, procedures,
4381 reviews, and approvals for Medical Center capital projects to which this ~~subdivision subsection~~
4382 applies; (ii) the system so adopted shall provide for the review and approval of any Medical
4383 Center capital project to which this ~~subdivision subsection~~ applies ~~in order~~ to ensure that, except
4384 as provided in clause (iii), the cost of any such capital project does not exceed the sum
4385 appropriated ~~therefor for the project~~ and ~~that~~ the project otherwise complies with all
4386 requirements of the Code of Virginia regarding capital projects, excluding only the post-
4387 appropriation review, approval, administrative, and policy and procedure functions performed
4388 by the Department of General Services, the Division of Engineering and Buildings, the
4389 Department of Planning and Budget, and any other agency that supports the functions
4390 performed by these departments; (iii) the ~~Board of Visitors board~~ may, during any fiscal year,
4391 approve a transfer of up to ~~a total of~~ 15 percent of the total nongeneral fund appropriation for
4392 the Medical Center ~~in order~~ to supplement funds appropriated for a capital project ~~or capital~~
4393 ~~projects~~ of the Medical Center, provided that the ~~Board of Visitors board~~ finds that the transfer
4394 is necessary to effectuate the original intention of the General Assembly in making the
4395 appropriation for the capital project ~~or projects~~ in question; (iv) the University shall report to the
4396 Department of General Services on the status of any such capital project prior to

4397 commencement of construction of, and at the time of acceptance of, any such capital project;
4398 and (v) the University shall ensure that Building Officials and Code Administrators (BOCA)
4399 Code and fire safety inspections of any such project are conducted and ~~that~~ such projects are
4400 inspected by the State Fire Marshal or his designee prior to certification for building occupancy
4401 by the University's assistant state building official to whom such inspection responsibility has
4402 been delegated pursuant to § 36-98.1. Nothing in this section shall be deemed to relieve the
4403 University of any reporting requirement pursuant to § 2.2-1513. Notwithstanding the ~~foregoing~~
4404 provisions of this subsection, the terms and structure of any financing of any capital project to
4405 which this ~~subdivision subsection~~ applies shall be approved pursuant to § 2.2-2416.

4406 b. No capital project to which this ~~subdivision subsection~~ applies shall be materially
4407 increased in size or materially changed in scope beyond the plans and justifications that were the
4408 basis for the project's appropriation unless: (i) the Governor determines that such increase in
4409 size or change in scope is necessary due to an emergency or (ii) the General Assembly approves
4410 the increase or change in a subsequent appropriation for the project. After construction of any
4411 such capital project has commenced, no such increase or change ~~may shall~~ be made during
4412 construction unless the conditions in clause (i) or (ii) have been satisfied.

4413 2. ~~Leases of property.~~

4414 a. The University shall be exempt from the provisions of § 2.2-1149 and ~~from~~ any rules,
4415 regulations and guidelines of the Division of Engineering and Buildings ~~in relation to regarding~~
4416 leases of real property that it enters into on behalf of the Medical Center and, pursuant to
4417 policies and procedures adopted by the ~~Board of Visitors board~~, may enter into such leases
4418 subject to the following conditions: (i) the lease ~~must shall~~ be an operating lease and not a
4419 capital lease as defined in guidelines established by the Secretary of Finance and ~~Generally~~
4420 ~~Accepted Accounting Principles (GAAP)~~ generally accepted accounting principles; (ii) the
4421 University's decision to enter into such a lease shall be based upon cost, demonstrated need, and
4422 compliance with guidelines adopted by the ~~Board of Visitors which board that~~ direct that (a)
4423 competition be sought to the maximum practical degree, ~~that (b)~~ all costs of occupancy be

4424 considered, and ~~that (c)~~ the use of the space to be leased ~~actually~~ is necessary and ~~is~~ efficiently
4425 planned; (iii) the form of the lease is approved by the Special Assistant Attorney General
4426 representing the University; (iv) the lease otherwise meets all requirements of law; (v) the
4427 leased property is certified for occupancy by the building official of the political subdivision in
4428 which the leased property is located; and (vi) upon entering such leases and upon any
4429 subsequent amendment of such leases, the University ~~shall provide~~ provides copies of all lease
4430 documents and any attachments ~~thereto~~ to such lease documents to the Department of General
4431 Services.

4432 b. Notwithstanding the provisions of §§ 2.2-1155 and ~~23-4.1 subdivision B 1 of § 23.1-~~
4433 1301, but subject to policies and procedures adopted by the ~~Board of Visitors~~ board, the
4434 University may lease, for a purpose consistent with the mission of the Medical Center and for a
4435 term not to exceed 50 years, property in the possession or control of the Medical Center.

4436 c. Notwithstanding the ~~foregoing provisions of this subdivision~~, the terms and structure
4437 of any financing arrangements secured by capital leases or other similar lease financing
4438 agreements shall be approved pursuant to § 2.2-2416.

4439 3. ~~Procurement of goods, services and construction.~~

4440 a. Contracts awarded by the University ~~in compliance with this section~~, on behalf of the
4441 Medical Center; for the procurement of goods; services, including professional services; ~~and~~
4442 construction; ~~and, or~~ information technology and telecommunications; in compliance with this
4443 subdivision shall be exempt from (i) the Virginia Public Procurement Act (§ 2.2-4300 et seq.),
4444 except as provided ~~below in this section~~; (ii) the requirements of the Division of Purchases and
4445 Supply of the Department of General Services as set forth in Article 3 (§ 2.2-1109 et seq.) of
4446 Chapter 11 of Title 2.2; (iii) the requirements of the Division of Engineering and Buildings as
4447 set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2; and (iv) the authority of the
4448 Chief Information Officer and the Virginia Information Technologies Agency as set forth in
4449 Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 regarding the review and approval of contracts for
4450 (a) the construction of Medical Center capital projects and (b) information technology and

4451 telecommunications projects; ~~however, the provisions of this subdivision may not be~~
4452 ~~implemented by the University until such time as the Board of Visitors has adopted~~

4453 b. The University shall adopt and at all times maintain guidelines generally applicable to
4454 the procurement of goods, services, construction, and information technology and
4455 telecommunications projects by the Medical Center or by the University on behalf of the
4456 Medical Center. Such guidelines shall be based upon competitive principles and ~~shall~~ in each
4457 instance seek competition to the maximum practical degree. The guidelines shall (i) implement
4458 a system of competitive negotiation for professional services; ~~shall (ii)~~ prohibit discrimination
4459 ~~because of race, religion, color, sex, or national origin of~~ against the bidder or offeror in the
4460 solicitation or award of contracts on the basis of the race, religion, color, sex, or national origin
4461 of the bidder or offeror; and (iii) incorporate the prompt payment principles of §§ 2.2-4350 and
4462 2.2-4354 and may (a) take into account ~~in all cases~~ the dollar amount of the intended
4463 procurement, the term of the anticipated contract, and the likely extent of competition; ~~may (b)~~
4464 implement a prequalification procedure for contractors or products; ~~may (c)~~ include provisions
4465 for cooperative procurement arrangements with private health or educational institutions; or
4466 ~~with~~ public agencies or institutions of the several states, territories of the United States, or the
4467 District of Columbia; ~~shall incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-~~
4468 ~~4354; and may (d)~~ implement provisions of law.

4469 ~~The following sections of the Virginia Public Procurement Act shall continue to apply to~~
4470 ~~procurements by the Medical Center or by the University on behalf of the Medical Center: §§~~

4471 c. Sections 2.2-4311, 2.2-4315, and 2.2-4342 (which ~~section~~ shall not be construed to
4472 require compliance with the prequalification application procedures of subsection B of § 2.2-
4473 4317), and 2.2-4330; and §§ 2.2-4333 through 2.2-4341; and 2.2-4367 through 2.2-4377 shall
4474 continue to apply to procurements by the Medical Center and the University on behalf of the
4475 Medical Center.

4476 ~~C.B.~~ Subject to ~~such~~ conditions ~~as may be that are~~ prescribed in the budget bill ~~under~~
4477 pursuant to § 2.2-1509 ~~as enacted into law by the General Assembly~~, the State Comptroller shall

4478 credit, on a monthly basis, to the nongeneral fund operating cash balances of the ~~University of~~
4479 ~~Virginia~~ Medical Center the imputed interest earned by the investment of such nongeneral fund
4480 operating cash balances, including ~~but not limited to~~ those balances derived from patient care
4481 revenues, on deposit with the State Treasurer.

4482 **Drafting note: Technical changes made, including removing "without limitation"**
4483 **when used in conjunction with "including" in subsection B based on § 1-218, which states**
4484 **"'Includes' means includes, but not limited to."**

4485 Article ~~3~~ 4.

4486 Donations.

4487 **Drafting note: Existing Article 3 (§ 23-81 et seq.) of Chapter 9 is retained as**
4488 **proposed Article 4 of Chapter 22.**

4489 ~~§ 23-81~~ 23.1-2214. Gifts, bequests, and devises.

4490 Any person may (i) deposit in the state treasury, ~~or;~~ (ii) bequeath money, stocks, or
4491 public bonds of any kind to be so deposited; ~~or~~ (iii) grant, devise, or bequeath property, real or
4492 personal, to be sold and the proceeds to be so deposited, in sums not less than \$100, ~~which that~~
4493 shall be invested in securities that are legal investments under the laws of the Commonwealth
4494 for public funds for the benefit of the University, and in such case the interest or dividends
4495 accruing on such investments shall be paid to the ~~rector and visitors of the University, to be by~~
4496 ~~them appropriated to the general purposes thereof,~~ board and appropriated by the board for
4497 general purposes unless some particular appropriation ~~shall have~~ has been designated by the
4498 donor or testator, ~~as hereinafter provided.~~ The State Treasurer shall notify the board of any such
4499 deposit in the state treasury.

4500 **Drafting note: Technical changes.**

4501 ~~§ 23-82~~ 23.1-2215. ~~When donations~~ Donations for special purposes or objects, ~~how~~
4502 applied, etc.

4503 If any particular purpose or object connected with the University ~~be is~~ specified by ~~the a~~
4504 donor pursuant to § 23.1-2214 at the time of such deposit, (i) by writing filed in the State

4505 Treasurer's office ~~(, which may also be recorded in the clerk's office of the Circuit Court of~~
4506 Albemarle County, as a deed for land is recorded), or (ii) in the will of such testator, the interest,
4507 income, and profits of such fund shall be appropriated to such purpose and object, and none
4508 other; ~~or, if. If~~ the donor or testator ~~shall~~ so ~~direct~~ directs in such writing or will, the interest
4509 accruing on such fund shall be reinvested by the State Treasurer every six months, in the manner
4510 prescribed in § ~~23-81, 23.1-2214~~ and ~~the interest thereon shall be, from time to time, reinvested~~
4511 ~~in like manner~~ for such period as such writing or will ~~shall prescribe~~ prescribes, not exceeding
4512 ~~thirty 30~~ years; ~~and at. At~~ the expiration of the time so prescribed or ~~thirty 30~~ years, whichever
4513 ~~shall happen occurs~~ first, the fund, with its accumulations, ~~shall be paid over to the rector and~~
4514 ~~visitors of the University, or and~~ the interest, income, and profits ~~thereafter~~ accruing upon the
4515 aggregate fund shall be paid to ~~them~~ the board as ~~the same shall they~~ accrue, ~~according as the~~
4516 ~~one or the other disposition shall be and as~~ directed by such writing or will, and ~~in either case~~
4517 ~~the same~~ shall be appropriated and employed according to the provisions of such writing or will,
4518 and not otherwise; ~~and the rector and visitors of the University. The board~~ shall render to the
4519 General Assembly, at each regular session, an account of the disbursement of any funds so
4520 derived.

4521 **Drafting note: Technical changes.**

4522 § ~~23-83 23.1-2216. Donations irrevocable; disposition thereof, if refused, etc~~ Disposition
4523 of donations.

4524 ~~Such donations shall be~~ Donations made pursuant to § 23.1-2214 are irrevocable by the
4525 donor or his representatives; ~~but if the authorities of the University, within one year after being~~
4526 ~~notified thereof (which it shall be the duty of the State Treasurer to do immediately upon the~~
4527 ~~making of such deposit with him), shall give~~ board gives notice, in writing, to the State
4528 Treasurer, ~~that they decline within one year of being notified of the donation by the Treasurer~~
4529 that it declines to receive the benefit of such deposit, the ~~same, with whatever deposit and any~~
4530 interest and profits that may have accrued ~~thereon~~, shall ~~thereupon~~ be held subject to the order
4531 of such donor or his legal representatives; ~~and if. If~~ at any time the object ~~for of~~ such donation

4532 or deposit ~~is intended, fails~~ by the legal destruction of the University, or by any other means,
4533 ~~shall fail~~, so that the purpose of the gift, bequest, or devise ~~shall be is~~ permanently frustrated, the
4534 whole fund, including unexpended principal and interest, ~~then unexpended as it shall then be~~,
4535 shall revert to and be vested in the donor or his legal representatives.

4536 **Drafting note: Technical changes.**

4537 ~~§ 23-84~~ 23.1-2217. Reservation of nomination by donor.

4538 If ~~the a~~ donor ~~shall, in such writing, filed as aforesaid, reserve pursuant to § 23.1-2214~~
4539 reserves in writing as set forth in § 23.1-2215 to himself or to any other person the power to (i)
4540 nominate to any professorship, scholarship, or other place or appointment in the University, or
4541 ~~to~~ (ii) do any other act connected ~~therewith, with such nomination~~ and he or such other person
4542 ~~shall fail at any time for six months fails~~ to make such nomination in writing, or ~~to~~ do such other
4543 act within six months, the board ~~of visitors~~ may proceed to make such appointment or ~~to~~ do
4544 such act ~~at their discretion~~.

4545 **Drafting note: Technical changes.**

4546 ~~§ 23-85~~ 23.1-2218. Commonwealth to be trustee of donations; liability of State
4547 Treasurer.

4548 The Commonwealth is ~~hereby constituted~~ the trustee for the safekeeping and due
4549 application of all funds ~~which that~~ may be deposited in the treasury ~~in pursuance of pursuant to~~
4550 ~~§ 23-81~~ 23.1-2214. The State Treasurer and the sureties in his official bond ~~shall be are~~ liable
4551 for the money or other funds deposited ~~as aforesaid~~, and the accounting officers of the
4552 Commonwealth shall keep separate accounts of each such deposit ~~shall be kept by the~~
4553 ~~accounting officers of the Commonwealth~~ in the same manner as ~~are~~ other public funds.

4554 **Drafting note: Technical changes.**

4555 Article 4.

4556 Mary Washington College.

4557 ~~§§ 23-86 through 23-91.~~

4558 **Drafting note: Repealed by Acts 1972, c. 861.**

4559 ~~Article 5.~~

4560 ~~Clinch Valley College and Northern Virginia Branch College.~~

4561 ~~§§ 23-91.1 through 23-91.4.~~

4562 **Drafting note: Repealed by Acts 1966, c. 68.**

4563 ~~Article 6.~~

4564 ~~Patrick Henry College of the University of Virginia.~~

4565 ~~§§ 23-91.5 through 23-91.8.~~

4566 **Drafting note: Repealed by Acts 1983, c. 63.**

4567 ~~Article 7.~~

4568 ~~Eastern Shore Branch of School of General Studies.~~

4569 ~~§§ 23-91.9 through 23-91.12.~~

4570 **Drafting note: Repealed by Acts 1983, c. 63.**

4571 ~~§ 23-91.13. [Reserved.]~~

4572 **Drafting note: This section is removed because it is carried as reserved in the**
4573 **existing title.**

4574 ~~Article 8.~~

4575 ~~George Mason College.~~

4576 ~~§§ 23-91.14 through 23-91.17.~~

4577 **Drafting note: Repealed by Acts 1972, c. 550.**

4578 ~~§§ 23-91.18, 23-91.19. [Reserved.]~~

4579 **Drafting note: These sections are removed because they are carried as reserved in**
4580 **the existing title.**

4581 ~~Article 10.~~

4582 ~~Branch Campus in Qatar.~~

4583 **Drafting note: Existing Article 10 (§ 23-91.23:1) of Chapter 9, relating to the**
4584 **branch campus in Qatar, is recommended for repeal as obsolete.**

4585 ~~§ 23-91.23:1. Establishment of branch campus in the State of Qatar.~~

4586 ~~In recognition that global educational opportunities benefit the intellectual and economic~~
4587 ~~interests of the Commonwealth, the board of visitors of the University of Virginia is authorized~~
4588 ~~to establish, operate, and govern a branch campus of the University of Virginia in the State of~~
4589 ~~Qatar. The board of visitors shall have the same powers with respect to operation and~~
4590 ~~governance of its branch campus in Qatar as vested in the board by the Code of Virginia with~~
4591 ~~respect to the University of Virginia in Virginia, including, but not limited to, the fixing of fees~~
4592 ~~and charges;² the establishment of academic standards;² and the conferral of degrees. In~~
4593 ~~operating such branch campus, the board of visitors shall provide appropriate professional~~
4594 ~~opportunities for Virginia-based faculty to teach or conduct research on the Qatar campus and~~
4595 ~~educational opportunities for Virginia-based students to study or conduct research on the Qatar~~
4596 ~~campus.~~

4597 ~~Nothing contained in this section shall be deemed a waiver of the sovereign immunity of~~
4598 ~~the Commonwealth or of the University of Virginia.~~

4599 ~~In its operation of any branch campus established in the State of Qatar, the board of~~
4600 ~~visitors and its employees shall not discriminate on the basis of race, color, religion, national~~
4601 ~~origin, or sex, and shall not abridge the constitutional rights of freedom of speech and religion.~~
4602 ~~Any agreement the board of visitors enters to establish, operate, or govern the branch campus in~~
4603 ~~Qatar shall contain contractual assurances to the board that the branch campus shall operate~~
4604 ~~without discrimination on the basis of race, color, religion, national origin, or sex, and without~~
4605 ~~abridging the constitutional rights of freedom of speech and religion.~~

4606 **Drafting note: The provisions of existing § 23-91.23:1 are recommended for repeal**
4607 **as obsolete.**

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4613 ~~CHAPTER 5.1.~~

4614 ~~RICHMOND PROFESSIONAL INSTITUTE.~~

4615 ~~§§ 23-49.2 through 23-49.10.~~

4616 **Drafting note: Repealed by Acts 1968, c. 93.**

4617 ~~CHAPTER 6.~~

4618 ~~MEDICAL COLLEGE OF VIRGINIA.~~

4619 ~~§§ 23-50 through 23-50.3.~~

4620 **Drafting note: Repealed by Acts 1968, c. 93.**

4621 ~~CHAPTER 6.1 23.~~

4622 VIRGINIA COMMONWEALTH UNIVERSITY.

4623 **Drafting note: Existing Chapter 6.1 of Title 23 is logically reorganized as proposed**
4624 **Chapters 13 and 23 of Title 23.1. Existing provisions that apply generally to governing**
4625 **boards of public institutions of higher education are consolidated in Chapter 13. Existing**
4626 **provisions relating to the incorporation, powers and duties, and membership and meetings**
4627 **of the board of visitors that are unique to Virginia Commonwealth University are retained**
4628 **in Chapter 23.**

4629 ~~§ 23-50.4 23.1-2300. Corporation established~~ Corporate name; name of the University.

4630 ~~There is hereby established a corporation consisting of the~~ A. The board of visitors of
4631 ~~the~~ Virginia Commonwealth University (the board) is a corporation under the name and style of
4632 "Virginia Commonwealth University;" and has, in addition to its other powers, all the corporate
4633 powers given to corporations by the provisions of Title 13.1 except those powers that are
4634 confined to corporations created pursuant to Title 13.1. The board shall at all times be under the
4635 control of the General Assembly.

4636 B. The institution shall be known as Virginia Commonwealth University (the
4637 University).

4638 **Drafting note: Technical changes are made to conform the language in this section**
4639 **to that of each other four-year public institution of higher education.**

4640 § ~~23-50.7~~ 23.1-2301. Purpose of ~~corporation; redesignation of Medical College of~~
4641 Virginia board.

4642 The ~~corporation~~ board is formed for the purpose of establishing and maintaining a
4643 university consisting of colleges, schools, and divisions offering undergraduate and graduate
4644 programs in the liberal arts and sciences and programs of education for the professions and such
4645 other ~~branches of learning programs of education~~ as may be appropriate, and in connection
4646 ~~therewith, it is empowered to~~ with this purpose, the board may maintain and conduct hospitals,
4647 infirmaries, dispensaries, laboratories, research centers, power plants, and such other ~~necessary~~
4648 ~~related~~ facilities as ~~in the opinion of the board of visitors are deemed it deems~~ proper. ~~The~~
4649 ~~colleges, schools, and divisions heretofore existing as The Medical College of Virginia shall, as~~
4650 ~~of July 1, 1968, be designated The Medical College of Virginia, Health Sciences Division of~~
4651 ~~Virginia Commonwealth University.~~

4652 **Drafting note: Provisions related to The Medical College of Virginia are logically**
4653 **relocated to proposed § 23.1-2309. Technical changes are made.**

4654 § ~~23-50.5~~ 23.1-2302. ~~Transfer of property, rights, duties, etc., Property and liabilities~~ of
4655 Medical College of Virginia and Richmond Professional Institute.

4656 All real estate and personal property ~~existing and standing~~ in the name of the corporate
4657 bodies designated "Medical College of Virginia" and "Richmond Professional Institute" ~~as of~~
4658 ~~July 1, 1968, shall be~~ transferred ~~automatically~~ to ~~and, by virtue of this chapter, shall be,~~ known
4659 and taken as standing in the name of, and ~~to be~~ under the control of the ~~corporate body~~
4660 ~~designated "Virginia Commonwealth University." Such real estate and personal property~~ shall
4661 be the property of the Commonwealth. ~~All rights, duties, contracts and agreements of the~~
4662 ~~Medical College of Virginia and Richmond Professional Institute as of July 1, 1968, are hereby~~
4663 ~~vested in such corporate body designated "Virginia Commonwealth The~~ University," ~~which~~
4664 ~~shall thenceforth be~~ is vested with all rights, duties, contracts, and agreements and is responsible
4665 and liable for all the liabilities and obligations of ~~each of the its~~ predecessor institutions.

4666 **Drafting note: Technical changes.**

4667 § ~~23-50.6~~ 23.1-2303. ~~Appointment, terms, etc., of board of visitors; boards of~~
4668 ~~predecessor institutions to serve as advisory boards~~ Membership.

4669 (a) ~~A.~~ The board ~~of visitors is to~~ shall consist of ~~sixteen~~ 16 members ~~to be~~ appointed by
4670 the Governor ~~for four year terms except that vacancies other than by expiration of term shall be~~
4671 ~~filled as provided in subsection (d) and except that the initial term of the member appointed to~~
4672 ~~increase the board of visitors to sixteen members shall be three years.~~

4673 (b) ~~[Repealed.]~~

4674 (c) ~~Members shall be eligible for service for two consecutive terms of four years only~~
4675 ~~(exclusive of that portion of any unexpired term or any term on the board of less than four years~~
4676 ~~to which he may have been appointed).~~

4677 (d) ~~All vacancies shall be filled by the Governor for the unexpired terms.~~

4678 (e) ~~All appointments are subject to confirmation by the General Assembly if in session~~
4679 ~~when such appointments are made, and if not in session, at its next succeeding session. Visitors~~
4680 ~~shall continue to discharge their duties after their terms have expired until their successors have~~
4681 ~~been appointed and have qualified.~~

4682 (f), (g) ~~[Repealed.]~~

4683 B. Notwithstanding § 23.1-1300, members are eligible to serve for a total of two four-
4684 year terms which may be served consecutively; however, a member appointed by the Governor
4685 to serve an unexpired term shall be eligible to serve two additional four-year terms.

4686 **Drafting note: Existing provisions relating to the terms and removal of members of**
4687 **the board that apply generally to governing boards of public institutions of higher**
4688 **education are stricken and incorporated instead into proposed § 23.1-1300. Technical**
4689 **changes are made to conform the language to that of each other four-year public**
4690 **institution of higher education. The unique provisions of existing subsection (c) are**
4691 **retained in proposed subsection B and technical changes are made.**

4692 § ~~23-50.9~~ 23.1-2304. ~~Principal office of corporation; meetings, etc., and; officers of~~
4693 ~~board of visitors; executive committee; committees.~~

4694 ~~(a)-A.~~ A. The principal office of the ~~corporation board~~ shall be located, and all meetings of
4695 the board ~~of visitors~~ held, as far as practicable, in the City of Richmond.

4696 B. The board shall ~~fix the date for its annual meeting and such other meetings as it may~~
4697 ~~deem advisable meet at least once a year and at such other times as it determines.~~ Due notice
4698 Notice of all meetings shall be ~~given provided~~ to each ~~visitor member~~.

4699 C. A majority of the members ~~serving at any time~~ shall constitute a quorum. ~~Such~~
4700 ~~reasonable expenses as the visitors may incur in the discharge of their duties shall be paid out of~~
4701 ~~the funds of the University.~~

4702 ~~(b)-D.~~ D. The board shall ~~elect appoint~~ from its ~~members membership~~ a rector, a vice-
4703 rector, a secretary, and ~~such any~~ other officers as ~~it deems necessary or advisable, and~~
4704 determined by the board. The board shall prescribe their duties, and term of office, and fix their
4705 compensation, if any.

4706 E. The board shall ~~also designate~~ determine the number of members of and appoint an
4707 executive committee, and determine the number of members ~~thereof and the number which of~~
4708 the executive committee that shall constitute a quorum; ~~such.~~ The executive committee shall
4709 perform ~~all the~~ duties ~~as are delegated to it~~ prescribed by the board.

4710 F. Reasonable expenses incurred by members shall be paid out of the funds of the
4711 University.

4712 **Drafting note: Technical changes are made to conform provisions relating to**
4713 **meetings, officers, and committees of the board of visitors to those of each other four-year**
4714 **public institution of higher education.**

4715 ~~§ 23-50.10 23.1-2305. Rights and powers of board generally; appointment, etc., of~~
4716 ~~president, faculty and staff; rules and regulations~~ Powers and duties.

4717 ~~The board of visitors shall be vested with all the rights and powers conferred upon it by~~
4718 ~~this chapter insofar as the same are not inconsistent with the general laws of the~~
4719 ~~Commonwealth.~~

4720 A. The board shall appoint the ~~president, who shall be the chief executive officer of the~~
4721 ~~University, and~~ all ~~professors,~~ teachers, staff members, and agents, ~~and shall~~ fix their salaries,
4722 and ~~shall~~ prescribe their duties.

4723 B. The board shall ~~make all rules and regulations it deems advisable concerning the~~
4724 ~~University and shall~~ generally direct the affairs and business of the University.

4725 C. The board may confer degrees, including honorary degrees.

4726 ~~§ 23-50.8. Rights, powers and privileges of corporation generally.~~

4727 ~~The corporation is vested with all the rights, powers and privileges conferred upon and~~
4728 ~~subject to all the provisions relating to similar corporations under the laws of this~~
4729 ~~Commonwealth so far as they are applicable and shall have, in addition to those other powers,~~
4730 ~~all the corporate powers given to nonstock corporations by the provisions of Chapter 10 (§ 13.1-~~
4731 ~~801 et seq.) of Title 13.1, except in those cases where by the express terms of the provisions~~
4732 ~~thereof it is confined to corporations created under Title 13.1.~~ D. The corporation shall also have
4733 ~~the power to~~ board may take, hold, receive, and enjoy any gift, grant, devise, or bequest to
4734 ~~Virginia Commonwealth~~ the University or its predecessors, ~~the same to be held~~ for the uses and
4735 purposes designated by the donor, ~~if any,~~ or if not so designated, for the general purposes of the
4736 corporation, whether given directly or indirectly; and ~~to~~ accept, execute, and administer any
4737 trust in which it may have an interest under the terms of the instrument creating the trust. ~~The~~
4738 ~~corporation shall control and expend the funds appropriated to it by the Commonwealth~~
4739 ~~provided by law.~~

4740 **Drafting note: The provisions of existing § 23-50.10 related to the president,**
4741 **professors, and regulations are stricken and incorporated instead into proposed § 23.1-**
4742 **1301. Subsection B incorporates the provisions of existing § 23-50.12. The provisions of**
4743 **existing § 23-50.8 related to corporate powers are stricken and incorporated instead into**
4744 **proposed §§ 23.1-2300. The provisions of existing § 23-50.8 related to controlling and**
4745 **expending funds are stricken and incorporated instead into proposed §§ 23.1-1301. The**

4746 **provisions of existing § 23-50.8 related to gifts, grants, devises, and bequests are retained**
4747 **in subsection C of this proposed section. Technical changes are made.**

4748 § ~~23-50.10:01~~ 23.1-2306. Investment of endowment funds, endowment income, ~~and~~
4749 ~~gifts; standard of care; liability; exemption from the Virginia Public Procurement Act etc.~~

4750 A. As used in this section:

4751 "Derivative" means a contract or financial instrument or a combination of contracts and
4752 financial instruments, including any contract commonly known as a "swap," that gives the
4753 University the right or obligation to deliver, receive delivery of, or make or receive payments
4754 based on changes in the price, value, yield, or other characteristic of a tangible or intangible
4755 asset or group of assets or changes in a rate, index of prices or rates, or other market indicator
4756 for an asset or group of assets.

4757 "Option" means an agreement or contract whereby the University may grant or receive
4758 the right to purchase, sell, or pay or receive the value of any personal property asset, including
4759 any agreement or contract that relates to any security, contract, or agreement.

4760 "Financial security" means any note, stock, treasury stock, bond, debenture, evidence of
4761 indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of
4762 subscription, transferable share, investment contract, voting-trust certificate, certificate of
4763 deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; any put,
4764 call, straddle, option, or privilege on any security, certificate of deposit, or group or index of
4765 securities (including any interest therein or based on the value thereof); any put, call, straddle,
4766 option, or privilege entered into on a national securities exchange relating to foreign currency; in
4767 general, any interest or instrument commonly known as a "security;" or any certificate of
4768 interest or participation in, temporary or interim security for, receipt for, guarantee of, or
4769 warrant or right to subscribe to or purchase any financial security.

4770 B. The board ~~of visitors~~ shall invest and manage the endowment funds, endowment
4771 income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the

4772 University in accordance with this section and the provisions of the Uniform Prudent
4773 Management of Institutional Funds Act (§ 64.2-1100 et seq.).

4774 ~~B-C.~~ No member of the board ~~of visitors~~ shall be personally liable for losses suffered by
4775 ~~an any~~ endowment fund, endowment income, ~~gifts gift,~~ ~~all~~ other nongeneral fund ~~reserves~~
4776 ~~reserve~~ and ~~balances balance~~, or local funds of or held by the University, arising from
4777 investments made pursuant to the provisions of subsection A.

4778 ~~C-D.~~ The investment and management of endowment funds, endowment income, gifts,
4779 all other nongeneral fund reserves and balances, or local funds of or held by the University shall
4780 not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

4781 ~~D-E.~~ In addition to the investment practices authorized by the Uniform Prudent
4782 Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board ~~of visitors~~ may ~~also~~
4783 invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund
4784 reserves and balances, and local funds of or held by the University in derivatives, options, and
4785 financial securities.

4786 ~~1. In this section, "derivative" means a contract or financial instrument or a combination~~
4787 ~~of contracts and financial instruments, including, without limitation, any contract commonly~~
4788 ~~known as a "swap," which gives the University the right or obligation to deliver or receive~~
4789 ~~delivery of, or make or receive payments based on, changes in the price, value, yield or other~~
4790 ~~characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index~~
4791 ~~of prices or rates, or other market indicator for an asset or a group of assets.~~

4792 ~~2. In this section, an "option" means an agreement or contract whereby the University~~
4793 ~~may grant or receive the right to purchase or sell, or pay or receive the value of, any personal~~
4794 ~~property asset including, without limitation, any agreement or contract that relates to any~~
4795 ~~security, contract, or agreement.~~

4796 ~~3. In this section, "financial security" means any note, stock, treasury stock, bond,~~
4797 ~~debenture, evidence of indebtedness, certificate of interest, collateral trust certificate,~~
4798 ~~preorganization certificate of subscription, transferable share, investment contract, voting trust~~

4799 ~~certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other~~
4800 ~~mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit,~~
4801 ~~or group or index of securities (including any interest therein or based on the value thereof), or~~
4802 ~~any put, call, straddle, option, or privilege entered into on a national securities exchange relating~~
4803 ~~to foreign currency, or in general, any interest or instrument commonly known as a "security,"~~
4804 ~~or any certificate of interest or participation in, temporary or interim security for, receipt for,~~
4805 ~~guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

4806 E.F. The authority ~~as~~ provided in this section ~~as it relates~~ to invest and reinvest
4807 nongeneral fund reserves and balances of or held by the University is predicated upon an
4808 approved management agreement between the University and the Commonwealth ~~of Virginia.~~

4809 **Drafting note: Technical changes.**

4810 ~~§ 23-50.11. Tuition, fees and other charges.~~

4811 ~~The board may fix the rates charged the students of the University for tuition, fees and~~
4812 ~~other necessary charges, and may fix and collect fees and charges for services rendered by or~~
4813 ~~through any facilities maintained or conducted by the corporation.~~

4814 **Drafting note: The provisions of existing § 23-50.11 are stricken and incorporated**
4815 **instead into proposed § 23.1-1301.**

4816 ~~§ 23-50.12. Degrees.~~

4817 ~~The board of visitors shall have the right to confer all degrees heretofore conferred by~~
4818 ~~the Medical College of Virginia and the Richmond Professional Institute and such other degrees~~
4819 ~~including honorary degrees as it may deem proper.~~

4820 **Drafting note: The provisions of existing § 23-50.12 are stricken and incorporated**
4821 **instead into proposed § 23.1-2306.**

4822 ~~§ 23-50.13. Conveyance of real property and interests therein.~~

4823 ~~The board of visitors of Virginia Commonwealth University, with the approval of the~~
4824 ~~Governor first obtained, is hereby authorized to sell and convey any and all real estate or~~
4825 ~~interests therein including easements for roads, streets, sewers, water lines, electric and other~~

4826 ~~utility lines or other purposes to which it has acquired title by gift, devise or purchase. The~~
4827 ~~proceeds derived from any such sale or sales shall be held by the University upon the identical~~
4828 ~~trusts, and subject to the same uses, limitations and conditions, if any, that are expressed in the~~
4829 ~~original instrument under which its title was derived, or if there be no such trusts, uses,~~
4830 ~~limitations or conditions expressed in such original instrument, then such funds shall be applied~~
4831 ~~by the board to such purposes as it may deem best for the University.~~

4832 **Drafting note: The provisions of existing § 23-50.13 are stricken and incorporated**
4833 **instead into proposed § 23.1-1301.**

4834 ~~§ 23-50.14~~ 23.1-2307. Process or notice.

4835 Process against or notice to the ~~corporation may~~ board shall be served only in the City of
4836 Richmond upon the rector, vice-rector, or secretary of the board, or ~~upon~~ the president of
4837 ~~Virginia Commonwealth~~ the University.

4838 **Drafting note: Technical changes.**

4839 ~~§ 23-50.15:1. [Expired.]~~

4840 **Drafting note: Expired pursuant to Acts 1989, c. 257, cl. 3, effective July 1, 1992.**

4841 ~~§ 23.1-2308. The Medical College of Virginia, Health Sciences Division of Virginia~~
4842 ~~Commonwealth University.~~

4843 ~~The colleges, schools, and divisions previously existing as The Medical College of~~
4844 ~~Virginia shall be designated The Medical College of Virginia, Health Sciences Division of~~
4845 ~~Virginia Commonwealth University.~~

4846 **Drafting note: Proposed § 23.1-2309 incorporates the provisions of the last sentence**
4847 **of existing § 23-50.7.**

4848 ~~§ 23-50.16~~ 23.1-2309. Operations of Medical Center.

4849 A. ~~In enacting this section, the General Assembly recognizes that the ability of Virginia~~
4850 ~~Commonwealth~~ The University ~~to~~ may provide medical and health sciences education and
4851 related research ~~is dependent upon the maintenance of high quality through~~ teaching hospitals
4852 and related health care and health maintenance facilities, collectively referred to in this section

4853 as the Medical Center, ~~and that the maintenance of a medical center serving such purposes~~
4854 ~~requires specialized management and operation that permit the Medical Center to remain~~
4855 ~~economically viable and to.~~ The Medical Center may participate in cooperative arrangements
4856 reflective of changes in health care delivery.

4857 B. ~~Without limiting the powers provided in §§ 23-50.8 and 23-50.10, Virginia~~
4858 ~~Commonwealth~~ The University may create, own in whole or in part, or otherwise control
4859 corporations, partnerships, insurers, or other entities whose activities ~~will~~ promote the
4860 operations of the Medical Center and its mission, ~~may~~; cooperate or enter into joint ventures
4861 with such entities ~~and government bodies and may; and~~ enter into contracts in connection
4862 ~~therewith with such joint ventures.~~ Without limiting the power of ~~Virginia Commonwealth the~~
4863 University to issue bonds, notes, guarantees, or other evidence of indebtedness ~~under pursuant~~
4864 ~~to~~ subsection C in connection with such activities, no such creation, ownership, or control shall
4865 create any responsibility of the University, the Commonwealth, or any ~~other~~ agency ~~thereof of~~
4866 ~~the Commonwealth~~ for the operations or obligations of any entity or in any way make the
4867 University, the Commonwealth, or any ~~other~~ agency ~~thereof of the Commonwealth~~ responsible
4868 for the payment of debt or other obligations of such entity. All such interests shall be reflected
4869 on the financial statements of the Medical Center.

4870 C. Notwithstanding the provisions of Chapter ~~3-11~~ (§ ~~23-14 23.1-1100~~ et seq.) ~~of this~~
4871 ~~title, Virginia Commonwealth the~~ University may issue bonds, notes, guarantees, or other
4872 evidence of indebtedness without the approval of any other governmental body subject to the
4873 following provisions:

4874 1. Such debt is used solely for the purpose of paying not more than ~~fifty~~ 50 percent of
4875 the cost of capital improvements in connection with the operation of the Medical Center or
4876 related issuance costs, reserve funds, and other financing expenses, including interest during
4877 construction or acquisition and for up to one year thereafter;.

4878 2. ~~The only~~ No revenues of the University are pledged to the payment of such debt ~~are~~
4879 ~~except~~ those revenues derived from the operation of the Medical Center and related health care

4880 and educational activities, and ~~there are pledged therefor~~ no general fund appropriation and
4881 special Medicaid disproportionate share payments for indigent and medically indigent patients
4882 who are not eligible for the Virginia Medicaid Program; are pledged to the payment of such
4883 debt.

4884 3. Such debt states that it does not constitute a debt of the Commonwealth or a pledge of
4885 the faith and credit of the Commonwealth;.

4886 4. Such debt is not sold to the public;.

4887 5. The total principal amount of such debt outstanding at any one time does not exceed
4888 ~~twenty five~~ \$25 million ~~dollars~~;

4889 6. The Treasury Board ~~has approved~~ approves the terms and structure of such debt;.

4890 7. The purpose, terms, and structure of such debt are promptly communicated to the
4891 Governor and the Chairmen of the House Appropriations and Senate Finance Committees; ~~and~~ .

4892 8. All such indebtedness is reflected on the financial statements of the Medical Center.

4893 Subject to meeting the conditions set forth ~~above~~ in subsection C, such debt may be in
4894 such form and have such terms as the board ~~of visitors~~ may provide and shall be in all respects
4895 debt of the University for the purposes of §§ ~~23-23~~ 23.1-1110, ~~23-25~~ 23.1-1115, and ~~23-26~~
4896 23.1-1116.

4897 **Drafting note: Statements of policy in subsection A are stricken per the Code**
4898 **Commission policy regarding such statements. Technical changes are made.**

4899 § ~~23-50.16:01~~ 23.1-2310. Authority to create Virginia Commonwealth University
4900 School of Medicine-Northern Virginia Division; ~~authority to create~~.

4901 A. The board ~~of visitors of Virginia Commonwealth University is authorized to may~~
4902 establish the Virginia Commonwealth University School of Medicine-Northern Virginia
4903 Division, ~~hereinafter referred to as~~ (the Division). If established, the board shall operate the
4904 Division ~~shall be operated with in the~~ areas of program and service emphasis ~~as may be~~
4905 approved by that the ~~State~~ Council ~~of Higher Education for Virginia~~ approves pursuant to
4906 subdivision 7 of § ~~23-9.6:1~~ 23.1-203.

4907 B. The board ~~of visitors shall have~~ has the same powers with respect to the operation of

4908 the Division as are vested in the board regarding ~~Virginia Commonwealth~~ the University

4909 ~~pursuant to this chapter.~~

4910 **Drafting note: Technical changes.**

4911 ~~§ 23-50.15~~ 23.1-2311. Virginia Center on Aging.

4912 ~~Chapter 170 of the Acts of 1978, relating to the Virginia Center on Aging at Virginia~~

4913 ~~Commonwealth University, is incorporated in this Code by this reference.~~

4914 A. The Virginia Center on Aging (the Center) shall be located at the University and shall

4915 be an interdisciplinary study, research, information, and resource facility for the

4916 Commonwealth. The Center shall utilize the full capability of the faculty, staff, libraries,

4917 laboratories, and clinics of the University for the benefit of older Virginians and the expansion

4918 of knowledge related to the aged and the aging process.

4919 B. The Center shall be subject to the supervision and control of the board.

4920 C. The board shall appoint an advisory committee for the Center.

4921 D. The board shall appoint an executive director for the Center who shall:

4922 1. Exercise all powers and perform all duties imposed upon him by law;

4923 2. Perform all duties imposed upon him by the board; and

4924 3. Employ such personnel and contract for such services as may be required to carry out

4925 the purposes of this section.

4926 E. The Center, under the direction of the executive director, shall:

4927 1. Develop and promote programs of continuing education and in-service training for

4928 persons who work with or provide services to the elderly;

4929 2. Develop educational and training programs for persons 60 years old or older to assist

4930 them in adjusting to the aging process, including retirement planning, health maintenance,

4931 employment opportunities, recreation, and self-development;

4932 3. Foster development of educational courses for students at institutions of higher
4933 education in disciplines other than gerontology to increase their understanding of the process of
4934 aging in humans;

4935 4. Conduct research in the field of gerontology and make the research findings available
4936 to interested public and private agencies;

4937 5. Collect and maintain data on a statewide and regional basis on the characteristics and
4938 conditions of persons over the age of 60 and make such data available to the Department for
4939 Aging and Rehabilitative Services and all other organizations and state agencies involved in
4940 planning and delivering services to persons over the age of 60;

4941 6. Coordinate the functions and services of the Center with the Department for Aging
4942 and Rehabilitative Services (i) in such a manner that the knowledge, education, and research
4943 programs in the Center constitute a readily available resource for the Department in planning
4944 and service delivery and (ii) to prevent any duplication of effort;

4945 7. Apply for and accept grants from the United States government, state government,
4946 state agencies, or any other source to carry out the purposes of this section. The Center is
4947 permitted to execute such agreements and comply with such conditions as may be necessary to
4948 apply for and accept such grants;

4949 8. Accept gifts, bequests, and any other thing of value to be used to carry out the
4950 purposes of this section;

4951 9. Receive, administer, and expend all funds and other assistance made available to the
4952 Center to carry out the purposes of this section; and

4953 10. Do all other things necessary or convenient to carrying out the purposes of this
4954 section.

4955 **Drafting note: Acts 1978, c. 170, previously incorporated in existing § 23-50.15 by**
4956 **reference, is instead set out in full in proposed § 23.1-2312. Technical changes are made.**

4957 #

4958

4959

CHAPTER ~~6.2~~ 24.

4960

VIRGINIA COMMONWEALTH UNIVERSITY HEALTH SYSTEM AUTHORITY.

4961

Drafting note: Existing Chapter 6.2 of Title 23 is logically reorganized as proposed

4962

Chapter 24 of Title 23.1. Technical changes are made throughout the proposed chapter.

4963

~~§ 23-50.16:1. Short title.~~

4964

~~This chapter shall be known and may be cited as the "Virginia Commonwealth~~

4965

~~University Health System Authority Act."~~

4966

Drafting note: Existing § 23-50.16:1 is recommended for repeal because of the

4967

Code-wide application of § 1-244, which states that the caption of a subtitle, chapter, or

4968

article serves as a short title citation.

4969

~~§ 23-50.16:2. Findings and declaration of necessity.~~

4970

~~The General Assembly finds that:~~

4971

~~1. Provision of health care, including indigent care, is an essential governmental function~~

4972

~~protecting and promoting the health and welfare of the citizens of the Commonwealth;~~

4973

~~2. Education of medical and health sciences professionals and the performance of~~

4974

~~medical and related research are essential to promote such health care;~~

4975

~~3. Teaching hospitals and related facilities of high quality are essential both to provide~~

4976

~~high levels of health care and to promote medical and health sciences education, because such~~

4977

~~hospitals and related facilities (i) provide facilities necessary to train physicians and other health~~

4978

~~sciences professionals, (ii) provide medical services not generally available at other hospitals,~~

4979

~~and (iii) treat patients of the type and on the scale necessary to facilitate medical research and to~~

4980

~~attract physicians, faculty members, researchers and other persons necessary to maintain quality~~

4981

~~medical and health sciences education;~~

4982

~~4. The missions of the Medical College of Virginia Hospitals are to (i) serve as a general~~

4983

~~hospital and health care facility, (ii) facilitate and support the health education, research and~~

4984

~~public service activities of the Health Sciences Schools of the Medical College of Virginia,~~

4985

~~Health Sciences Division of Virginia Commonwealth University, (iii) provide high quality~~

4986 ~~patient care and other specialized health services not widely available in the Commonwealth,~~
4987 ~~including the provision of medical care to indigent patients, (iv) serve as the principal teaching~~
4988 ~~and training hospital for undergraduate and graduate students of the Schools of the Health~~
4989 ~~Sciences Division of Virginia Commonwealth University, and (v) provide a site for faculty~~
4990 ~~members of the Health Sciences Division of Virginia Commonwealth University to conduct~~
4991 ~~medical and biomedical research, all of which missions constitute essential governmental~~
4992 ~~functions for protecting and promoting the health and welfare of the citizens of the~~
4993 ~~Commonwealth;~~

4994 ~~5. Such hospital, health care and related facilities require specialized management and~~
4995 ~~operation to remain economically viable, to earn revenues necessary for their operation, and to~~
4996 ~~engage in arrangements with public and private entities and other activities, taking into account~~
4997 ~~changes that have occurred or may occur in the future in the provision of health care and related~~
4998 ~~services; and~~

4999 ~~6. The needs of the citizens of the Commonwealth and the needs of the Health Sciences~~
5000 ~~Division of Virginia Commonwealth University will best be served if the Medical College of~~
5001 ~~Virginia Hospitals are transferred to and operated by an independent public authority charged~~
5002 ~~with the missions of operating such Hospitals as teaching hospitals for the benefit of the Schools~~
5003 ~~of the Health Sciences Division of Virginia Commonwealth University, providing high quality~~
5004 ~~patient care, and providing a site for medical and biomedical research, all in close affiliation~~
5005 ~~with the Health Sciences Division of Virginia Commonwealth University so that the public~~
5006 ~~authority does not duplicate or compete with the undergraduate and graduate programs,~~
5007 ~~research, training and teaching facilities offered at or operated by the University.~~

5008 ~~The exercise of the powers permitted by this chapter shall be deemed the performance of~~
5009 ~~essential governmental functions and matters of public necessity for the entire Commonwealth~~
5010 ~~in the provision of health care, medical and health sciences education and research, for which~~
5011 ~~public moneys may be borrowed, loaned, spent or otherwise utilized and for which private~~
5012 ~~property may be utilized or acquired.~~

5013 **Drafting note: Subdivisions 1 through 6 of existing § 23-50.16:2, specifying the**
5014 **functions of the Medical College of Virginia Hospitals, are logically relocated to proposed**
5015 **§ 23.1-2401. The final paragraph of existing § 23-50.16:2 is logically relocated as**
5016 **subsection B of proposed § 23.1-2404.**

5017 §~~23-50.16:4~~ 23.1-2400. Definitions.

5018 As used in this chapter, ~~the following terms have the following meanings~~, unless the
5019 context requires ~~otherwise a different meaning~~:

5020 "Authority" means the Virginia Commonwealth University Health System Authority.

5021 "Board" means the ~~Board of Directors~~ board of directors of the Authority.

5022 "Bonds" means bonds, notes, revenue certificates, lease participation certificates, or
5023 other evidences of indebtedness or deferred purchase financing arrangements.

5024 "Chief executive officer" means the chief executive officer of the Virginia
5025 Commonwealth University Health System Authority.

5026 "Costs" means (i) costs of (a) construction, reconstruction, renovation, site work, and
5027 acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights
5028 and interests; ~~costs of (b) demolition, removal, or relocation of buildings or structures; costs of~~
5029 (c) labor, materials, machinery, and all other kinds of equipment; financing charges; costs of (d)
5030 engineering and inspections; costs of (e) financial, legal, and accounting services; costs of (f)
5031 plans, specifications, studies, and surveys; (g) estimates of costs and of revenues; (h) feasibility
5032 studies and administrative expenses, including administrative expenses during the start-up of
5033 any project; costs of and (i) issuance of bonds, including printing, engraving, advertising, legal,
5034 and other similar expenses; (ii) financing charges; (iii) administrative expenses, including
5035 administrative expenses during the start-up of any project; (iv) credit enhancement and liquidity
5036 facility fees; (v) fees for interest rate caps, collars, swaps, or other financial derivative products;
5037 (vi) interest on bonds in connection with a project prior to and during construction or acquisition
5038 thereof and for a period not exceeding one year thereafter; (vii) provisions for working capital to
5039 be used in connection with any project; (viii) redemption premiums, obligations purchased to

5040 provide for the payment of bonds being refunded, and other costs necessary or incident to
5041 refunding of bonds; (ix) operating and maintenance reserve funds, debt reserve funds, and other
5042 reserves for the payment of principal and interest on bonds; ~~and (x)~~ all other expenses
5043 necessary, desirable, or incidental to the operation of the Authority's facilities or the
5044 construction, reconstruction, renovation, acquisition, or financing of projects ~~or~~ other facilities,
5045 or equipment appropriate for carrying out the purposes of this chapter and the placing of the
5046 same in operation; or (xi) the refunding of bonds.

5047 ~~"Chief executive officer" means the chief executive officer of the Virginia~~
5048 ~~Commonwealth University Health System Authority.~~

5049 "Hospital facilities" means all property or rights in property, real and personal, tangible
5050 and intangible, including all facilities suitable for providing hospital and health care services
5051 and ~~including any and~~ all structures, buildings, improvements, additions, extensions,
5052 replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches,
5053 roadways, and other related and supporting facilities, ~~now or hereafter~~ owned, leased, operated,
5054 or used, in whole or in part, by Virginia Commonwealth University as part of, or in connection
5055 with, ~~the Medical College of Virginia MCV~~ Hospitals in the normal course of its operations as a
5056 teaching, research, and medical treatment facility.

5057 "Hospital obligations" means all debts or other obligations, contingent or certain, owing
5058 to any person or other entity on the transfer date, arising out of the operation of ~~the Medical~~
5059 ~~College of Virginia MCV~~ Hospitals as a medical treatment facility or ~~arising out of~~ the
5060 financing or refinancing of hospital facilities; and including all bonds and other debts for the
5061 purchase of goods and services, whether or not delivered, and obligations for the delivery of
5062 services, whether or not performed.

5063 "Project" means any health care, research, or educational facility or equipment necessary
5064 or convenient to or consistent with the purposes of the Authority, whether ~~or not~~ owned by the
5065 Authority, including, ~~without limitation,~~ hospitals; nursing homes; continuing care facilities;
5066 self-care facilities; wellness and health maintenance centers; medical office facilities; clinics;

5067 ~~out-patient~~ outpatient clinics; surgical centers; alcohol, substance abuse, and drug treatment
5068 centers; laboratories; sanitariums; hospices; facilities for the residence or care of the elderly, the
5069 handicapped, or the chronically ill; residential facilities for nurses, interns, and physicians; other
5070 kinds of facilities for the treatment of sick, disturbed, or infirm ~~persons or~~ individuals, the
5071 prevention of disease, or maintenance of health; colleges, schools, or divisions offering
5072 undergraduate or graduate programs for the health professions and sciences and such other
5073 branches of learning as may be appropriate, together with research, training, and teaching
5074 facilities; all necessary or desirable related and supporting facilities and equipment ~~necessary or~~
5075 ~~desirable in connection therewith or incidental thereto~~; or equipment alone, including, ~~without~~
5076 ~~limitation~~, (i) parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative,
5077 communications, computer, and recreational facilities; (ii) power plants and equipment; (iii)
5078 storage space; (iv) mobile medical facilities; (v) vehicles; (vi) air transport equipment; and (vii)
5079 other equipment necessary or desirable for the transportation of medical equipment, medical
5080 personnel, or patients; and all lands, buildings, improvements, approaches, and appurtenances
5081 necessary or desirable in connection with or incidental to any project.

5082 "Transfer date" means a date or dates agreed to by the ~~Board of Visitors~~ board of visitors
5083 of Virginia Commonwealth University and the Authority for the transfer of employees to the
5084 Authority and for the transfer of hospital facilities, or any parts thereof, to and the assumption,
5085 directly or indirectly, of hospital obligations by the Authority, which dates for the various
5086 transfers and the various assumptions may be different, but in no event shall any date be later
5087 than June 30, 1997.

5088 "University" means Virginia Commonwealth University.

5089 **Drafting note: Technical changes are made, including moving "chief executive**
5090 **officer" into alphabetical order and removing "without limitation" twice in the definition**
5091 **of "project" when used in conjunction with "including" on the basis of the Code-wide**
5092 **application of § 1-218, which states, "'Includes' means includes, but not limited to."**

5093 § ~~23-50.16:3~~ 23.1-2401. Authority ~~created~~ established; powers, purposes, and duties.

5094 A. ~~There~~ The Virginia Commonwealth University Health System Authority is ~~hereby~~
5095 ~~created~~ established as a public body corporate, public instrumentality, and ~~as a~~ political
5096 subdivision of the Commonwealth, ~~the Virginia Commonwealth University Health System~~
5097 ~~Authority, referred to in this chapter as the Authority~~, with such public and corporate powers as
5098 are set forth in this chapter.

5099 B. The purpose of the Authority is ~~hereby constituted a public instrumentality,~~
5100 exercising to exercise public and essential governmental functions ~~with the power and purpose~~
5101 to provide for the health, welfare, convenience, knowledge, benefit, and prosperity of the
5102 residents of the Commonwealth and such other ~~persons~~ individuals who might be served by the
5103 Authority by delivering and supporting the delivery of medical care and related services to such
5104 residents and ~~persons~~ individuals, ~~by~~ providing educational opportunities in the medical field
5105 and related disciplines, ~~by~~ conducting and facilitating research in the medical field and related
5106 disciplines, and ~~by~~ enhancing the delivery of health care and related services to the
5107 Commonwealth's indigent population. The Authority may perform such public and essential
5108 government functions with the power and purpose to:

5109 1. Provide health care, including indigent care, to protect and promote the health and
5110 welfare of the citizens of the Commonwealth;

5111 2. Serve as a high quality teaching hospital to provide and promote health care by
5112 educating medical and health sciences professionals, providing medical services not widely
5113 available in the Commonwealth, and treating patients of the type and on the scale necessary to
5114 facilitate medical research and attract physicians, faculty members, researchers, and other
5115 individuals necessary to maintain quality medical and health sciences education;

5116 3. Facilitate and support the health education, research, and public service activities of
5117 the Health Sciences Schools of the University;

5118 4. Serve as the principal teaching and training hospital for undergraduate and graduate
5119 students of the Health Sciences Schools of the University;

5120 5. Provide a site for faculty members of the Health Sciences Schools of the University to
5121 conduct medical and biomedical research; and

5122 6. Operate and manage general hospital and other health care facilities, engaging in
5123 specialized management and operational practices to remain economically viable, earning
5124 revenues necessary for operations, and participating in arrangements with public and private
5125 entities and other activities, taking into account changes that have occurred or may occur in the
5126 future in the provision of health care and related services.

5127 ~~B.C. The Authority is authorized to provide, promote, support and sponsor education,~~
5128 ~~public knowledge and scientific research in medicine, public health and related fields; to~~
5129 ~~administer programs to assist in the delivery of medical and related services to the citizens of~~
5130 ~~the Commonwealth and others; and to participate in and administer federal, state and local~~
5131 ~~programs affecting, supporting or carrying out any of its purposes. The Authority is further~~
5132 ~~authorized to exercise independently the powers conferred by this chapter in furtherance of its~~
5133 ~~corporate and public purposes, and the Authority is directed to undertake the operation of~~ shall
5134 operate, maintain, and expand, as appropriate, teaching hospitals and related facilities ~~and to~~
5135 ~~maintain and, as appropriate, to expand the same, all~~ for the benefit of the Commonwealth; and
5136 its citizens and such other ~~persons~~ individuals who might be served by the Authority.

5137 **Drafting note: Portions of subsection B are relocated to proposed § 23.1-2404.**
5138 **Subdivisions 1 through 6 of existing § 23-50.16:2 are incorporated into proposed**
5139 **subdivisions B 1 through 6 of this section. Technical changes are made.**

5140 ~~§ 23-50.16:5~~ 23.1-2402. Board of ~~Directors~~ directors; ~~appointment~~ membership;
5141 meetings; officers; employees.

5142 A. The Authority shall be governed by a ~~Board of Directors consisting~~ board of directors
5143 with a total of 21 members ~~as follows: that consists of 19 appointed members and two ex officio~~
5144 members. The 19 appointed members shall consist of six nonlegislative citizen members to be
5145 appointed by the Governor, including of whom two shall be physician-faculty members, ~~to be~~
5146 ~~appointed by the Governor~~; five members to be appointed by the Speaker of the House of

5147 ~~Delegates, including of whom~~ two shall be physician-faculty members, ~~to be appointed by the~~
5148 ~~Speaker of the House of Delegates~~; three members to be appointed by the Senate Committee on
5149 ~~Rules, including of whom~~ one shall be a physician-faculty member, ~~to be appointed by the~~
5150 ~~Senate Committee on Rules~~; and five nonlegislative citizen members of the ~~Board of Visitors~~
5151 ~~board of visitors~~ of ~~Virginia Commonwealth the~~ University; to be appointed by the ~~Rector~~ rector
5152 of the University, all of whom shall ~~also~~ be members of the ~~Board of Visitors~~ board of visitors
5153 of the University at all times while serving on the ~~Board~~; the board. The President of the
5154 University and the Vice-President for Health Sciences of the University, or the ~~person~~
5155 individual who holds such other title as subsequently may be established by the ~~Board of~~
5156 ~~Visitors~~ board of visitors of the University for the chief academic and administrative officer for
5157 the Health Sciences ~~Campus Schools~~ of the University, ~~both of whom~~ shall serve ~~as~~ ex officio
5158 with voting ~~members during their respective terms of office~~ privileges.

5159 All appointed members except those who are members of the board of visitors of the
5160 University shall have demonstrated experience or expertise in business, health care
5161 management, or legal affairs.

5162 B. The five appointed physician-faculty members shall be faculty members of ~~Virginia~~
5163 ~~Commonwealth the~~ University with hospital privileges at ~~Medical College of Virginia MCV~~
5164 Hospitals at all times while serving on the ~~Board~~ board.

5165 ~~After the initial staggering of terms, all appointments shall be for terms of three years~~
5166 ~~each, except appointments to fill unexpired vacancies which shall be made for the remainder of~~
5167 ~~the unexpired terms.~~

5168 C. The Governor, the Speaker of the House of Delegates, and the Senate Committee on
5169 Rules shall appoint ~~faculty physicians~~ physician-faculty members after consideration of ~~the~~
5170 names from lists submitted by the faculty physicians of the School of Medicine of ~~Virginia~~
5171 ~~Commonwealth the~~ University through the Vice-President for Health Sciences of the
5172 University. The list shall contain ~~not less than~~ at least two names for each ~~expired or unexpired~~
5173 vacancy ~~that occurs~~.

5174 ~~No person shall be eligible to serve more than two consecutive full three-year terms as~~
5175 ~~an appointed member, but after the expiration of a term of two years or less, or after the~~
5176 ~~expiration of the remainder of a term to which appointed to fill a vacancy, or after one year~~
5177 ~~following the expiration of a second full three-year term, two additional three-year terms may be~~
5178 ~~served by a member if so appointed. The terms of members serving by virtue of their office~~
5179 ~~shall expire upon termination of their holding such office. All members shall continue to hold~~
5180 ~~office until their successors have been appointed and have qualified.~~

5181 ~~All appointed members, other than those who are members of the Board of Visitors,~~
5182 ~~shall have demonstrated experience or expertise in business, health-care management or legal~~
5183 ~~affairs. Immediately after their appointments, members shall enter upon the performance of their~~
5184 ~~duties.~~

5185 D. Members shall serve for terms of three years. Vacancies occurring other than by
5186 expiration of a term shall be filled for the unexpired term. No member shall serve for more than
5187 two consecutive three-year terms; however, a member appointed to serve an unexpired term
5188 shall be eligible to serve two consecutive three-year terms. Members who serve two consecutive
5189 three-year terms shall be eligible for reappointment one year after the expiration of their second
5190 term. All appointments shall be subject to confirmation by the General Assembly. Members
5191 shall continue to hold office until their successors have been appointed and confirmed. Ex
5192 officio members shall serve a term coincident with their term of office.

5193 ~~The Board~~ E. Neither the board members appointed from the ~~Board of Visitors and~~
5194 board of visitors of the University nor the ex officio members shall ~~not~~ vote on matters that ~~shall~~
5195 require them to breach their fiduciary duties to the University or to the Authority.

5196 ~~B. All appointments, including the initial appointments to the Board and appointments to~~
5197 ~~fill vacancies, are subject to confirmation by the affirmative vote of a majority of those voting in~~
5198 ~~each house of the General Assembly if in session when such appointments are made and, if not~~
5199 ~~in session, at its first regular session subsequent to such appointment. Any member whose~~
5200 ~~nomination is subject to confirmation during a regular session of the General Assembly shall be~~

5201 ~~deemed terminated when the General Assembly rejects the nomination or when it adjourns~~
5202 ~~without confirming the nomination, whichever is earlier. No such termination shall affect the~~
5203 ~~validity of any action taken by such member prior to such termination.~~

5204 ~~C. A Board~~ F. Any member may be removed for malfeasance, misfeasance,
5205 incompetence, or gross neglect of duty by the individual or entity that appointed him or, if such
5206 appointing individual no longer holds the office creating the right of appointment, by the current
5207 holder of that office.

5208 ~~D. G.~~ The President of the University shall serve as the chairman of the ~~Board of~~
5209 ~~Directors board~~. The ~~Board of Directors of the Authority board~~ shall elect annually a vice-
5210 chairman from among its membership. The ~~Board board~~ shall also elect a secretary and treasurer
5211 and such assistant secretaries and assistant treasurers as the ~~Board board~~ may authorize for
5212 terms determined by the ~~Board board~~, each of whom may or may not be a member of the ~~Board~~
5213 ~~board~~. The same ~~person individual~~ may serve as both secretary and treasurer.

5214 ~~H.~~ The ~~Board board~~ may ~~also~~ appoint an executive committee and other standing or
5215 special committees and prescribe their duties and powers, and any executive committee may
5216 exercise all such powers and duties of the ~~Board board~~ under this chapter as the ~~Board board~~
5217 may delegate.

5218 ~~E. I.~~ The ~~Board board~~ may provide for the appointment, employment, term,
5219 compensation, and removal of ~~a director~~, officers, employees, and agents of the Authority,
5220 including engineers, consultants, lawyers, and accountants, as the ~~Board board~~ deems
5221 appropriate.

5222 ~~F. J.~~ The ~~Board board~~ shall meet at least four times each year and may hold such special
5223 meetings as it deems appropriate.

5224 ~~K.~~ The ~~Board board~~ may adopt, amend, and repeal such ~~rules policies~~, regulations,
5225 procedures, and bylaws, not contrary to law or inconsistent with this chapter, as it deems
5226 expedient for its own governance and for the governance and management of the Authority.

5227 L. A majority of the ~~Board~~ board shall constitute a quorum for meetings, and the ~~Board~~
5228 board may act by a majority of those present at any meeting.

5229 G.M. Legislative board members shall be entitled to such compensation as provided §
5230 30-19.12 and nonlegislative citizen board members shall be entitled to such compensation for
5231 the performance of their duties as provided in § 2.2-2813 ~~for their services~~. All members shall
5232 be entitled to reimbursement for all reasonable and necessary expenses incurred in the
5233 performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of
5234 compensation and expenses of the members shall be provided by the Authority.

5235 H.N. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-
5236 3100 et seq.) shall apply to the members of the ~~Board~~ board and the employees of the Authority.

5237 **Drafting note: Technical changes are made, including referring to "policies"**
5238 **instead of "rules" per board practice.**

5239 § ~~23-50.16:7~~ 23.1-2403. ~~Appointment, salary and powers of the~~ Chief ~~Executive Officer~~
5240 executive officer of the Authority.

5241 A. The Authority shall be under the immediate supervision and direction of a ~~Chief~~
5242 ~~Executive Officer~~ chief executive officer, subject to the policies and direction established by the
5243 ~~Board~~ board. The ~~Chief Executive Officer~~ chief executive officer shall be the ~~person~~ individual
5244 who holds the title of Vice-President for Health Sciences of Virginia Commonwealth
5245 University, or such other title as subsequently may be established by the ~~Board of Visitors~~ board
5246 of visitors of the University for the chief academic and administrative officer for the Health
5247 Sciences ~~Campus Schools~~ of the University, ~~subject to the following: notwithstanding.~~
5248 Notwithstanding any other provision of law to the contrary, the selection and removal of the
5249 ~~Chief Executive Officer~~ chief executive officer, as well as the conditions of appointment,
5250 including salary, shall be made jointly by the ~~Board~~ board and the ~~Board of Visitors~~ board of
5251 visitors of the University at a joint meeting of the ~~Board~~ board and the ~~Board of Visitors~~ board
5252 of visitors of the University upon a vote of a majority of the members of each board, present and

5253 voting at the aforementioned joint meeting, acting separately in accordance with applicable
5254 provisions of law.

5255 B. In the event that a majority of the members of each board do not agree upon the
5256 selection, removal, or conditions of appointment, including salary, of the ~~Chief Executive~~
5257 ~~Officer~~ chief executive officer as provided in subsection A, then each board shall appoint a
5258 committee of three members of its respective board to consider the matter ~~or matters~~ upon
5259 which the boards disagree. The selection, removal, or conditions of appointment shall be made
5260 jointly by the two committees at a joint meeting of the committees upon a vote by a majority of
5261 the members of each committee present and voting at the joint meeting. In the event that a
5262 majority of the members of each committee agree upon the selection, removal, or conditions of
5263 appointment of the ~~Chief Executive Officer~~ chief executive officer, then the decision shall be
5264 reported to the ~~Board~~ board and the ~~Board of Visitors~~ board of visitors of the University, each of
5265 which shall be bound by the decision of the committees. In the event that a majority of the
5266 members of each committee do not agree on the selection, removal, or conditions of
5267 appointment of the ~~Chief Executive Officer~~ chief executive officer within 30 days of the
5268 appointment of the committees by each board, then the ~~President~~ president of the University
5269 shall decide upon the matter ~~or matters~~ upon which the committees disagree. The ~~President~~
5270 president of the University shall report his decision to both boards, each of which shall be bound
5271 by the decision of the ~~President~~ president.

5272 C. The ~~Chief Executive Officer~~ chief executive officer shall devote his full time to the
5273 performance of his official duties and shall not be engaged in any other profession or
5274 occupation.

5275 D. The ~~Chief Executive Officer~~ chief executive officer shall supervise and administer the
5276 operation of the Authority in accordance with the provisions of this chapter.

5277 **Drafting note: Technical changes.**

5278 § ~~23-50.16:6~~ 23.1-2404. Powers ~~generally of the Authority~~.

5279 A. The Authority ~~shall have~~ has all the powers necessary or convenient to carry out the
5280 purposes and provisions of this chapter, including, ~~without limitation,~~ the following powers:

5281 1. ~~To sue~~ Sue and be sued in its own name;₂

5282 2. ~~To have~~ Have and alter an official seal;₂

5283 3. ~~To have~~ Have perpetual duration and succession in its name;₂

5284 4. ~~To locate~~ Locate and maintain offices at such places as it may designate;₂

5285 5. ~~To make~~ Make and execute contracts, guarantees,₂ or any other instruments and
5286 agreements necessary or convenient for the exercise of its powers and functions,₂ including,
5287 ~~without limitation, to make and execute~~ contracts with hospitals or ~~health care~~ health care
5288 businesses to operate and manage any or all of the hospital facilities or operations, and ~~to~~ incur
5289 liabilities and secure the obligations of any entity or individual;₂

5290 6. ~~To conduct~~ Conduct or engage in any lawful business, activity, effort,₂ or project
5291 consistent with the Authority's purposes or necessary or convenient to exercise its powers;₂

5292 7. ~~To exercise~~ Exercise, in addition to its other powers, all powers that are (i) granted to
5293 corporations by the provisions of Title 13.1 or similar provisions of any successor law, except in
5294 those cases ~~where, by the express terms of the provisions thereof, in which~~ the power is
5295 confined to corporations created under such title, and ~~that are~~ (ii) not inconsistent with the
5296 purposes and intent of this chapter or the limitations included in this chapter;₂

5297 8. ~~To accept~~ Accept, hold,₂ and enjoy any gift, devise,₂ or bequest to the Authority or its
5298 predecessors, ~~the same~~ to be held for the uses and purposes designated by the donor, if any, or if
5299 not so designated, for the general purposes of the Authority, whether given directly or
5300 indirectly;₂ and ~~to~~ accept, execute,₂ and administer any trust or endowment fund in which it has
5301 or may have an interest under the terms of the instrument creating the trust or endowment fund;₂

5302 9. ~~To borrow~~ Borrow money and issue bonds as provided in this chapter and ~~to~~ purchase
5303 such bonds;₂

5304 10. ~~To seek~~ Seek financing from, incur or assume indebtedness to,₂ and enter into
5305 contractual commitments with, the Virginia Public Building Authority and the Virginia College

5306 Building Authority, which authorities are authorized to borrow money and make and issue
5307 negotiable notes, bonds, and other evidences of indebtedness to provide such financing relating
5308 to the hospital facilities or any project;

5309 11. ~~To seek~~ Seek financing from, incur or assume indebtedness to, and enter into
5310 contractual commitments with the Commonwealth ~~of Virginia~~ as otherwise provided by law
5311 relating to the hospital facilities or any project;

5312 12. ~~To procure~~ Procure such insurance, participate in such insurance plans ~~and/or, or~~
5313 provide such self-insurance as it deems necessary or convenient to carry out the purposes and
5314 provisions of this chapter. The purchase of insurance, participation in an insurance plan, or
5315 creation of a self-insurance plan by the Authority ~~shall is~~ not ~~be deemed~~ a waiver or
5316 relinquishment of any sovereign immunity to which the Authority or its officers, directors,
5317 employees, or agents are otherwise entitled;

5318 13. ~~To develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of~~
5319 ~~Chapter 43 of Title 2.2.~~

5320 14. ~~To develop~~ Develop policies and procedures generally applicable to the procurement
5321 of goods, services, and construction, based upon competitive principles;

5322 ~~§ 23-50.16:11. Acquisition and disposition of property; acceptance of grants and loans.~~

5323 ~~A. 14.~~ Except as to those hospital facilities or any ~~parts thereof~~ part of such facilities that
5324 are leased to the Authority by the University, the control and disposition of which shall be
5325 determined by such lease instruments, ~~the Authority may:~~

5326 ~~1-a.~~ Own, hold, improve, use, and otherwise deal with real or personal property, tangible
5327 or intangible, or any right, easement, estate, or interest ~~therein in such property~~, acquired by
5328 purchase, exchange, gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of
5329 law, or other means on such terms and conditions and in such manner as it may deem proper;

5330 ~~2-b.~~ Sell, assign, lease, encumber, mortgage, or otherwise dispose of any project ~~or~~, any
5331 other real or personal property, tangible or intangible, ~~or~~ any right, easement, estate, or interest

5332 ~~therein in such property~~, or any deed of trust or mortgage lien interest ~~owned by that~~ it owns,
5333 that is under its control or custody or in its possession. ~~The Authority may release~~
5334 c. Release or relinquish any right, title, claim, lien, interest, easement, or demand
5335 however acquired, including any equity or right of redemption in property foreclosed by it; and
5336 ~~3. Do d. Take any of the foregoing action pursuant to subdivision 14~~ by public or private
5337 sale, or with or without public bidding, notwithstanding the provisions of any other law;
5338 ~~B. The Authority may accept~~ 15. Accept loans, grants, contributions, or other assistance
5339 from the federal government, the Commonwealth ~~or~~, any political subdivision ~~thereof of the~~
5340 Commonwealth, or ~~from~~ any other public or private source to carry out any of the purposes of
5341 this chapter. ~~The Authority may and~~ enter into any agreement or contract regarding ~~or relating~~
5342 ~~to~~ the acceptance, use, or repayment of any such loan, grant, contribution, or assistance ~~and may~~
5343 ~~enter into such other agreements with any such entity~~ in furtherance of the purposes of this
5344 chapter;
5345 ~~Counties, cities and towns are hereby authorized to lend or donate money or other~~
5346 ~~property to the Authority for any of its purposes. The local government making the grant or loan~~
5347 ~~may restrict the use of such grants or loans to a specific project, within or without that locality.~~
5348 § 23-50.16:12. Eminent domain.
5349 ~~The Authority may exercise~~ 16. Exercise the power of eminent domain pursuant to the
5350 provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 to acquire by condemnation any real
5351 property, including fixtures and improvements, ~~which that~~ it may deem necessary to carry out
5352 the purposes of this chapter, upon (i) its adoption of a resolution declaring that the acquisition of
5353 such property is in the public interest and necessary for public use and ~~upon~~ (ii) the approval of
5354 the Governor. The Authority may acquire property already devoted to a public use, provided
5355 that no property belonging to any ~~city, town or county, government or to any locality~~, religious
5356 corporation, unincorporated church, or charitable corporation may be acquired without its
5357 consent;
5358 § 23-50.16:13. Fees, rentals and other charges.

5359 ~~The Authority may fix~~ 17. Fix, revise ~~from time to time~~, charge, and collect rates,
5360 rentals, fees, and other charges for the services or facilities furnished by or on behalf of the
5361 Authority, and establish policies, procedures, and regulations regarding any such service
5362 rendered or the use, occupancy or operation of any such facility. Such charges and policies,
5363 procedures, and regulations ~~shall are~~ not ~~be~~ subject to supervision or regulation by any
5364 commission, board, bureau, or agency of the Commonwealth except as otherwise provided by
5365 law for the providers of health care.;

5366 ~~§ 23-50.16:14. Creation of entities; participation in joint ventures; provision of~~
5367 ~~assistance by Authority; moneys; investments.~~

5368 A. 18. Consistent with ~~§ 23-50.16:15~~ 23.1-2407, ~~the Authority may~~ create, ~~or~~ assist in
5369 the creation of; ~~may~~, own in whole or in part ~~or otherwise~~, control; ~~may~~, participate in or with
5370 any ~~entities~~, public or private; ~~and may~~ entity, purchase, receive, subscribe for, own, hold, vote,
5371 use, employ, sell, mortgage, lend, pledge, or otherwise acquire or dispose of any (i) shares or
5372 obligations of, or other interests in, any entities organized for any purpose within or ~~without~~
5373 outside the Commonwealth; and (ii) obligations of any person or corporation.;

5374 ~~B. The Authority may participate~~ 19. Participate in joint ventures with individuals,
5375 corporations, governmental bodies or agencies, partnerships, associations, insurers, or other
5376 entities to facilitate any activities or programs consistent with the public purposes and intent of
5377 this chapter.;

5378 ~~C. The Authority may create~~ 20. Create a nonprofit entity ~~or entities~~ for the purpose of
5379 soliciting, accepting, and administering grants, outright gifts and bequests, endowment gifts and
5380 bequests, and gifts and bequests in trust, ~~which entity or entities shall not engage in trust~~
5381 ~~business; however, the Authority.~~ Such entity shall not ~~be empowered to create a nonprofit~~
5382 ~~entity or entities that would in any way engage in trust business or~~ duplicate such activities by
5383 the University or its related foundations.

5384 ~~D. In carrying out any activities authorized by this chapter, the Authority may provide~~
5385 21. Provide appropriate assistance, including making loans and providing time of employees, to

5386 corporations, partnerships, associations, joint ventures, or other entities, whether ~~or not~~ such
5387 ~~corporations, partnerships, associations, joint ventures or other~~ entities are owned or controlled
5388 in whole or in part, or directly or indirectly, by the Authority.

5389 ~~E. Effective July 1, 1997, all moneys of the Authority, from whatever source derived,~~
5390 ~~shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first~~
5391 ~~instance by the treasurer in one or more banks or trust companies, in one or more special~~
5392 ~~accounts. All banks and trust companies are authorized to give security for such deposits, if~~
5393 ~~required by the Authority. The moneys in such accounts shall be paid out on the warrant or~~
5394 ~~other orders of the treasurer of the Authority or such other person or persons as the Authority~~
5395 ~~may authorize to execute such warrants or orders.~~

5396 ~~F. Notwithstanding any provision of law to the contrary, the Authority may, effective~~
5397 ~~July 1, 1997, invest its operating funds in any obligations or securities that are considered legal~~
5398 ~~investments for public funds in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2.~~
5399 ~~The Board shall adopt written investment guidelines and shall retain an independent investment~~
5400 ~~advisory firm or consultant to review, a minimum of every five years, the suitability of the~~
5401 ~~Authority's investments and their consistency with the investment guidelines.~~

5402 22. Provide, promote, support and sponsor education, public knowledge, and scientific
5403 research in medicine, public health, and related fields.

5404 23. Administer programs to assist in the delivery of medical and related services to the
5405 citizens of the Commonwealth and others;

5406 24. Participate in and administer federal, state, and local programs affecting, supporting,
5407 or carrying out any of its purposes; and

5408 25. Exercise independently the powers conferred by this chapter in furtherance of its
5409 corporate and public purposes.

5410 B. The exercise of the powers permitted by this chapter shall be deemed the performance
5411 of essential governmental functions and matters of public necessity for the entire
5412 Commonwealth in the provision of health care, medical and health sciences education, and

5413 [research for which public moneys may be borrowed, loaned, spent, or otherwise utilized and](#)
5414 [private property may be utilized or acquired.](#)

5415 **Drafting note: Subdivisions A 14 and 15 are derived from subsections A and B of**
5416 **existing § 23-50.16:11 (the second paragraph of subsection B of existing § 23-50.16:11 is**
5417 **relocated to proposed § 23.1-2409), subdivision A 16 is derived from existing § 23-50.16:12,**
5418 **subdivision A 17 is derived from existing § 23-50.16:13, subdivisions A 18 through 21 are**
5419 **derived from subsections A through D of existing § 23-50.16:14 (subsections E and F are**
5420 **relocated to proposed § 23.1-2408), subdivisions A 22 through 25 are derived from**
5421 **subsection B of existing § 23-50.16:3, and subsection B is derived from the second**
5422 **paragraph of existing § 23-50.16:2. Subdivision 13 of existing § 23-50.16:6 is removed as**
5423 **inconsistent with the exemption from the Virginia Public Procurement Act contained in**
5424 **existing § 23-50.16:34. Technical changes are made, including removing "without**
5425 **limitation" when used in conjunction with "including" in subdivision A 5 on the basis of**
5426 **the Code-wide application of § 1-218, which states, "'Includes' means includes, but not**
5427 **limited to."**

5428 [§ 23-50.16:9 23.1-2405. Operation Additional powers of the Authority; operation](#) of
5429 projects.

5430 A. The Authority may acquire, plan, design, construct, own, rent as landlord or tenant,
5431 operate, control, remove, renovate, enlarge, equip, and maintain, directly or through stock or
5432 nonstock corporations or other entities, any project as defined in this chapter. Such projects may
5433 be owned or operated by the Authority or other parties, or jointly by the Authority and other
5434 parties, and may be operated within or ~~without~~ [outside](#) the Commonwealth, so long as [\(i\)](#) their
5435 operations are necessary or desirable to assist the Authority in carrying out its public purposes
5436 within the Commonwealth, and ~~so long as~~ [\(ii\)](#) any private benefit resulting to any such other
5437 private parties from any such project is merely incidental to the public benefit of ~~such~~ [the](#)
5438 project.

5439 B. In the operation of hospitals and other ~~health care~~ health care and related facilities,
5440 the Authority may make and enforce all ~~rules~~ policies, procedures, and regulations necessary or
5441 desirable for such operation, including those relating to the conditions under which the privilege
5442 of practicing may be available ~~therein in such facilities,~~ the admission and treatment of patients,
5443 the procedures for determining the qualification of patients for indigent care or other programs,
5444 and the protection of patients and employees, provided that such ~~rules~~ policies, procedures, and
5445 regulations ~~shall do~~ not discriminate on the basis of race, religion, color, sex, or national origin.

5446 **Drafting note: Technical changes are made, including referring to "policies"**
5447 **instead of "rules" per board practice.**

5448 § ~~23-50.16:10~~ 23.1-2406. Police power Additional powers of the Authority; police.

5449 A. The Authority ~~is empowered to~~ may adopt and enforce reasonable ~~rules~~ policies,
5450 procedures, and regulations governing (i) access to, conduct in or on, and use of its property and
5451 facilities and the surrounding streets, sidewalks, and other public areas; and ~~governing~~ (ii) other
5452 matters affecting the safety and security of Authority property and ~~of those~~ individuals using or
5453 occupying Authority property. Such ~~rules~~ policies, procedures, and regulations ~~shall~~ have the
5454 force and effect of law ~~(+)~~ (a) after publication one time in full in a newspaper of general
5455 circulation in the ~~city or county~~ locality where the affected property is located and ~~(+)~~ (b) when
5456 posted where the ~~public~~ individuals using such property may conveniently see them.

5457 B. The campus police department of ~~Virginia Commonwealth~~ the University, established
5458 in accordance with the provisions of ~~Chapter 17 Article 3~~ (§ 23-232 23.1-809 et seq.) of ~~this title~~
5459 Chapter 8, may enforce on Authority property the laws of the Commonwealth and ~~rules~~ policies
5460 and regulations adopted pursuant to subsection A ~~of this section.~~ To the extent that such police
5461 services are not provided by the University, the Authority ~~is authorized to~~ may establish a police
5462 department in accordance with the provisions of Chapter ~~17 of this title~~ 8, except that the
5463 employment of such personnel by the Authority shall not be subject to the Virginia Personnel
5464 Act (§ 2.2-2900 et seq.).

5465 **Drafting note: Technical changes are made, including referring to "policies"**
5466 **instead of "rules" per board practice.**

5467 § ~~23-50.16:15~~ 23.1-2407. Public purpose.

5468 The exercise of the powers granted by this chapter ~~shall be is~~ in all respects for the
5469 benefit of the inhabitants of the Commonwealth and ~~for~~ the promotion of their safety, health,
5470 welfare, knowledge, convenience, and prosperity. No part of the assets or net earnings of the
5471 Authority shall inure to the benefit of, or be distributable to, any private individual, except that
5472 reasonable compensation may be paid for services rendered to or for the Authority affecting one
5473 or more of its purposes, and benefits may be conferred that are in conformity with ~~said its~~
5474 purposes, ~~and no~~. No private individual ~~shall be is~~ entitled to share in the distribution of any of
5475 the corporate assets ~~on upon~~ dissolution of the Authority.

5476 **Drafting note: Technical changes.**

5477 § ~~23-50.16:14~~ 23.1-2408. ~~Creation of entities; participation in joint ventures; provision~~
5478 ~~of assistance by Authority; moneys; investments~~ Moneys of the Authority.

5479 A. ~~Consistent with § 23-50.16:15, the Authority may create or assist in the creation of;~~
5480 ~~may own in whole or in part or otherwise control; may participate in or with any entities, public~~
5481 ~~or private; and may purchase, receive, subscribe for, own, hold, vote, use, employ, sell,~~
5482 ~~mortgage, lend, pledge, or otherwise acquire or dispose of any (i) shares or obligations of, or~~
5483 ~~other interests in, any entities organized for any purpose within or without the Commonwealth,~~
5484 ~~and (ii) obligations of any person or corporation.~~

5485 B. ~~The Authority may participate in joint ventures with individuals, corporations,~~
5486 ~~governmental bodies or agencies, partnerships, associations, insurers or other entities to~~
5487 ~~facilitate any activities or programs consistent with the public purposes and intent of this~~
5488 ~~chapter.~~

5489 C. ~~The Authority may create a nonprofit entity or entities for the purpose of soliciting,~~
5490 ~~accepting and administering grants, outright gifts and bequests, endowment gifts and bequests,~~
5491 ~~and gifts and bequests in trust, which entity or entities shall not engage in trust business;~~

5492 ~~however, the Authority shall not be empowered to create a nonprofit entity or entities that would~~
5493 ~~in any way duplicate such activities by the University or its related foundations.~~

5494 ~~D. In carrying out any activities authorized by this chapter, the Authority may provide~~
5495 ~~appropriate assistance, including making loans and providing time of employees, to~~
5496 ~~corporations, partnerships, associations, joint ventures or other entities, whether or not such~~
5497 ~~corporations, partnerships, associations, joint ventures or other entities are owned or controlled~~
5498 ~~in whole or in part, directly or indirectly, by the Authority.~~

5499 ~~E. Effective July 1, 1997, all A. All~~ moneys of the Authority; derived from ~~whatever any~~
5500 source ~~derived~~; shall be paid to the treasurer of the Authority. Such moneys shall be deposited in
5501 the first instance by the treasurer in one or more banks or trust companies, in one or more
5502 special accounts. All banks and trust companies are authorized to give security for such
5503 deposits, if required by the Authority. The moneys in such accounts shall be paid out on the
5504 warrant or other orders of the treasurer of the Authority or such other person ~~or persons~~ as the
5505 Authority may authorize to execute such warrants or orders.

5506 ~~F. B.~~ Notwithstanding any provision of law to the contrary, the Authority may, effective
5507 July 1, 1997, invest its operating funds in any obligations or securities that are considered legal
5508 investments for public funds in accordance with ~~Chapter 45~~ the Investment of Public Funds Act
5509 (§ 2.2-4500 et seq.) ~~of Title 2.2~~. The ~~Board~~ board shall adopt written investment guidelines and
5510 shall retain an independent investment advisory firm or consultant to review, ~~a minimum of at~~
5511 least every five years; the suitability of the Authority's investments and ~~their~~ the consistency of
5512 such investments with the investment guidelines.

5513 **Drafting note: Subsections A through D of existing § 23-50.16:14 are relocated to**
5514 **proposed § 23.1.2404 on powers of the Authority. Technical changes are made, including**
5515 **removing an obsolete effective date for proposed subsections A and B and removing "or**
5516 **persons" in subsection A because § 1-227 provides that throughout the Code any word in**
5517 **the singular includes the plural and vice versa.**

5518 § ~~23-50.16:11~~ 23.1-2409. ~~Acquisition and disposition of property; acceptance of grants~~

5519 Grants and loans from localities.

5520 A. ~~Except as to those hospital facilities or any parts thereof that are leased to the~~
5521 ~~Authority by the University, the control and disposition of which shall be determined by such~~
5522 ~~lease instruments, the Authority may:~~

5523 1. ~~Own, hold, improve, use and otherwise deal with real or personal property, tangible or~~
5524 ~~intangible, or any right, easement, estate or interest therein, acquired by purchase, exchange,~~
5525 ~~gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of law or other means on~~
5526 ~~such terms and conditions and in such manner as it may deem proper;~~

5527 2. ~~Sell, assign, lease, encumber, mortgage or otherwise dispose of any project or any~~
5528 ~~other real or personal property, tangible or intangible, or any right, easement, estate or interest~~
5529 ~~therein, or any deed of trust or mortgage lien interest owned by it, under its control or custody or~~
5530 ~~in its possession. The Authority may release or relinquish any right, title, claim, lien, interest,~~
5531 ~~easement or demand however acquired, including any equity or right of redemption in property~~
5532 ~~foreclosed by it; and~~

5533 3. ~~Do any of the foregoing by public or private sale, with or without public bidding,~~
5534 ~~notwithstanding the provisions of any other law.~~

5535 B. ~~The Authority may accept loans, grants, contributions or other assistance from the~~
5536 ~~federal government, the Commonwealth or any political subdivision thereof, or from any other~~
5537 ~~public or private source to carry out any of the purposes of this chapter. The Authority may~~
5538 ~~enter into any agreement or contract regarding or relating to the acceptance, use or repayment of~~
5539 ~~any such loan, grant, contribution or assistance and may enter into such other agreements with~~
5540 ~~any such entity in furtherance of the purposes of this chapter.~~

5541 Counties, cities and towns Localities are hereby authorized to lend or donate money or
5542 other property to the Authority for any of ~~its~~ the Authority's purposes. The local ~~government~~
5543 governing body making the grant or loan may restrict the use of such grants or loans to a
5544 specific project; within or ~~without~~ outside that locality.

5545 **Drafting note: Existing subsections A and B of § 23-50.16:11 are relocated to**
5546 **proposed § 23.1.2404 on powers of the Authority. Technical changes are made.**

5547 § ~~23-50.16:8~~ 23.1-2410. Audit.

5548 The ~~accounts of the~~ Authority shall ~~be audited annually by~~ select through a process of
5549 competitive negotiation either the (i) Auditor of Public Accounts, or his legally authorized
5550 representatives, or ~~by~~ (ii) a certified public accounting firm, ~~as selected by the Authority to~~
5551 annually audit the Authority's accounts. ~~The Authority shall select a certified public accounting~~
5552 firm or the Auditor of Public Accounts through a process of competitive negotiation.

5553 Copies B. The Authority shall distribute copies of the annual audit ~~shall be distributed~~ to
5554 the Governor and ~~to the chairmen~~ Chairmen of the House Committee on Appropriations and the
5555 Senate Committee on Finance.

5556 C. The Auditor of Public Accounts and his legally authorized representatives ~~are hereby~~
5557 authorized and empowered from time to time to may examine the accounts and books of the
5558 Authority; however, the Authority ~~shall is~~ not ~~be deemed to be~~ a state or governmental agency,
5559 advisory agency, public body or agency, or instrumentality for purposes of Chapter 14 (§ 30-
5560 130 et seq.) of Title 30.

5561 D. The Authority shall be subject to periodic external review under the provisions of the
5562 Legislative Program Review and Evaluation Act (§ 30-65 et seq.).

5563 **Drafting note: Technical changes.**

5564 § ~~23-50.16:16~~ 23.1-2411. Exemption from taxation.

5565 ~~As set forth in § 23-50.16:3, the Authority will be performing essential governmental~~
5566 ~~functions in the exercise of the powers conferred upon it by this chapter. Accordingly, the~~ A.
5567 The Authority ~~shall is~~ not ~~be~~ required to pay any taxes or assessments upon any (i) project ~~or~~
5568 any, property, or ~~upon any~~ operations of the Authority or the income ~~therefrom, from such~~
5569 projects, property, or operations or ~~any taxes or assessments upon any~~ (ii) project ~~or any~~,
5570 property, or local obligation acquired or used by the Authority under the provisions of this
5571 chapter or ~~upon~~ the income ~~therefrom~~ from such projects, property, or local obligations. ~~The~~

5572 Such exemptions ~~hereby granted~~ shall not extend to persons ~~or entities~~ conducting ~~on the~~
5573 ~~Authority's property~~ businesses on the Authority's property for which payment of state or local
5574 taxes would otherwise be required.

5575 B. Any bonds issued by the Authority under the provisions of this chapter, the transfer
5576 ~~thereof of such bonds,~~ and the income ~~therefrom,~~ from such bonds and all rents, fees, charges,
5577 gifts, grants, revenues, receipts, and other moneys received or pledged to pay or secure the
5578 payment of such notes or bonds, ~~shall at all times be free~~ are exempt from taxation and
5579 assessment of every kind by the Commonwealth and by the local governments governing bodies
5580 and other political subdivisions of the Commonwealth.

5581 **Drafting note: Technical changes.**

5582 ~~§ 23-50.16:17 23.1-2412. Assistance by the University; transfer~~ Transfer of existing
5583 hospital facilities.

5584 A. The University ~~is hereby authorized to~~ may lease, convey, or otherwise transfer to the
5585 Authority any or all assets and liabilities appearing on the balance sheet of ~~the Medical College~~
5586 ~~of Virginia~~ MCV Hospitals and any or all of the hospital facilities, except real estate ~~which that~~
5587 may be leased to the Authority for a term not to exceed ~~ninety-nine~~ 99 years, upon such terms as
5588 may be approved by the University.

5589 B. Any transfer of hospital facilities ~~shall be pursuant to subsection A is~~ conditioned
5590 upon the following existence of a binding agreement between the University and the Authority:

5591 1. ~~The existence of a binding agreement between the University and the Authority that~~
5592 That requires the Authority to assume, directly or indirectly, ~~those~~ hospital obligations that are
5593 directly related to the hospital facilities, or any ~~parts thereof,~~ part of the hospital facilities that
5594 are transferred, ~~which including rentals as provided in subsection C or a combination of rentals~~
5595 and other obligations in the case of a lease of hospital facilities ~~may take the form of rental, as~~
5596 provided in subsection C of this section, or a combination of assumption and such rental;

5597 2. ~~The existence of a binding agreement between the University and the Authority that~~
5598 That provides that, effective on the transfer date ~~and thereafter,~~ the Authority shall assume

5599 responsibility for ~~and shall~~, defend, indemnify, and hold harmless the University and its officers
5600 and directors with respect to:

5601 a. All liabilities and duties of the University pursuant to contracts, agreements, and
5602 leases for commodities, services, and supplies used by ~~the Medical College of Virginia MCV~~
5603 Hospitals, including property leases;

5604 b. All claims related to the employment relationship between employees of the Authority
5605 and the University on and after the transfer date;

5606 c. All claims for breach of contract resulting from the Authority's action or failure to act
5607 on and after the transfer date; and

5608 d. All claims related to the Authority's errors and omissions, including, ~~but not limited~~
5609 ~~to~~, medical malpractice, directors' and officers' liability, workers' compensation, automobile
5610 liability, ~~and~~ premises liability, completed operations liability, and products liability, resulting
5611 from the Authority's action or failure to act on and after the transfer date; and

5612 3. ~~The existence of a binding agreement between the University and the Authority by~~ By
5613 which the Authority shall accept and agree to abide by provisions that ensure the continued
5614 support of the education, research, patient care, and public service missions of ~~the Medical~~
5615 College of Virginia MCV Hospitals, ~~specifically~~ including, ~~without limitation~~:

5616 a. A requirement that the Authority continue to provide emergency and inpatient
5617 indigent care services on the ~~Medical College of Virginia MCV~~ campus of the University in ~~a~~
5618 ~~location or~~ locations including, ~~without limitation~~, downtown Richmond; and

5619 b. A requirement that the Authority continue to act as the primary teaching facility for
5620 the ~~Medical College of~~ Virginia Commonwealth University School of Medicine and the Health
5621 Sciences ~~Center Schools~~ of the University.

5622 C. Any lease of hospital facilities, ~~or any parts thereof~~, from the University to the
5623 Authority may include a provision that requires the Authority to pay the University a rental
5624 payment for the hospital facilities, ~~or any parts thereof~~, that are leased. For those hospital

5625 facilities for which ~~rental rent~~ is paid, the ~~rental rent~~ shall be ~~an amount that may not be less~~
5626 ~~than at least equal to~~ the greater of ~~the following~~:

5627 1. ~~An amount equal to the~~ The debt service accruing during the term of the lease on all
5628 outstanding bonds issued for the purpose of financing the acquisition, construction, or
5629 improvement of the hospital facilities, ~~or any parts thereof~~, on which ~~rental rent~~ is paid; or

5630 2. A nominal amount determined by the parties to be necessary to prevent the lease from
5631 being unenforceable because of a lack of consideration.

5632 D. Any lease of hospital facilities, ~~or any parts thereof~~, shall include a provision that
5633 requires the Authority to continue to support the education, research, patient care, and public
5634 service missions of ~~the Medical College of Virginia MCV~~ Hospitals, ~~specifically~~ including,
5635 ~~without limitation~~:

5636 1. A requirement that the Authority continue to provide emergency and inpatient
5637 indigent care services on the ~~Medical College of Virginia MCV~~ campus of the University in ~~a~~
5638 ~~location or~~ locations including, ~~without limitation~~, downtown Richmond; and

5639 2. A requirement that the Authority continue to act as the primary teaching facility for
5640 the ~~Medical College of Virginia School of Medicine and~~ Health Sciences ~~Center Schools~~ of the
5641 University.

5642 E. All other agencies and officers of the Commonwealth ~~are authorized and directed to~~
5643 ~~shall~~ take such actions as may be necessary or desirable in the judgment of the University to
5644 permit such conveyance and the full use and enjoyment of the hospital facilities, including,
5645 ~~without limitation~~, the transfer of property of any type held in the name of the Commonwealth
5646 or ~~some an~~ instrumentality or agency ~~thereof of the Commonwealth~~ but used by the University
5647 in the operation of the hospital facilities.

5648 F. The Authority may pay to or on behalf of the University some or all of the costs of the
5649 hospital facilities. The University may apply some or all of such proceeds to the payment or
5650 defeasance of its obligations issued to finance the hospital facilities, and the Authority may issue
5651 its bonds to finance or refinance such payment ~~to or on behalf of the University~~.

5652 G. Funds held by or for the University or any ~~predecessor or division thereof of its~~
5653 ~~predecessors or divisions, specifically~~ including, ~~without limitation,~~ funds held by the
5654 University Foundation or the ~~Medical College of Virginia MCV~~ Foundation for the benefit of
5655 ~~the Medical College of Virginia MCV~~ Hospitals or any ~~predecessor thereof, of its predecessors~~
5656 for use in operating, maintaining, or constructing hospital facilities, providing medical and
5657 health sciences education, or conducting medical or related research may be transferred, in
5658 whole or in part, to the Authority if the University or any foundation determines that the transfer
5659 is consistent with the intended use of the funds. The University may direct in writing that all or
5660 part of the money or property representing its beneficial interest under a will, trust agreement, or
5661 other donative instrument be distributed to the Authority if the University determines that such
5662 direction ~~will further~~ furthers any of the original purposes of the will, trust agreement, or other
5663 instrument. Such a direction shall not be considered a waiver, disclaimer, renunciation,
5664 assignment, or disposition of the beneficial interest by the University. A fiduciary's distribution
5665 to the Authority pursuant to such a written direction from the University ~~shall be deemed is~~ a
5666 distribution to the University for all purposes relating to the donative instrument, and the
5667 fiduciary ~~shall have~~ has no liability for distributing any money or property to the Authority
5668 pursuant to such a direction. ~~None of the foregoing~~ Nothing in this section shall deprive any
5669 court of its jurisdiction to determine whether such a distribution is appropriate, under its cy pres
5670 powers or otherwise.

5671 ~~§ 23-50.16:20. Operation of hospital facilities.~~

5672 H. The Authority shall not operate any ~~of the~~ hospital ~~facilities pursuant to this section~~
5673 prior to execution of the lease ~~or leases~~ and agreement ~~or agreements~~ required by ~~§ 23-50.16:17,~~
5674 this section and such other agreements as may be necessary or convenient in the University's
5675 judgment to provide for the transfer of the operations of the hospital facilities to the Authority,
5676 unless, and to the extent that, the University approves otherwise.

5677 ~~§ 23-50.16:21. Assignment of agreements.~~

5678 I. The University may assign, and the Authority may accept the rights and assume the
5679 obligations under, any ~~contracts~~ contract or other ~~agreements~~ agreement of any type relating to
5680 ~~the~~ financing or ~~the~~ operating ~~of~~ the hospital facilities. Upon evidence that such assignment and
5681 acceptance ~~have~~ has been made, all agencies and instrumentalities of the Commonwealth ~~are~~
5682 ~~directed to~~ shall consent to such assignment and ~~to~~ accept the substitution of the Authority for
5683 the University as a party to such ~~agreements~~ agreement to the extent that the University's
5684 obligations ~~thereunder~~ under such agreement relate to the ownership, operation, or financing of
5685 the hospital facilities. Indebtedness previously incurred by the Commonwealth, the Virginia
5686 Public Building Authority, the Virginia College Building Authority, and any other ~~agencies and~~
5687 ~~instrumentalities~~ agency or instrumentality of the Commonwealth to finance the hospital
5688 facilities may continue to remain outstanding after the transfer and ~~the~~ assignment of ~~the~~
5689 ~~agreements relating thereto~~ such agreement by the University to the Authority.

5690 ~~§ 23-50.16:22. Licenses and permits.~~

5691 J. The transfer of the hospital facilities from the University to the Authority ~~shall~~ does
5692 not require a certificate of public need pursuant to Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4
5693 of Title 32.1. All licenses, permits, certificates of public need, or other authorizations of the
5694 Commonwealth ~~or, any agency thereof or of of the Commonwealth, or any county, city or town~~
5695 locality held by the University in connection with the ownership or operation of the hospital
5696 facilities ~~shall be deemed to be~~ are transferred, without further action, to the Authority ~~as and~~
5697 the extent that the Authority undertakes the activity ~~thereby~~ permitted by such authorizations.
5698 All agencies and officers of the Commonwealth and all ~~agencies and officers of counties, cities~~
5699 ~~and towns are directed to~~ localities shall confirm such transfer by the issuance of new or
5700 amended licenses, permits, certificates of public need, or other authorizations upon the request
5701 of the University and the Authority.

5702 ~~§ 23-50.16:23. Agent for University.~~

5703 K. If for any reason the Authority cannot replace the University as a party to any
5704 agreement in connection with the financing, ownership, or operation of the hospital facilities,

5705 the Authority and the University may ~~provide that~~ require the Authority ~~shall to~~ act as agent for
5706 the University in carrying out its obligations under such agreement or ~~in~~ receiving the benefits
5707 thereunder, or both.

5708 **Drafting note: Existing § 23-50.16:20 is relocated as subsection H of proposed §**
5709 **23.1-2412. Existing § 23-50.16:21 is relocated as subsection I of proposed § 23.1-2412.**
5710 **Existing § 23-50.16:22 is relocated as subsection J of proposed § 23.1-2412. Existing § 23-**
5711 **50.16:23 is relocated as subsection K of proposed § 23.1-2412. Technical changes are made,**
5712 **including:**

5713 **1. Removing "but not limited to" and "without limitation" when used in**
5714 **conjunction with "including" in multiple subsections and subdivisions on the basis of the**
5715 **Code-wide application of § 1-218, which states "'Includes' means includes, but not limited**
5716 **to," and removing "location or" in subdivision D 1 on the basis of the Code-wide**
5717 **application of § 1-227, which provides that any word in the singular includes the plural**
5718 **and vice versa.**

5719 **2. Removing "or leases" and "or agreements" on the basis of the Code-wide**
5720 **application of § 1-227, which provides that any word in the singular includes the plural**
5721 **and vice versa.**

5722 **3. Changing references to "counties, cities, and towns" to "localities" pursuant to**
5723 **the Code-wide application of § 1-221, which states that "locality" means a county, city, or**
5724 **town.**

5725 ~~§ 23-50.16:18~~ 23.1-2413. Capital projects.

5726 A. All capital projects of the Authority shall be approved by the ~~Board~~ board. Within
5727 ~~thirty~~ 30 days after approval of any capital project in excess of \$5 million, the ~~Board~~ board shall
5728 notify the House Appropriations and Senate Finance Committees of the scope, cost, and
5729 construction schedule of the proposed capital project. The ~~Board~~ board may undertake the
5730 project unless ~~objections are raised by~~ either Committee raises objections within ~~thirty~~ 30 days

5731 of the notification. ~~If objections are made, in which case~~ the Authority ~~may shall~~ not undertake
5732 the project until ~~the such~~ objections are resolved.

5733 B. ~~No~~ Before the Authority materially increases the size or materially changes the scope
5734 of any capital project ~~that has been presented to the Committees without objection, no capital~~
5735 ~~project for which objections were raised and resolved, and no capital project~~ for which
5736 construction has commenced, such project shall ~~be materially increased in size or materially~~
5737 ~~changed in scope without following the procedure of subsection A of this section~~ be approved
5738 again by the board in accordance with subsection A and, in the case of any capital project in
5739 excess of \$5 million, presented again to the House Appropriations and Senate Finance
5740 Committees in accordance with subsection A.

5741 C. Notwithstanding any ~~laws or regulations~~ provision of law to the contrary, the
5742 Authority ~~shall is~~ not ~~be~~ subject to any further process or procedure that requires the
5743 submission, review, or approval of any capital project; however, the Authority shall ensure that
5744 BOCA Code and fire safety inspections ~~of any capital project~~ are conducted for any capital
5745 project and that such projects are inspected by the State Fire Marshal or his designee prior to
5746 certification for building occupancy.

5747 **Drafting note: Technical changes.**

5748 § ~~23-50-16:19~~ 23.1-2414. Leases of property.

5749 ~~The Leases of real property that the~~ Authority ~~shall be enters into are~~ exempt from the
5750 provisions of § 2.2-1149 and from any ~~rules policies~~, regulations, and guidelines of the Division
5751 of Engineering and Buildings ~~in relation to leases of real property into which it enters.~~

5752 **Drafting note: Technical changes are made, including referring to "policies"**
5753 **instead of "rules" per board practice.**

5754 § ~~23-50-16:24~~ 23.1-2415. Employees of the Authority.

5755 A. ~~Until July 1, 2001, employees of the Authority shall be considered employees of the~~
5756 ~~Commonwealth.~~ Employees of the Authority shall be employed on such terms and conditions as
5757 established by the Authority. The ~~Board of Directors of the Authority board~~ shall develop and

5758 adopt policies and procedures that ~~will~~ afford its employees grievance rights, ensure that
5759 employment decisions ~~shall be~~ are based upon the merit and fitness of applicants, and ~~shall~~
5760 prohibit discrimination ~~because~~ on the basis of race, religion, color, sex, or national origin. ~~Any~~
5761 ~~grievance procedure adopted by the Board other than that contained in § 2.2-1202.1 shall take~~
5762 ~~effect no earlier than July 1, 1997; however, such grievance procedure shall not take effect~~
5763 ~~unless the Authority delivers copies of such grievance procedure to the chairmen of the House~~
5764 ~~Committee on Appropriations and the Senate Committee on Finance on or before January 1,~~
5765 ~~1997.~~

5766 B. The Authority shall issue a written notice to all ~~persons~~ individuals whose
5767 employment ~~will be~~ is transferred to the Authority. The date upon which such written notice is
5768 issued ~~shall be~~ is referred to ~~herein in this section~~ as the "Option Date." Each ~~person~~ individual
5769 whose employment ~~will be~~ is transferred to the Authority may, by written request made within
5770 180 days of the Option Date, elect not to become employed by the Authority. Any employee of
5771 ~~the Medical College of Virginia MCV~~ Hospitals who (i) elects not to become employed by the
5772 Authority ~~and who;~~ (ii) is not reemployed by any department, institution, board, commission, or
5773 agency of the Commonwealth; ~~(ii) (iii)~~ (iii) is not offered ~~the opportunity to transfer to~~ alternative
5774 employment by the Authority; ~~or (iii) (iv)~~ (iv) is not offered a position with the Authority for which
5775 the employee is qualified; or (v) is offered a position by the Authority that requires relocation or
5776 a reduction in salary, ~~shall be~~ is eligible for the severance benefits conferred by the provisions of
5777 the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment
5778 with the Authority ~~shall not be considered to be involuntarily~~ has voluntarily separated from
5779 state employment and ~~shall is~~ is not ~~be~~ eligible for the severance benefits conferred by the
5780 provisions of the Workforce Transition Act.

5781 C. Without limiting its power generally with respect to employees, the Authority may
5782 employ any ~~person employed by the~~ University employee utilized in the operation of the
5783 hospital facilities and ~~may~~ assume obligations under any employment agreement for such
5784 person employee, and the University may assign any such contract to the Authority.

5785 D. The Authority and the University may ~~also~~ enter into agreements providing for the
5786 purchase of services of University employees ~~of the University~~ utilized in the operation of the
5787 hospital facilities by ~~payment of such~~ paying agreed-upon amounts ~~as may be agreed upon~~ to
5788 cover all or part of the salaries and other costs of such employees.

5789 E. Notwithstanding any other provision of law to the contrary, any ~~person~~ employee
5790 whose employment is transferred to the Authority as a result of this chapter and who is a
5791 member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800
5792 et seq.) of Title 2.2, shall continue to be a member of such health insurance plan under the same
5793 terms and conditions ~~as if no transfer had occurred~~ of such plan.

5794 F. Notwithstanding subsection A of § 2.2-2818, the costs of providing health insurance
5795 coverage to ~~such~~ employees who elect to continue to be members of the state employees' health
5796 insurance plan shall be paid by the Authority. ~~Alternatively, an~~

5797 G. Any employee of the Authority may elect to become a member of any health
5798 insurance plan established by the Authority. The Authority ~~is authorized to~~ may (i) establish a
5799 health insurance plan for the benefit of its employees, residents, and interns and (ii) enter into
5800 ~~agreements~~ an agreement with the Department of Human Resource Management providing for
5801 the coverage of its employees, interns, and residents under the state employees' health insurance
5802 plan, provided that such agreement ~~shall require~~ requires the Authority to pay the costs of
5803 providing health insurance coverage under such plan.

5804 F. Notwithstanding any other provision of law to the contrary, any ~~person~~ employee
5805 whose employment is transferred to the Authority as a result of this chapter and who is a
5806 member of the Virginia Retirement System, or ~~other~~ another retirement plan as authorized by
5807 Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1, shall continue to be a member of the
5808 Virginia Retirement System or ~~other~~ such other authorized retirement plan under the same terms
5809 and conditions ~~as if no transfer had occurred~~ of such plan. ~~Alternatively, such~~ Any such
5810 employee ~~(and any employee employed by the Authority between July 1, 1997, and June 30,~~
5811 1998, who elected to be covered by the Virginia Retirement System) may elect, during an open

5812 enrollment period from April 1, 2001, through April 30, 2001, to become a member of the
5813 retirement program established by the Authority for the benefit of its employees pursuant to §
5814 [23-50.16:24.1 23.1-2416](#) by transferring assets equal to the actuarially determined present value
5815 of the accrued basic benefit as of the transfer date. The Authority shall reimburse the Virginia
5816 Retirement System for the actual cost of actuarial services necessary to determine the present
5817 value of the accrued basic benefit of employees who elect to transfer to the Authority's
5818 retirement plan. The following rules shall apply [to such transfers](#):

5819 1. With respect to any transferred employee who elects to remain a member of the
5820 Virginia Retirement System or ~~other such~~ [another](#) authorized retirement plan, the Authority
5821 shall collect and pay all employee and employer contributions to the Virginia Retirement
5822 System or [such](#) other ~~such~~ authorized retirement plan for retirement in accordance with the
5823 provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for such transferred employees.

5824 2. Transferred employees who elect to become members of the retirement program
5825 established by the Authority for the benefit of its employees shall be given full credit for their
5826 creditable service as defined in § 51.1-124.3, vesting and benefit accrual under the retirement
5827 program established by the Authority. For any such employee, employment with the Authority
5828 shall be treated as employment with any nonparticipating employer for purposes of the Virginia
5829 Retirement System or other retirement plan as authorized by Article 4 ([§ 51.1-125 et seq.](#)) of
5830 Chapter 1 of Title 51.1.

5831 3. For transferred employees who elect to become members of the retirement program
5832 established by the Authority, the Virginia Retirement System or other such authorized plan shall
5833 transfer to the retirement plan established by the Authority assets equal to the actuarially
5834 determined present value of the accrued basic benefit as of the transfer date. For [the](#) purposes
5835 [hereof of such calculation](#), the basic benefits ~~shall be~~ [is](#) the benefit accrued under the Virginia
5836 Retirement System or ~~other such~~ [another](#) authorized retirement plan; based on creditable service
5837 and average final compensation as defined in § 51.1-124.3 and determined as of the transfer
5838 date. The actuarial present value shall be determined on the same basis, using the same actuarial

5839 factors and assumptions used in determining the funding needs of the Virginia Retirement
5840 System or such other ~~such~~ authorized retirement plan; so that the transfer of assets to the
5841 retirement plan established by the Authority ~~will have~~ has no effect on the funded status and
5842 financial stability of the Virginia Retirement System or other such authorized retirement plan.

5843 **Drafting note: The first and last sentences of subsection A are recommended for**
5844 **repeal as obsolete. Technical changes are made.**

5845 § ~~23-50.16:24.1~~ 23.1-2416. Retirement benefits for employees of the Authority.

5846 A. The Authority may establish and determine the effective date of one or more
5847 retirement plans covering in whole or in part its employees, including employees who, prior to
5848 the effective date of any plan established pursuant to this section, ~~had been participants~~
5849 participated in any plan established pursuant to §§ 51.1-126; or 51.1-126.1; or former § 51.1-
5850 126.2. The Authority ~~is authorized to~~ may make contributions for the benefit of its employees
5851 who elect to participate in such plan or arrangement rather than in any other retirement system
5852 established by Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1. ~~Any such alternative retirement~~
5853 ~~plan shall become effective at such time as determined by the Authority.~~

5854 B. ~~Notwithstanding any other provision of law to the contrary, any employee of the~~
5855 ~~Authority employed prior to July 1, 1998, may make~~ Except in the case of an employee of the
5856 Authority hired prior to July 1, 1998, who made an irrevocable election to participate in the
5857 retirement plan established by Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 or any plan
5858 previously established by the Authority; in accordance with guidelines established by the
5859 Authority. ~~The election herein provided shall, as to any employee of the Authority employed~~
5860 ~~following the effective date of any plan established pursuant to this section, be exercised not~~
5861 ~~later than thirty-one days from the time of entry upon the performance of his duties. Any~~
5862 ~~employee of the Authority hired on or after July 1, 1998, each eligible employee of the~~
5863 Authority shall participate in a plan established by the Authority, ~~subject to the plan's eligibility~~
5864 criteria pursuant to subsection A.

5865 C. No employee of the Authority who is an active member of a plan established ~~under~~
5866 ~~this section~~ [pursuant to subsection A](#) shall also be an active member of the retirement system
5867 established pursuant to Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 or a beneficiary of such
5868 retirement system other than as a contingent annuitant.

5869 D. Notwithstanding any other provision of law to the contrary, the contribution by the
5870 Authority to any other retirement plan established [pursuant to subsection A](#) on behalf of
5871 employees of the Authority hired before July 1, 1998, ~~pursuant to subsection A~~ shall be ~~(i)~~ equal
5872 to [the lesser of \(i\)](#) the contribution the Commonwealth would be required to make if the
5873 employee were a member of the retirement system established by Chapter 1 (§ 51.1-124.1 et
5874 seq.) of Title 51.1 or (ii) eight percent of creditable compensation, ~~whichever is less~~. The
5875 contribution by the Authority to any retirement plan established [pursuant to subsection A](#) on
5876 behalf of employees of the Authority hired on or after July 1, 1998, ~~pursuant to subsection A~~
5877 shall be determined by the ~~Board~~ [board](#).

5878 E. If the ~~institution of higher education with which the Authority is affiliated~~ [University](#)
5879 has adopted a retirement plan under § 51.1-126 for its employees who are engaged in the
5880 performance of teaching, administrative, or research duties, the plan established ~~under this~~
5881 ~~section by the Authority~~ [pursuant to subsection A](#) shall offer similar investment opportunities as
5882 are available to the participants of the plan established pursuant to § 51.1-126.

5883 F. The Authority shall develop policies and procedures for the administration of any
5884 retirement plan established by the Authority ~~under this section~~ [pursuant to subsection A](#). A copy
5885 of such policies and procedures shall be filed with the Board of Trustees of the Virginia
5886 Retirement System.

5887 **Drafting note: Obsolete language in subsection B is removed. Technical changes are**
5888 **made.**

5889 § ~~23-50.16:24.2~~ [23.1-2417](#). Insurance for employees of the Authority.

5890 The Authority shall purchase group life, accidental death and dismemberment, and
5891 disability insurance policies covering in whole or in part its employees. Authority employees

5892 shall not be required to present at their own expense evidence of insurability satisfactory to an
5893 insurance company for basic group life insurance coverage. Any employee hired prior to July 1,
5894 1998, shall be provided basic group life insurance at the same level of coverage as provided by
5895 the Virginia Retirement System. Any employee hired on or after July 1, 1998, shall be provided
5896 basic group life insurance at a level of coverage determined by the ~~Board, provided that the~~
5897 ~~level of coverage shall~~ board that is not ~~be~~ less than the equivalent of ~~one times~~ the employee's
5898 annual salary. The Authority may require employees hired on or after July 1, 1998, to pay all or
5899 a portion of the required basic group life insurance coverage, ~~which.~~ Such payment may be
5900 collected through a payroll deduction program. The Authority may increase the insurance
5901 coverage under such policies to make available to active insured employees optional life,
5902 accidental death and dismemberment, and disability insurance. Authority employees shall not be
5903 covered by the Virginia Retirement System's group insurance program under § 51.1-501.

5904 **Drafting note: Technical changes.**

5905 § ~~23-50.16:25~~ 23.1-2418. Power to issue bonds.

5906 A. The Authority may issue bonds ~~from time to time~~ for any of its purposes, including
5907 (i) financing or refinancing all or any part of its programs or general operations; (ii) costs of
5908 any project, including the hospital facilities, whether or not owned by the Authority; or (iii) to
5909 refund bonds or other obligations issued ~~therefor~~ by or on behalf of the Authority, the
5910 University, or otherwise, including bonds or obligations not then subject to redemption, ~~and.~~
5911 The Authority may guarantee, assume, or otherwise agree to pay, in whole or in part,
5912 indebtedness issued by the University or any other party resulting in the acquisition or
5913 construction of facilities for the benefit of the Authority or the refinancing ~~thereof of such~~
5914 indebtedness.

5915 B. Notwithstanding Article 1 (§ 2.2-1800 et seq.) of Chapter 18 of Title 2.2, bonds may
5916 be issued under the provisions of this chapter without (i) obtaining the consent of any
5917 commission, board, bureau, political subdivision, or agency of the Commonwealth ~~or of any~~
5918 ~~political subdivision, and without~~ or (ii) any proceedings ~~or the happening of,~~ conditions, or

5919 things other than those proceedings, conditions, or things that are specifically required by this
5920 chapter; however, each debt offering shall be submitted to the State Treasurer sufficiently prior
5921 to the sale of such offering to allow the State Treasurer to undertake a review for the sole
5922 purposes of determining ~~(i) (a)~~ whether the offering may constitute tax-supported debt of the
5923 Commonwealth and ~~(ii) (b)~~ the potential impact of the offering on the debt capacity of the
5924 Commonwealth. After such review, the State Treasurer shall determine if the offering
5925 constitutes tax-supported debt of the Commonwealth and the potential impact of the offering on
5926 the debt capacity of the Commonwealth. If the State Treasurer determines that the debt offering
5927 may constitute tax-supported debt of the Commonwealth, or may have an adverse impact on the
5928 debt capacity of the Commonwealth, then the debt offering shall be submitted to the Treasury
5929 Board for review and approval of the terms and structure of the offering in a manner consistent
5930 with § 2.2-2416.

5931 C. The Authority may issue ~~such types of bonds as it may determine, including, without~~
5932 ~~limitation,~~ bonds payable as to principal and interest from any ~~one or more~~ of the following
5933 sources: (i) its revenues generally; (ii) income and revenues derived from the operation, sale, or
5934 lease of a particular project or projects, whether or not they are financed or refinanced from the
5935 proceeds of such bonds; (iii) funds realized from the enforcement of security interests or other
5936 liens or obligations securing such bonds; (iv) proceeds from the sale of bonds; (v) payments
5937 under letters of credit, policies of municipal bond insurance, guarantees, or other credit
5938 enhancements; (vi) any reserve or sinking funds created to secure such payment; (vii) accounts
5939 receivable of the Authority; or (viii) other available funds of the Authority.

5940 D. Any bonds may be ~~additionally~~ guaranteed by, or secured by a pledge of, any grant,
5941 contribution, or appropriation from a participating political subdivision, the University, the
5942 Commonwealth or any political subdivision, agency, or instrumentality ~~thereof, of the~~
5943 Commonwealth or from any federal agency or any unit, private corporation, partnership,
5944 association, or individual.

5945 **Drafting note: Technical changes are made, including removing "without**
5946 **limitation" when used in conjunction with "including" on the basis of the Code-wide**
5947 **application of § 1-218, which states "'Includes' means includes, but not limited to."**

5948 § ~~23-50.16:26~~ 23.1-2419. Liability on bonds.

5949 No member of the ~~Board of Directors or board~~; officer, employee, or agent of the
5950 Authority; or ~~any~~ person executing bonds of the Authority ~~shall be is~~ liable personally on the
5951 bonds by reason of ~~their issuance~~ issuing or ~~execution~~ executing such bonds. Bonds of the
5952 Authority ~~shall are~~ not ~~be~~ a debt of the Commonwealth or any political subdivision ~~thereof of~~
5953 the Commonwealth other than the Authority and shall so state on their face. Neither the
5954 Commonwealth nor any political subdivision ~~thereof of the Commonwealth~~ other than the
5955 Authority shall be liable for payment of bonds of the Authority, nor shall such bonds be payable
5956 out of any funds or properties of the Commonwealth or any political subdivision ~~thereof of the~~
5957 Commonwealth other than those of the Authority, except as permitted by § ~~23-50.16:25~~ 23.1-
5958 2418. Bonds of the Authority are ~~declared to be~~ issued for an essential public and governmental
5959 purpose.

5960 **Drafting note: Technical changes.**

5961 § ~~23-50.16:27~~ 23.1-2420. Form of bonds.

5962 A. Bonds of the Authority shall (i) be authorized by resolution setting forth the
5963 maximum principal amount issuable ~~and may be issued in one or more series, shall, (ii)~~ be
5964 dated, ~~shall and (iii)~~ mature ~~at such time or times~~ not ~~exceeding forty more than 40~~ years from
5965 their date and may be (a) issued in one or more series and (b) made redeemable or subject to
5966 tender before maturity, at the option of the Authority, at such price or ~~prices and~~ under such
5967 terms and conditions as may be fixed by the Authority or its agents prior to issuance.

5968 B. Bonds of the Authority shall bear interest payable at such times and ~~at such~~ rates ~~as~~
5969 ~~may be determined by the Authority, or as may be determined and~~ in such manner as the
5970 Authority or its agents may ~~provide~~ determine, including rates approved by officers of the
5971 Authority under authorization of the ~~Board~~ board, rates tied to indices, rates of other securities,

5972 or other standards and determinations by agents designated by the Authority under guidelines
5973 established by the Authority.

5974 C. The Authority shall determine the form ~~of its bonds and the~~, manner of execution, and
5975 ~~shall fix the~~ denominations ~~thereof of its bonds~~ and the place ~~or places~~ of payment of principal
5976 and interest, which may be at any bank or trust company or securities depository within or
5977 ~~without outside~~ the Commonwealth. The bonds may be issued in coupon or registered form, or
5978 both, and provision may be made for their registration in whole or in part. Bonds issued in
5979 registered form may be issued under a system of book-entry for recording the ownership and
5980 transfer of ownership of rights to receive payments ~~thereon~~ on the bonds.

5981 D. If any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears
5982 on any bonds or coupons ~~shall cease~~ ceases to ~~be such officer~~ hold such office before delivery of
5983 such bond, such signature or ~~such~~ facsimile ~~shall is~~ nevertheless ~~be~~ valid and sufficient for all
5984 purposes.

5985 E. The Authority may contract for the services of one or more banks, trust companies,
5986 financial institutions, or other entities or persons, within or outside the Commonwealth, for the
5987 authentication, registration, transfer, exchange, and payment of bonds, or ~~may~~ provide such
5988 services itself. The Authority may sell such bonds ~~in such manner, either~~ at public or private
5989 sale, and for such price, as it ~~may determine~~ determines.

5990 F. Notwithstanding any ~~of the~~ other ~~provisions~~ provision of this chapter or any recitals in
5991 any bonds issued under the provisions of this chapter, all such bonds ~~shall be deemed to be~~ are
5992 negotiable instruments under the laws of the Commonwealth.

5993 G. Prior to the preparation of definitive bonds, the Authority may issue interim receipts
5994 or temporary bonds, that are exchangeable for definitive bonds when such bonds ~~shall have been~~
5995 are executed and ~~are~~ available for delivery.

5996 H. The Authority may ~~also~~ provide for the replacement of any mutilated, destroyed,
5997 stolen, or lost bonds.

5998 **Drafting note: Technical changes.**

5999 § ~~23-50.16:28~~ 23.1-2421. Trust indentures and mortgages; security for the bonds.

6000 A. Any bond issued under this chapter may be issued pursuant to or secured by (i) a trust
6001 indenture, deed of trust, or mortgage of any project ~~or projects~~ or ~~any~~ other property of the
6002 Authority, whether or not financed, in whole or in part, from the proceeds of such bonds, ~~by;~~ (ii)
6003 a trust or other agreement with a corporate trustee, which may be any trust company or bank
6004 having the powers of a trust company within or ~~without~~ outside the Commonwealth, or ~~other~~
6005 another agent for bondholders; or (iii) any combination ~~thereof of issuance or security set forth~~
6006 in clause (i) or (ii). Any such trust indenture or other agreement, or the resolution providing for
6007 the issuance of bonds, may pledge or assign fees, rents, and other charges to be received and
6008 ~~may~~ contain reasonable, proper, and lawful provisions for protecting and enforcing the rights
6009 and remedies of the bondholders ~~as may be reasonable and proper and not in violation of law.~~
6010 ~~Such provisions may include, including~~ covenants: ~~(i)~~ (a) providing for the collection and
6011 application of revenues and the repossession and sale of any project or other property by the
6012 Authority, or any trustees under any trust indenture or agreement, ~~of any project or other~~
6013 ~~property~~ upon default; ~~(ii)~~ (b) setting forth duties of the Authority in relation to the acquisition,
6014 construction, maintenance, operation, and insurance of any project or other property of the
6015 Authority and the ~~amounts~~ amount of fees, rents, and other charges to be charged; ~~(iii)~~ (c)
6016 providing for the collection of such fees, rents, and other charges, and the custody, safeguarding,
6017 and application of all moneys of the Authority; ~~(iv)~~ (d) providing for the creation of sinking
6018 funds and the creation and maintenance of reserves; and ~~(v)~~ (e) setting forth conditions or
6019 limitations with respect to ~~the inurrence of incurring~~ indebtedness or ~~the~~ granting ~~of~~ mortgages
6020 or other liens. Such trust indenture, trust, or other agreement or resolution may set forth the
6021 rights and remedies of the bondholders ~~and of the~~, trustee, or other agent for bondholders and
6022 ~~may~~ restrict the individual right of action by bondholders.

6023 ~~In addition, the~~ B. The Authority may grant mortgages, deeds of trust, security interests,
6024 and other liens on its real and personal property, including its accounts receivable, to secure
6025 bonds. All pledges of revenues of the Authority for payment of bonds ~~shall be~~ are valid and

6026 binding from the time ~~when~~ the pledge is made, ~~and the~~. The revenues pledged and ~~thereafter~~
6027 received by the Authority ~~shall be~~ are subject immediately to the lien of such pledge without
6028 any physical delivery ~~thereof of such pledge~~ or further act, ~~and the~~. The lien of any such pledge
6029 shall be valid and binding ~~as~~ against all parties having claims of any kind in tort, contract, or
6030 otherwise against the Authority, ~~irrespective of~~ whether or not such parties have notice ~~thereof~~
6031 of the lien. The Authority may ~~also~~ provide for the recording or filing of any mortgage, deed of
6032 trust, security interest ~~or~~, other lien, ~~or any~~ financing statement, or other instrument, necessary
6033 or desirable to create, perfect, or evidence any lien created pursuant to this chapter.

6034 C. It shall be lawful for any bank or trust company within or ~~without~~ outside the
6035 Commonwealth to (i) serve as depository of the proceeds of bonds or ~~of~~ other revenues of the
6036 Authority ~~and to~~, (ii) furnish indemnifying bonds, or ~~to~~ (iii) pledge such securities as may be
6037 required by the Authority.

6038 D. All expenses incurred in carrying out the provisions of such trust indenture ~~or~~,
6039 agreement ~~or~~, resolution, or other agreements relating to any project, including those to which
6040 the Authority may not be a party, may be treated as a part of the costs of a project.

6041 **Drafting note: Technical changes.**

6042 § ~~23-50.16:29~~ 23.1-2422. Remedies of obligees of Authority.

6043 Except to the extent that the rights ~~herein given~~ granted by this chapter may be restricted
6044 by such trust indenture or trust or other agreement, any (i) holder of bonds or coupons issued
6045 under the provisions of this chapter and ~~the~~ (ii) trustee or other agent for bondholders under any
6046 trust indenture or trust or other agreement may, either at law or in equity, by suit, action,
6047 injunction, mandamus, or other proceedings, (a) protect and enforce any and all rights granted
6048 by this chapter or under the laws of the Commonwealth ~~or granted by this chapter or under~~, such
6049 trust indenture, trust, or other agreement, or the resolution authorizing the issuance of such
6050 bonds; and ~~may~~ (b) enforce and compel the ~~performance of~~ Authority or any agent or officer of
6051 the Authority to perform all duties required by this chapter or ~~by~~ such trust indenture, trust, or

6052 other agreement or resolution ~~to be performed by the Authority or by any officer or agent~~
6053 ~~thereof~~, including the fixing, charging, and collecting of fees, rents, and other charges.

6054 **Drafting note: Technical changes.**

6055 § ~~23-50.16:30~~ 23.1-2423. Bonds to be legal investments.

6056 Bonds issued by the Authority under the provisions of this chapter are ~~hereby made~~
6057 securities (i) in which all public officers and public bodies of the Commonwealth and its
6058 political subdivisions, ~~all~~ insurance companies, trust companies, banking associations,
6059 investment companies, executors, administrators, trustees, and other fiduciaries may properly
6060 and legally invest funds, including capital in their control or belonging to them. ~~Such bonds are~~
6061 ~~hereby made securities~~ and (ii) that may properly and legally be deposited with and received by
6062 any state or ~~municipal local~~ officer or ~~any~~ agency or political subdivision of the Commonwealth
6063 for any purpose for which the deposit of bonds or obligations is ~~now or may hereafter be~~
6064 authorized by law.

6065 **Drafting note: The language "now or may hereafter be" in the last sentence of**
6066 **proposed § 23.1-2423 is stricken as obsolete. Technical changes are made.**

6067 § ~~23-50.16:31~~ 23.1-2424. Existing bonds.

6068 The Authority may assume, or ~~may~~ agree to make payments in amounts sufficient for the
6069 University to pay, some or all of the hospital obligations incurred under resolutions previously
6070 adopted by the University with respect to the hospital facilities and may issue bonds to refund
6071 bonds issued under such resolutions or ~~to~~ refinance such payment obligations. If the Authority
6072 ~~has assumed~~ assumes all hospital obligations under any such bond resolution and ~~commenced~~
6073 ~~its operation of~~ operates substantially all of the hospital facilities financed or refinanced ~~thereby~~
6074 by such bond resolution, the University, ~~the~~ State Treasurer, ~~the~~ Virginia Public Building
6075 Authority, and ~~the~~ Virginia College Building Authority shall take such steps as are appropriate
6076 to provide for the substitution of the Authority for the University under such resolution and ~~to~~
6077 transfer to the Authority any funds payable to the University under the terms of such resolution.

6078 **Drafting note: Technical changes.**

6079 § ~~23-50.16:32~~ 23.1-2425. Confidential and public information.

6080 A. The Authority ~~shall be is~~ subject to the provisions of the Freedom of Information Act
6081 (§ 2.2-3700 et seq.), ~~which shall include~~ including the exclusions set forth in subdivision 15 of §
6082 2.2-3705.7 and subdivision A 23-of-subsection A of § 2.2-3711.

6083 B. For purposes of the Freedom of Information Act (§ 2.2-3700 et seq.), meetings of the
6084 Board shall board are not ~~be~~ considered meetings of the ~~Board of Visitors~~ board of visitors of
6085 the University. Meetings of the ~~Board~~ board may be conducted through telephonic or video
6086 means as provided in § 2.2-3708 ~~or similar provisions of any successor law~~.

6087 **Drafting note: Technical changes.**

6088 § ~~23-50.16:33~~ 23.1-2426. Chapter liberally construed.

6089 This chapter shall constitute full and complete authority, without regard to the provisions
6090 of any other law, for the ~~doing performance~~ of ~~the~~ acts ~~and things herein~~ authorized in the
6091 chapter and shall be liberally construed to effect the purposes ~~hereof of the chapter~~. Insofar as
6092 the provisions of this chapter are inconsistent with the provisions of any other ~~law~~, general,
6093 specific, or local law, the provisions of this chapter ~~shall be controlling control~~.

6094 **Drafting note: Technical changes.**

6095 § ~~23-50.16:34~~ 23.1-2427. ~~Exemption of Authority from Personnel Act, Workforce~~
6096 ~~Transition Act, Administrative Process Act, and Public Procurement Act Exemptions~~.

6097 The provisions of ~~Chapter 29 the Virginia Personnel Act~~ (§ 2.2-2900 et seq.) ~~of Title 2.2,~~
6098 ~~Chapter 32 the Workforce Transition Act~~ (§ 2.2-3200 et seq.) ~~of Title 2.2,~~ ~~Chapter 40 the~~
6099 ~~Administrative Process Act~~ (§ 2.2-4000 et seq.) ~~of Title 2.2,~~ and ~~Chapter 43 the Virginia Public~~
6100 ~~Procurement Act~~ (§ 2.2-4300 et seq.) ~~of Title 2.2 shall do~~ not apply to the Authority in ~~the its~~
6101 exercise of any power conferred to it under this chapter.

6102 **Drafting note: Technical changes.**

6103 § ~~23-50.16:35~~ 23.1-2428. Reversion Assets of Authority; reversion to University.

6104 Upon dissolution of the Authority, all assets of the Authority, after satisfaction of
6105 creditors, shall revert to the University.

