


Commonwealth of Virginia		
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Andrew Kubincanek, Program Coordinator		
Administrative Law Advisory Committee		

2015 Annual Report Administrative Law Advisory Committee

Model State Administrative Procedure Act

The Model State Administrative Procedure Act judicial work group drafted language creating sections on ex parte communications and reconsideration.

Executive Review Process

The executive review process work group postponed further study until the Governor's task force issues its findings on the subject.

APA Exemptions

ALAC reviewed an amendment to § 2.2-4006.A.4.a enacted by the 2011 Session of the General Assembly, regarding an exemption for regulations that are necessary to conform to changes in Virginia law where no agency discretion is involved. ALAC does not believe a legislative fix is necessary at this time. The committee will continue to monitor the issue.

Guidance Document Availability

ALAC refocused its study to concentrate on incorporation of guidance documents by reference. The committee reviewed several previous studies on the issue and determined that recommendations to place disclaimer language on the Virginia Administrative Code website regarding documents incorporated by reference had not been fully implemented. This was corrected, and the language now appears at the bottom of each page of the website.

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EX PARTE COMMUNICATIONS

§ 2.2-4024.2. Ex Parte Communications

A. Except as otherwise provided in this section, while a formal hearing conducted in accordance with § 2.2-4020 is pending, the hearing officer may not communicate with any person concerning the hearing without notice and opportunity for all parties to participate in the communication.

B. A hearing officer may communicate about a pending formal hearing conducted in accordance with § 2.2-4020 with any person if the communication is authorized by law or concerns an uncontested procedural issue. A hearing officer may communicate on ministerial matters about a pending formal hearing conducted in accordance with § 2.2-4020 with any person, if the communication does not augment, diminish, or modify the evidence in the record.

C. If a hearing officer makes or receives a communication prohibited by this section, the hearing officer shall make a part of the hearing record: (i) a copy of the communication, or, if it is not written, a memorandum containing the substance of the communication; (ii) the response thereto; and (iii) the identity of the person who made the communication.

D. If a communication prohibited by this section is made, the hearing officer shall notify all parties of the prohibited communication and permit parties to respond not later than 15 days after the notice is given. For good cause, the hearing officer may permit additional evidence in response to the prohibited communication.

E. If necessary to eliminate any prejudicial effect of a communication made that is prohibited by this section, a hearing officer may (i) be disqualified under § 2.2-4024.1; (ii) seal the parts of the record pertaining to the communication by protective order; or (iii) grant other appropriate relief, including an adverse ruling on the merits of the case.

Reconsideration

Virginia Code § 2.2-4023.1 Reconsideration

A. A party may file a petition for reconsideration of an agency's final decision made pursuant to § 2.2-4020. The petition shall be filed with the agency not later than fifteen (15) days after service of the final decision and shall state the specific grounds on which relief is requested. The petition shall contain a full and clear statement of the facts pertaining to the reasons for reconsideration, the grounds in support thereof, and a statement of the relief desired. A timely filed petition for reconsideration shall not suspend the execution of the agency decision nor toll the time for filing a notice of appeal under Rule 2A:2 of the Rules of the Supreme Court of Virginia, unless the agency provides for suspension of its decision when it grants a petition for reconsideration. The failure to file a petition for reconsideration shall not constitute a failure to exhaust all administrative remedies.

B. The agency shall render a written decision on a party's timely petition for reconsideration within thirty (30) days from receipt of the petition for reconsideration. Such decision shall either (i) deny the petition, (ii) modify the case decision, or (iii) vacate the case decision and set a new hearing for further proceedings. The agency shall state the reasons for its action.

C. If reconsideration is sought for the decision of a board, the board: (i) may consider the petition for reconsideration at its next regularly scheduled meeting; (ii) may schedule a special meeting to consider and decide upon the petition within 30 days of receipt; or, (iii) may, notwithstanding any other provision of law, delegate authority to consider the petition to either the board chairman, a subcommittee of the board, or the director of the state agency that provides administrative support to the board, in which case a decision on the reconsideration must be rendered within thirty (30) days of receipt of the petition by the board.

D. Denial of a petition for reconsideration shall not constitute a separate case decision and shall not on its own merits be subject to judicial review. It may, however, be considered by a reviewing court as part of any judicial review of the case decision itself.

E. The agency may reconsider its final decision within thirty (30) days of the date of the final decision on its own initiative for good cause. An agency may develop procedures for reconsideration of its final decisions on its own initiative.

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SUMMARY

Bedford; references to the former city of Bedford. Removes references to the former ~~city~~ City of Bedford in certain sections of the Code. Bedford reverted to town status in 2013.

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SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-2609, 15.2-4903, 16.1-69.6, 17.1-506, 19.2-163.04, and 55-288.1
2 of the Code of Virginia, relating to references to the former city of Bedford.

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

4 **1. That §§ 2.2-2609, 15.2-4903, 16.1-69.6, 17.1-506, 19.2-163.04, and 55-288.1 of the Code of**
5 **Virginia are amended and reenacted as follows:**

6 **§ 2.2-2609. Blue Ridge Regional Tourism Council; membership; meetings; Blue Ridge**
7 **defined.**

8 A. The Blue Ridge Regional Tourism Council (the Council) is established as an advisory
9 council, within the meaning of § 2.2-2100, in the executive branch of state government. The Council
10 shall be composed of one representative of each of the destination marketing organizations (DMOs)
11 located in the Blue Ridge region and the President of the Virginia Tourism Authority.

12 B. The Council shall elect a chairman and a vice-chairman from among its members. The
13 Council shall meet at least four times a year at such dates and times as they determine.

14 C. For the purposes of this article, the "Blue Ridge" region shall include the Counties of
15 Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Campbell, Craig, Floyd,
16 Franklin, Giles, Highland, Montgomery, Nelson, Pulaski, Roanoke, Rockbridge, and Wythe and the
17 Cities of ~~Bedford~~, Buena Vista, Covington, Lexington, Lynchburg, Radford, Roanoke, Salem, Staunton,
18 and Waynesboro.

19 **§ 15.2-4903. Creation of industrial development authorities.**

20 A. The governing body of any locality in this Commonwealth is hereby authorized to create by
21 ordinance a political subdivision of the Commonwealth, with such public and corporate powers as are
22 set forth in this chapter. Any such ordinance may limit the type and number of facilities that the
23 authority may otherwise finance under this chapter, which ordinance of limitation may, from time to
24 time, be amended. In the absence of any such limitation, an authority shall have all powers granted
25 under this chapter.

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26 B. The name of the authority shall be the Industrial Development Authority of _____
 27 _____ (the blank spaces to be filled in with the name of the locality which created the authority,
 28 including the proper designation thereof as a county, city or town).

29 C. Notwithstanding subsection B, for any authority authorized by this section, the name of the
 30 authority may be the Economic Development Authority of _____ (the blank space to be filled in
 31 with the name of the locality that created the authority), if the governing body of such locality so
 32 chooses.

33 D. The authority jointly created by the Town of South Boston and Halifax County pursuant to §
 34 15.2-4916 may be named the Economic Development Authority of Halifax, Virginia, or such other
 35 name as the governing bodies of the Town of South Boston and Halifax County shall choose in the
 36 concurrent resolutions creating such authority. ~~The authority jointly created by the City of Bedford and
 37 Bedford County pursuant to § 15.2-4916 may be named the Bedford Joint Economic Development
 38 Authority, or such other name as the governing bodies of the City of Bedford and Bedford County shall
 39 choose in the concurrent resolutions creating such authority.~~

40 **§ 16.1-69.6. Establishment of districts.**

41 On and after July 1, 1973, the Commonwealth shall be divided into districts encompassing all
 42 counties and cities in the Commonwealth to provide a basis for the sound and efficient administration of
 43 the courts not of record, as follows:

44 (1) The City of Chesapeake shall constitute the first district.

45 (2) The City of Virginia Beach shall constitute the second district.

46 (2-A) The Counties of Accomack and Northampton shall constitute district two-A.

47 (3) The City of Portsmouth shall constitute the third district.

48 (4) The City of Norfolk shall constitute the fourth district.

49 (5) The Cities of Franklin and Suffolk and the Counties of Isle of Wight and Southampton shall
 50 constitute the fifth district.

51 (6) The Cities of Emporia and Hopewell and the Counties of Prince George, Surry, Sussex,
 52 Greenville and Brunswick shall constitute the sixth district.

53 (7) The City of Newport News shall constitute the seventh district.

54 (8) The City of Hampton shall constitute the eighth district.

55 (9) The Cities of Williamsburg and Poquoson and the Counties of York, James City, Charles
56 City, New Kent, Gloucester, Mathews, Middlesex, King William and King and Queen shall constitute
57 the ninth district.

58 (10) The Counties of Cumberland, Buckingham, Appomattox, Prince Edward, Charlotte,
59 Lunenburg, Mecklenburg and Halifax shall constitute the tenth district.

60 (11) The City of Petersburg and the Counties of Dinwiddie, Nottoway, Amelia and Powhatan
61 shall constitute the eleventh district.

62 (12) The City of Colonial Heights and the County of Chesterfield shall constitute the twelfth
63 district.

64 (13) The City of Richmond shall constitute the thirteenth district.

65 (14) The County of Henrico shall constitute the fourteenth district.

66 (15) The City of Fredericksburg and the Counties of King George, Stafford, Spotsylvania,
67 Caroline, Hanover, Lancaster, Northumberland, Westmoreland, Richmond and Essex shall constitute the
68 fifteenth district.

69 (16) The City of Charlottesville and the Counties of Madison, Greene, Albemarle, Fluvanna,
70 Goochland, Louisa, Orange and Culpeper shall constitute the sixteenth district.

71 (17) The County of Arlington and the City of Falls Church shall constitute the seventeenth
72 district.

73 (18) The City of Alexandria shall constitute the eighteenth district.

74 (19) The City of Fairfax and the County of Fairfax shall constitute the nineteenth district.

75 (20) The Counties of Loudoun, Fauquier and Rappahannock shall constitute the twentieth
76 district.

77 (21) The City of Martinsville and the Counties of Patrick and Henry shall constitute the twenty-
78 first district.

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79 (22) The City of Danville and the Counties of Pittsylvania and Franklin shall constitute the
80 twenty-second district.

81 (23) The Cities of Roanoke and Salem and the County of Roanoke shall constitute the twenty-
82 third district.

83 (24) The ~~Cities~~ City of Lynchburg ~~and Bedford~~ and the Counties of Nelson, Amherst, Campbell
84 and Bedford shall constitute the twenty-fourth district.

85 (25) The Cities of Covington, Lexington, Staunton, Buena Vista, and Waynesboro and the
86 Counties of Highland, Augusta, Rockbridge, Bath, Alleghany, Botetourt and Craig shall constitute the
87 twenty-fifth district.

88 (26) The Cities of Harrisonburg and Winchester and the Counties of Frederick, Clarke, Warren,
89 Shenandoah, Page and Rockingham shall constitute the twenty-sixth district.

90 (27) The Cities of Galax and Radford and the Counties of Pulaski, Wythe, Carroll, Montgomery,
91 Floyd, Giles, Bland and Grayson shall constitute the twenty-seventh district.

92 (28) The City of Bristol and the Counties of Smyth and Washington shall constitute the twenty-
93 eighth district.

94 (29) The Counties of Tazewell, Buchanan, Russell and Dickenson shall constitute the twenty-
95 ninth district.

96 (30) The City of Norton and the Counties of Wise, Scott and Lee shall constitute the thirtieth
97 district.

98 (31) The Cities of Manassas and Manassas Park, and the County of Prince William shall
99 constitute the thirty-first district.

100 **§ 17.1-506. Judicial circuits.**

101 1. The City of Chesapeake shall constitute the first circuit.

102 2. The City of Virginia Beach and the Counties of Accomack and Northampton shall constitute
103 the second circuit.

104 3. The City of Portsmouth shall constitute the third circuit.

105 4. The City of Norfolk shall constitute the fourth circuit.

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106 5. The Cities of Franklin and Suffolk and the Counties of Isle of Wight and Southampton shall
107 constitute the fifth circuit.

108 6. The Cities of Emporia and Hopewell and the Counties of Brunswick, Greensville, Prince
109 George, Surry and Sussex shall constitute the sixth circuit.

110 7. The City of Newport News shall constitute the seventh circuit.

111 8. The City of Hampton shall constitute the eighth circuit.

112 9. The Cities of Poquoson and Williamsburg and the Counties of Charles City, Gloucester, James
113 City, King and Queen, King William, Mathews, Middlesex, New Kent and York shall constitute the
114 ninth circuit.

115 10. The Counties of Appomattox, Buckingham, Charlotte, Cumberland, Halifax, Lunenburg,
116 Mecklenburg and Prince Edward shall constitute the tenth circuit.

117 11. The City of Petersburg and the Counties of Amelia, Dinwiddie, Nottoway and Powhatan
118 shall constitute the eleventh circuit.

119 12. The City of Colonial Heights and the County of Chesterfield shall constitute the twelfth
120 circuit.

121 13. The City of Richmond shall constitute the thirteenth circuit.

122 14. The County of Henrico shall constitute the fourteenth circuit.

123 15. The City of Fredericksburg and the Counties of Caroline, Essex, Hanover, King George,
124 Lancaster, Northumberland, Richmond, Spotsylvania, Stafford and Westmoreland shall constitute the
125 fifteenth circuit.

126 16. The City of Charlottesville and the Counties of Albemarle, Culpeper, Fluvanna, Goochland,
127 Greene, Louisa, Madison and Orange shall constitute the sixteenth circuit.

128 17. The County of Arlington and the City of Falls Church shall constitute the seventeenth circuit.

129 18. The City of Alexandria shall constitute the eighteenth circuit.

130 19. The City of Fairfax and the County of Fairfax shall constitute the nineteenth circuit.

131 20. The Counties of Fauquier, Loudoun and Rappahannock shall constitute the twentieth circuit.

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132 21. The City of Martinsville and the Counties of Henry and Patrick shall constitute the twenty-
133 first circuit.

134 22. The City of Danville and the Counties of Franklin and Pittsylvania shall constitute the
135 twenty-second circuit.

136 23. The Cities of Roanoke and Salem and the County of Roanoke shall constitute the twenty-
137 third circuit.

138 24. The ~~Cities of Bedford and~~ City of Lynchburg and the Counties of Amherst, Bedford,
139 Campbell and Nelson shall constitute the twenty-fourth circuit.

140 25. The Cities of Buena Vista, Covington, Lexington, Staunton and Waynesboro and the
141 Counties of Alleghany, Augusta, Bath, Botetourt, Craig, Highland and Rockbridge shall constitute the
142 twenty-fifth circuit.

143 26. The Cities of Harrisonburg and Winchester and the Counties of Clarke, Frederick, Page,
144 Rockingham, Shenandoah and Warren shall constitute the twenty-sixth circuit.

145 27. The Cities of Galax and Radford and the Counties of Bland, Carroll, Floyd, Giles, Grayson,
146 Montgomery, Pulaski and Wythe shall constitute the twenty-seventh circuit.

147 28. The City of Bristol and the Counties of Smyth and Washington shall constitute the twenty-
148 eighth circuit.

149 29. The Counties of Buchanan, Dickenson, Russell and Tazewell shall constitute the twenty-
150 ninth circuit.

151 30. The City of Norton and the Counties of Lee, Scott and Wise shall constitute the thirtieth
152 circuit.

153 31. The Cities of Manassas and Manassas Park and the County of Prince William shall constitute
154 the thirty-first circuit.

155 **§ 19.2-163.04. Public Defender offices.**

156 Public defender offices are established in:

157 a. The City of Virginia Beach;

158 b. The City of Petersburg;

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- 159 c. The Cities of Buena Vista, Lexington, Staunton and Waynesboro and the Counties of Augusta
160 and Rockbridge;
- 161 d. The City of Roanoke;
- 162 e. The City of Portsmouth;
- 163 f. The City of Richmond;
- 164 g. The Counties of Clarke, Frederick, Page, Shenandoah and Warren, and the City of
165 Winchester;
- 166 h. The City and County of Fairfax;
- 167 i. The City of Alexandria;
- 168 j. The City of Radford and the Counties of Bland, Pulaski and Wythe;
- 169 k. The Counties of Fauquier, Loudoun and Rappahannock;
- 170 l. The City of Suffolk;
- 171 m. The City of Franklin and the Counties of Isle of Wight and Southampton;
- 172 n. The ~~City of Bedford and the~~ County of Bedford;
- 173 o. The City of Danville;
- 174 p. The Counties of Halifax, Lunenburg and Mecklenburg;
- 175 q. The City of Fredericksburg and the Counties of King George, Stafford and Spotsylvania;
- 176 r. The City of Lynchburg;
- 177 s. The City of Martinsville and the Counties of Henry and Patrick;
- 178 t. The City of Charlottesville and the County of Albemarle;
- 179 u. The City of Norfolk;
- 180 v. The County of Arlington and the City of Falls Church;
- 181 w. The City of Newport News;
- 182 x. The City of Chesapeake; and
- 183 y. The City of Hampton.
- 184 **§ 55-288.1. North and South Zones.**

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185 For the purpose of the use of these systems, the Commonwealth is divided into a "North Zone"
186 and a "South Zone."

187 The area now included in the following counties and cities shall constitute the North Zone: the
188 Counties of Arlington, Augusta, Bath, Caroline, Clarke, Culpeper, Fairfax, Fauquier, Frederick, Greene,
189 Highland, King George, Loudoun, Madison, Orange, Page, Prince William, Rappahannock,
190 Rockingham, Shenandoah, Spotsylvania, Stafford, Warren and Westmoreland; and the Cities of
191 Alexandria, Fairfax, Falls Church, Fredericksburg, Harrisonburg, Manassas, Manassas Park, Staunton,
192 Waynesboro, and Winchester.

193 The area now included in the following counties and cities shall constitute the South Zone: the
194 Counties of Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Bedford, Bland,
195 Botetourt, Brunswick, Buchanan, Buckingham, Campbell, Carroll, Charles City, Charlotte, Chesterfield,
196 Craig, Cumberland, Dickenson, Dinwiddie, Essex, Floyd, Fluvanna, Franklin, Giles, Gloucester,
197 Goochland, Grayson, Greensville, Halifax, Hanover, Henrico, Henry, Isle of Wight, James City, King
198 and Queen, King William, Lancaster, Lee, Louisa, Lunenburg, Mathews, Mecklenburg, Middlesex,
199 Montgomery, Nelson, New Kent, Northampton, Northumberland, Nottoway, Patrick, Pittsylvania,
200 Powhatan, Prince Edward, Prince George, Pulaski, Richmond, Roanoke, Rockbridge, Russell, Scott,
201 Smyth, Southampton, Surry, Sussex, Tazewell, Washington, Wise, Wythe, and York; and the Cities of
202 ~~Bedford~~, Bristol, Buena Vista, Charlottesville, Chesapeake, Colonial Heights, Covington, Danville,
203 Emporia, Franklin, Galax, Hampton, Hopewell, Lexington, Lynchburg, Martinsville, Newport News,
204 Norfolk, Norton, Petersburg, Poquoson, Portsmouth, Radford, Richmond, Roanoke, Salem, Suffolk,
205 Virginia Beach, and Williamsburg.

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ORGANIZATION OUTLINE

Proposed Title 23.1.

Institutions of Higher Education; Other Educational and Cultural Institutions.

**SUBTITLE I.
GENERAL PROVISIONS.**

Chapter 1		Definitions and General Provisions
	Article 1	Definitions
	Article 2	General Provisions
Chapter 2		State Council of Higher Education for Virginia
	Article 1	Membership and Organization
	Article 2	Powers and Duties
	Article 3	Regulation of Certain Private and Out-of-State Institutions of Higher Education
Chapter 3		The Virginia Higher Education Opportunity Act of 2011

**SUBTITLE II.
STUDENTS AND CAMPUS.**

Chapter 4		General Provisions
Chapter 5		In-State Tuition and Reduced Rate Tuition Eligibility
Chapter 6		Financial Assistance
	Article 1	General Provisions
	Article 2	Scholarships
	Article 3	Student Loan Funds
	Article 4	Two-Year College Transfer Grant Program
	Article 5	Tuition Assistance Grant Act
	Article 6	Virginia Guaranteed Assistance Program and Fund
	Article 7	Senior Citizens Higher Education
Chapter 7		Virginia Savings Plan
Chapter 8		Health and Campus Safety
	Article 1	Student Health
	Article 2	Campus Safety; General Provisions
	Article 3	Campus Safety; Campus Police Departments
Chapter 9		Academic Policies
	Article 1	General Provisions
	Article 2	Programs of Instruction
	Article 3	Course Credit
	Article 4	Articulation, Transfer, and Dual Enrollment

**SUBTITLE III.
MANAGEMENT AND FINANCING.**

Chapter 10		Restructured Higher Education Financial and Administrative Operations Act
	Article 1	Definitions
	Article 2	Financial and Administrative Standards, Authority, and Incentives
	Article 3	Restructured Financial and Administrative Authority; Memorandum of Understanding
	Article 4	Restructured Financial and Administrative Authority; Covered Institutions; Management Agreements
Chapter 11		Bonds and Other Obligations
Chapter 12		Virginia College Building Authority
	Article 1	General Provisions; Powers and Duties
	Article 2	Nonprofit Private Institutions of Higher Education; Projects

**SUBTITLE IV.
PUBLIC INSTITUTIONS OF HIGHER EDUCATION.**

Chapter 13		Governing Boards of Public Institutions of Higher Education
Chapter 14		Christopher Newport University
Chapter 15		George Mason University
Chapter 16		James Madison University
Chapter 17		Longwood University
Chapter 18		University of Mary Washington
Chapter 19		Norfolk State University
Chapter 20		Old Dominion University
Chapter 21		Radford University
Chapter 22		University of Virginia
	Article 1	General Provisions
	Article 2	The University of Virginia's College at Wise
	Article 3	Medical Center
	Article 4	Donations
Chapter 23		Virginia Commonwealth University
Chapter 24		Virginia Commonwealth University Health System Authority
Chapter 25		Virginia Military Institute
Chapter 26		Virginia Polytechnic Institute and State University
	Article 1	General Provisions
	Article 2	Virginia Cooperative Extension Service and Agricultural Experiment Station Division; Hampton Roads and Eastern Shore Agricultural Research and Extension Centers
	Article 3	Virginia Center for Coal and Energy Research
	Article 4	Virginia Water Resources Research Center
	Article 5	Virginia Center for Housing Research
	Article 6	Governmental Aid and Individual Donations

Chapter 27		Virginia State University
Chapter 28		The College of William and Mary in Virginia; Richard Bland College
Chapter 29		State Board for Community Colleges and Virginia Community College System

**SUBTITLE V.
OTHER EDUCATIONAL AND CULTURAL INSTITUTIONS.**

Chapter 30		Eastern Virginia Medical School
Chapter 31		Educational Authorities, Centers, Institutes, and Partnerships
	Article 1	General Provisions
	Article 2	A.L. Philpott Manufacturing Extension Partnership
	Article 3	Institute for Advanced Learning and Research
	Article 4	New College Institute
	Article 5	Roanoke Higher Education Authority
	Article 6	Southern Virginia Higher Education Center
	Article 7	Southwest Virginia Higher Education Center
Chapter 32		Museums and Other Cultural Institutions
	Article 1	General Provisions
	Article 2	Frontier Culture Museum of Virginia
	Article 3	Gunston Hall
	Article 4	Jamestown-Yorktown Foundation
	Article 5	Science Museum of Virginia
	Article 6	Virginia Museum of Fine Arts
	Article 7	Virginia Commission for the Arts and Virginia Arts Foundation

MOVED TO OTHER TITLES OF THE CODE OF VIRGINIA

Title 22.1	§ 22.1-20.2	Granting easements across lands of certain schools and institutions (moved from Chapter 1 (§ 23-1 et seq.) of Title 23)
Title 22.1	Chapter 19.1	Establishment of College Partnership Laboratory Schools (moved from Chapter 26 (§ 23-299 et seq.) of Title 23)
Title 32.1	Chapter 5.3	Commonwealth Health Research Board and Fund (moved from Chapter 22 (§ 23-277 et seq.) of Title 23) and Christopher Reeve Stem Cell Research Fund (moved from Chapter 22.1 (§ 23-286.1 et seq.) of Title 23)

APPENDIX B**COMPARATIVE TABLE: TITLE 23.1 TO TITLE 23**

TITLE 23.1. INSTITUTIONS OF HIGHER EDUCATION; OTHER EDUCATIONAL AND CULTURAL INSTITUTIONS.	
SUBTITLE I. GENERAL PROVISIONS.	
CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS.	
Article 1. Definitions.	
23.1-100. Definitions.	New section
Article 2. General Provisions.	
23.1-101. Endowment funds of public institutions of higher education.	23-9.2
23.1-102. Chief executive officer of each public institution of higher education; duties.	23-4, 23-4.4 B, 23-1.1
23.1-103. Localities; conveyance of property and appropriation of funds to Commonwealth for certain educational purposes.	23-3.1
23.1-104. Disposition of lost or abandoned property.	23-4.2
23.1-105. Contracts with certain nonprofit private institutions of higher education.	23-9.10:3
23.1-106. Formation of not-for-profit benefits consortium.	23-4.2:1
23.1-107. Private institutions of higher education; human research review committees.	23-9.2:3.3
CHAPTER 2. STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA.	Chapter 1.1
Article 1. Membership and Organization.	
23.1-200. State Council of Higher Education for Virginia established; purpose; membership; terms; officers.	23-9.3
23.1-201. Student advisory committee.	23-9.3:1
23.1-202. Employment of director and other personnel.	23-9.4
Article 2. Powers and Duties.	
23.1-203. Duties of Council.	23-9.5, 23-9.6:1, 23-9.8, 23-9.8:1, 23-9.13, 23-9.10:1, 23-261 (part)
23.1-204. (Expires June 30, 2017) Post-graduation employment rates.	23-9.2:3.04, 23-2.4
23.1-205. Authority to carry out federal requirements.	23-261 (part)
23.1-206. Assessments of the performance of public institutions of higher education.	23-9.6:1.01
23.1-207. Tuition relief, refunds, and reinstatement for certain students in the uniformed services.	23-9.6:2
23.1-208. Budget requests and recommendations.	23-9.9, 23-9.9:1
23.1-209. Reports of expenditures of state funds.	23-9.9:01
23.1-210. Advisory services to accredited nonprofit private institutions of higher education; Private College Advisory Board.	23-9.10:2

23.1-211. Distance learning reciprocity agreements; participation; Distance Learning Reciprocity Advisory Council.	23-9.14:3
23.1-212. Effect upon powers of governing boards of public institutions of higher education; endowment funds.	23-9.14
Article 3. Regulation of Certain Private and Out-of-State Institutions of Higher Education.	Chapter 21.1
23.1-213. Definitions.	23-276.1
23.1-214. Certified mail; subsequent mail or notices may be sent by regular mail.	23-276.1:1
23.1-215. Authority of the Council; regulations; standards for postsecondary schools; delegation of authority to director.	23-276.3
23.1-216. Career College Advisory Board established.	23-276.13
23.1-217. Certification required.	23-276.14
23.1-218. List of postsecondary schools holding valid certification.	23-276.15
23.1-219. Council certification; requirements and prohibitions.	23-276.4
23.1-220. Approval procedures.	23-276.5
23.1-221. Refusal, suspension, and revocation of approval or certification.	23-276.6
23.1-222. Emergency actions.	23-276.7
23.1-223. Preservation of students' records.	23-276.8
23.1-224. Fees.	23-276.9
23.1-225. Prohibited acts.	23-276.10
23.1-226. Exemptions.	23-276.2
23.1-227. Virginia law to apply to contracts.	23-276.11
23.1-228. Violations; penalties; remedies.	23-276.12
23.1-229. Postsecondary school closure procedures.	23-276.16
CHAPTER 3. THE VIRGINIA HIGHER EDUCATION OPPORTUNITY ACT OF 2011.	Chapter 4.9:1
23.1-300. Definitions.	23-38.87:11
23.1-301. Short title; objective; purposes.	23-38.87:10
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*Report of the
Virginia Code Commission
The Revision of Title 23 of the Code of Virginia*

**Richmond, Virginia
November 2015**

**To: The Honorable Terence R. McAuliffe, Governor of Virginia
and
The General Assembly of Virginia**

In accordance with its authority granted pursuant to § 30-152 of the Code of Virginia, the Virginia Code Commission undertook the revision of Title 23 (Educational Institutions) in December 2013. The title has not been revised since the Code Commission's predecessor, the Commission on Code Recodification, compiled the 1950 Code of Virginia; the current revision presents an opportunity to (i) organize the laws in a more logical manner, (ii) remove obsolete and duplicative provisions, and (iii) improve the structure and clarity of the laws pertaining to institutions of higher education and other educational and cultural institutions in the Commonwealth.

The Commission was assisted by a Work Group composed of Betty Adams, Executive Director, Southern Virginia Higher Education Center; Lashrecse Aird, Executive Assistant to the President and Board Liaison, Richard Bland College; Lee Andes, Assistant Director for Financial Aid, State Council of Higher Education for Virginia; John Avoli, Executive Director, Frontier Culture Museum of Virginia; Laura Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation; Peter Blake, Director, State Council of Higher Education for Virginia; Michael Bollinger, Business Manager, Genedge Alliance (A.L. Philpott Manufacturing Extension Partnership); Frances (Fran) Bradford, Associate Vice President for Government Relations, The College of William and Mary in Virginia; David Bradley, Director of Government Relations, Virginia Museum of Fine Arts; Penny Cabaniss, Assistant Vice President for Management and Budget, University of Virginia; Russell Carmichael, Senior Associate for Finance Policy, State Council of Higher Education for Virginia; Carla Collins, Assistant Attorney General, Office of the Attorney General; Matthew Conrad, Interim Assistant to the President for Governance, Virginia Commonwealth University; Richard Conti, Chief Wonder Officer, Science Museum of Virginia; Beverly Covington, Policy Analyst, State Council of

Higher Education for Virginia; Ellen Davenport, Assistant Vice Chancellor, Governmental Relations, Virginia Community College System; Philip Emerson, Executive Director, Jamestown-Yorktown Foundation; Sim Ewing, Vice Chancellor for Finance and Administration, University of Virginia's College at Wise; Alisa Ferguson, Associate Counsel, Virginia College Savings Plan; Donald Ferguson, Senior Assistant Attorney General, Office of the Attorney General; Ronald Forehand, Senior Assistant Attorney General and Section Chief, Education Section, Office of the Attorney General; Laura Fornash, Executive Assistant to the President for State Government Relations, University of Virginia; Rachel Fowlkes, Executive Director, Southwest Virginia Higher Education Center; Rick France, Headmaster and President, Miller School of Albemarle; Lisa Ghidotti, Director of Government Relations and Member Services, Council of Independent Colleges in Virginia; Elizabeth Griffin, Senior Assistant Attorney General, Office of the Attorney General; Ross Grogg, Government Relations Manager, Kemper Consulting; Karah Gunther, Interim Executive Director of Government Relations, Virginia Commonwealth University and Virginia Commonwealth University Health System Authority; Jerry Gwaltney, Executive Director, Institute for Advanced Learning and Research; Kay Heidbreder, University Legal Counsel, Virginia Polytechnic Institute and State University; Beth Hodsdon, Associate General Counsel, University of Virginia; Elizabeth Hooper, Director of State Relations, Virginia Polytechnic Institute and State University; Reginald Jones, Partner, Williams Mullen; Elizabeth Kersey, Assistant to the President for Local, State & Federal Relations, Old Dominion University; Tom Kramer, Assistant Director, Wason Center for Public Policy, Christopher Newport University; Robert Lambeth, President, Council of Independent Colleges in Virginia; Maureen Matsen, University Counsel, Christopher Newport University; Christopher McGee, General Counsel, Virginia College Savings Plan; Thomas McKeon, Executive Director, Roanoke Higher Education Center; Sabena Moretz, Manager of State Government Relations, George Mason University; Edward Mullen, Counsel, Reed Smith; Ashley Myers, State Government Relations Coordinator, University of Virginia; Carrie Nee, Senior Assistant Attorney General, Office of the Attorney General; Paul Neimeyer, General Counsel, Virginia Commonwealth University Health System Authority; Kirsten Nelson, Director of Communications and Government Relations, State Council of Higher Education for Virginia; Cynthia (Cindy) Norwood, Senior Assistant Attorney General, Office of the Attorney General; Tucker Obenshain, Research Assistant, Virginia State Government Relations, McGuire Woods Consulting; A. Cameron O'Brion, Assistant Attorney General, Office of the Attorney General; Emily O'Brion, Director of Government Relations, Longwood University; Anne Pace, Administrator, Commonwealth Health Research Board; Jeffrey Palmore, Attorney, Reed Smith; Lt. Col. Kimberly Parker, Government Relations Director, Virginia Military Institute; Katie Payne, Attorney, Williams Mullen; Stacy Purcell, General Counsel, Eastern Virginia Medical School; John Putney, Director of Government Affairs, James Madison University; Jean Reed, General Counsel, Virginia Commonwealth University Health System Authority; Lisa Ridpath, Associate Vice President for Finance and Administration, Radford University; Mark Smith, Executive Director of State Government Relations, George Mason University; Scott Stroh, Director, Gunston Hall; Ramona Taylor, University Legal Counsel, Virginia State University; Dietra Trent, Deputy Secretary of Education, Commonwealth of Virginia; Robert Turner, Legislative Liaison, Norfolk State University; Margaret Vanderhye, Executive Director, Virginia Commission for the Arts; Annie Walker, Director of Veterans Education Training and Employment, Virginia Department of Veterans Services; Patrick Wallace, Assistant Vice President, Virginia State Government Relations, McGuire Woods Consulting; Michael Walsh,

Public Finance Manager, Virginia Department of the Treasury; Susan Wheeler, University Counsel, James Madison University; Martin Wilder, Chief of Staff, University of Mary Washington; and James (Jay) Wright, Associate University Counsel, Old Dominion University.

The contributions of the Work Group were invaluable, and the Commission wishes to express its sincere gratitude to the Work Group members for the significant time and effort they devoted to the revision of Title 23. These contributors represent a cross section of stakeholders and interested groups, and their expertise proved to be a key resource to the Commission and its staff.

The Virginia Code Commission recommends that the General Assembly enact legislation during the 2016 Session to implement the revisions proposed in this report.

Respectfully submitted,

Senator John S. Edwards, Chairman
Delegate James M. LeMunyon, Vice Chairman
Senator Ryan T. McDougle
Delegate Gregory D. Habeeb
The Honorable Charles S. Sharp
Robert L. Calhoun
Thomas M. Moncure, Jr.
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EXECUTIVE SUMMARY

Introduction

Title 23 (Educational Institutions) contains provisions of the Code of Virginia that address (i) institutions of higher education in the Commonwealth and (ii) other educational and cultural institutions in the Commonwealth such as museums, medical schools and health system authorities, and educational authorities, centers, institutes, and partnerships.

Title 23 has not been revised since the adoption of the Code of Virginia of 1950, at which time the title consisted of 14 chapters. In the ensuing 65 Regular Sessions of the General Assembly, 57 chapters have been added and 20 repealed, resulting in the existing title, comprising 51 chapters. In the intervening years, sections have been added intermittently, often at the end of a chapter, and chapters have been added intermittently, often at the end of the title; such actions over time have compromised any previous organizational scheme. It has become appropriate to (i) organize the laws in a more logical manner, (ii) remove obsolete and duplicative provisions, and (iii) improve the structure and clarity of statutes pertaining to institutions of higher education and other educational and cultural institutions in the Commonwealth.

Organization of Proposed Title 23.1

The title is renamed from Educational Institutions to Public Institutions of Higher Education; Other Educational and Cultural Institutions to more accurately describe the title's scope. Proposed Title 23.1 consists of 32 chapters divided into five subtitles: Subtitle I (General Provisions); Subtitle II (Students and Campus); Subtitle III (Management and Financing); Subtitle IV (Public Institutions of Higher Education); and Subtitle V (Other Educational and Cultural Institutions).

Subtitle I, General Provisions, contains proposed Chapter 1 (Definitions and General Provisions), which consists of titlewide definitions and provisions of a general nature, proposed Chapter 2 (State Council of Higher Education for Virginia), which consists of provisions relating to the higher education coordinating council in the Commonwealth, and proposed Chapter 3 (The Virginia Higher Education Opportunity Act of 2011), which consists of provisions relating to goals and incentives for public institutions of higher education in areas such as investment, access, and economic opportunity.

Subtitle II, Students and Campus, contains proposed Chapters 4 through 9, which pertain to students, financial assistance, student health, campus safety, and academic policies. Proposed Chapter 4 (General Provisions) includes provisions relating to students generally. Proposed Chapter 5 (In-state and Reduced Rate Tuition Eligibility) includes the rules, presumptions, and exceptions relating to student eligibility for in-state tuition and reduced rate tuition at public institutions of higher education in the Commonwealth. Proposed Chapter 6 (Financial Assistance) includes various forms of student financial assistance such as scholarships, grants, and tuition waivers. Proposed Chapter 7 (Virginia Savings Plan) includes the powers and duties of and other provisions relating to the Virginia College Savings Plan and ABLE Savings Trust Accounts. Proposed Chapter 8 (Health and Campus Safety) includes provisions relating to student health and campus safety, including campus police departments. Proposed Chapter 9

(Academic Policies) includes provisions relating to programs of instruction, course credit, articulation, transfer, and dual enrollment.

Subtitle III, Management and Financing, contains proposed Chapter 10 (Restructured Higher Education Financial and Administrative Operations Act), which consists of provisions by which public institutions of higher education in the Commonwealth may exercise three separate levels of financial and administrative authority, proposed Chapter 11 (Bonds and Other Obligations), which consists of provisions relating to the issuance of bonds and other obligations by public institutions of higher education and certain other entities in the Commonwealth, and proposed Chapter 12 (Virginia College Building Authority), which consists of the powers and duties of and other provisions relating to the Virginia College Building Authority, including the power to finance projects at certain nonprofit private institutions of higher education.

Subtitle IV, Public Institutions of Higher Education, contains proposed Chapter 13 (Governing Boards of Public Institutions of Higher Education), which consists of provisions relating to the governing board of each public institution of higher education in the Commonwealth, and Chapters 14 through 29, which consist of the powers and duties of and other provisions relating to (i) the individual institutions of higher education in the Commonwealth: Christopher Newport University, George Mason University, James Madison University, Longwood University, the University of Mary Washington, Norfolk State University, Old Dominion University, Radford University, the University of Virginia, Virginia Commonwealth University, Virginia Military Institute, Virginia Polytechnic Institute and State University, Virginia State University, The College of William and Mary in Virginia, and the Virginia Community College System and (ii) the Virginia Commonwealth University Health System Authority (not defined as a public institution of higher education for the purposes of Title 23.1 but included in this proposed subtitle because of its close relationship to Virginia Commonwealth University).

Subtitle V, Other Educational and Cultural Institutions, contains proposed Chapter 30 (Eastern Virginia Medical School), which consists of the powers and duties of and other provisions relating to Eastern Virginia Medical School that are consolidated from uncodified acts of the assembly and moved into the Code of Virginia; proposed Chapter 31 (Educational Authorities, Centers, Institutes, and Partnerships), which consists of the powers and duties of and other provisions relating to the A.L. Philpott Manufacturing Extension Partnership, the Institute for Advanced Learning and Research, the New College Institute, the Roanoke Higher Education Authority, the Southern Virginia Higher Education Center, and the Southwest Virginia Higher Education Center; and proposed Chapter 32 (Museums and Other Cultural Institutions), which consists of the powers and duties of and other provisions relating to the Frontier Culture Museum of Virginia, Gunston Hall, the Jamestown-Yorktown Foundation, the Science Museum of Virginia, the Virginia Museum of Fine Arts, and the Virginia Commission for the Arts and Virginia Arts Foundation.

Repealed Provisions

During the revision process, the Code Commission became aware of a number of existing provisions that are either unnecessary or obsolete; these are recommended for repeal and thus shown as stricken and not incorporated into the proposed title. Drafting notes in the body of this report describe the reasons for the recommended repeal of the following provisions:

- § 23-2
- § 23-30.23
- § 23-30.40
- § 23-36.2
- §§ 23-37.1 through 23-37.5
- § 23-38.2
- § 23-38.8
- § 23-38.11
- § 23-38.54
- § 23-38.121
- § 23-49.12
- Article 2 (§§ 23-49.22:1 through 23-49.22:4) of Chapter 5.2
- § 23-49.33
- § 23-50.16:1
- Chapter 7 (§§ 23-51, 23-52, and 23-53)
- § 23-62
- § 23-77
- § 23-78
- § 23-91.23
- Article 10 (§ 23-91.23:1) of Chapter 9
- § 23-100
- § 23-131
- Article 2.1 (§§ 23-135.8 through 23-135.11) of Chapter 11
- Article 2.2 (§§ 23-135.12 through 23-135.16) of Chapter 11
- Article 2.3 (§§ 23-135.17 through 23-135.21) of Chapter 11
- Article 4 (§§ 23-142 through 23-146) of Chapter 11
- § 23-164.10
- § 23-165.10
- § 23-214.1
- Article 2 (§§ 23-220.2, 23-220.3, and 23-220.4) of Chapter 16
- § 23-222
- § 23-242
- § 23-246
- § 23-247
- § 23-277
- § 23-286.2
- Chapter 27 (§§ 23-300 through 23-303)

Other Affected Titles

The following provisions are relocated to proposed Title 23.1 from other titles of the Code of Virginia:

- Article 4 (§ 2.2-2508 et seq.) of Chapter 25 of Title 2.2 and Article 1 (§ 2.2-2700 et seq.) of Chapter 27 of Title 2.2, relocated as proposed Article 7 (§ 23.1-3222 et seq.) of Chapter 32 (Virginia Commission for the Arts and Virginia Arts Foundation).
- § 2.2-5004 (Financial and administrative management standards for public institutions of higher education), relocated as proposed § 23.1-1001.
- § 2.2-5005 (Incentive performance benefits to certain public institutions of higher education), relocated as proposed subsection C of § 23.1-1002.
- § 3.2-503 (Duties of Extension Division of Virginia Polytechnic Institute and State University), relocated as proposed subsections C, D, and E of § 23.1-2610.

The following provisions are relocated from existing Title 23 to other titles of the Code of Virginia:

- § 23-9.1 (Granting easements across lands of certain schools and institutions), relocated as proposed § 22.1-20.1.
- Chapter 26 (§ 23-299 et seq.) (Establishment of College Partnership Laboratory Schools), relocated as proposed Chapter 19.1 (§ 22.1-349.1 et seq.) of Title 22.1 (College Partnership Laboratory Schools).
- Chapter 22 (§ 23-277 et seq.) (Commonwealth Health Research Fund) and Chapter 22.1 (§ 23-286.1) (Christopher Reeve Stem Cell Research Fund), relocated as proposed Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 (Commonwealth Health Research Board and Fund; Christopher Reeve Stem Cell Research Fund).

The relocation of sections, articles, and chapters from other titles of the Code of Virginia to proposed Title 23.1 and from existing Title 23 to other titles of the Code of Virginia is not intended to have any substantive effect on their interpretation.

An outline of the organization of proposed Title 23.1 is included as Appendix A.

Changes Made Throughout Title 23.1

An explanation of the significant changes made in each chapter is provided in a drafting note that precedes each chapter. Each section is followed by a drafting note describing any changes made in the section. If a section drafting note states "no change," the section contains no changes other than renumbering the section and updating any cross-references contained in the section. If a section drafting note states "technical changes," the section contains nonsubstantive changes to the text. These technical changes may range from the insertion of clarifying punctuation to a thorough modernization of archaic writing style. When a section contains structural or substantive changes, such as the deletion or addition of language, the section drafting note describes the reason for the proposed change.

Many of the technical changes arose from the Code Commission's determination that terminology should be clear, consistent, and modern. The following lists provide a representative sample of the most significant and most widely implemented technical changes made in the proposed title.

The following changes are made in order to maintain consistency with changes made in previous title revisions, to update antiquated language, to provide clarity, and to bring Title 23.1 into accordance with Title 1 rules of construction for the Code:

- § 1-218. Includes. "Includes" means includes, but not limited to.
- § 1-221. Locality. "Locality" means a county, city, or town as the context may require.
- § 1-224. Municipality; incorporated communities; municipal corporation. "Municipality," "incorporated communities," "municipal corporation," and words or terms of similar import mean cities and towns.
- § 1-225. Nonlegislative citizen member. "Nonlegislative citizen member" means any natural person who is not a member of the General Assembly of Virginia.

Any reference to a "citizen member" or "nonlegislative member" is changed to the full term "nonlegislative citizen member."

- § 1-227. Number. A word used in the singular includes the plural and a word used in the plural includes the singular.
- § 1-230. Person. "Person" includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.
- § 1-244. Short title citations. Whenever a subtitle, chapter, or article does not have a section or provision establishing or authorizing a short title citation for such subtitle, chapter or article, such subtitle, chapter or article may be cited by its caption. The caption is that word or group of words appearing directly below the numerical designation given the subtitle, chapter or article. Captions are intended as mere catchwords to indicate the contents of the subtitles, chapters, and articles and do not constitute part of the act of the General Assembly.

The following changes are made to remove and update antiquated terminology or clarify terms with general application, in accordance with Code Commission policies:

- "From time to time": This usually unnecessary reference is removed unless removal would mean the action could only be taken once.
- "As the case may be": This reference is removed when used with an option of two or more entities if it is clear when each option should be taken.
- Unclear references to "herein" are replaced by appropriate references to a section, article, chapter, or title.
- Phrases such as "heretofore or hereafter" are removed as unnecessary because they mean "before now or after now."
- "Per centum" and "per annum" are replaced by "percent" and "per year," respectively.
- When grammatically feasible, "will" or "must" is changed to "shall" or other appropriate term.
- When grammatically feasible, "shall be guilty" is changed to "is guilty."

- "This Commonwealth" is replaced by "the Commonwealth."
- "Virginia" is replaced by "the Commonwealth."
- "Adopt regulations" is used rather than "promulgate regulations." The term "adopt regulations" means the process by which regulations are put into effect and includes the promulgation, revision or amendment, and formal acceptance of a regulation by an agency that has exercised its regulation-making authority in accordance with law. In its revision of Titles 2.1, 9, 63.1, 37.1, 3.1, 6.1, 64.1, and 33.1, the Code Commission approved the use of the more widely used "adopt" instead of "promulgate."
- The term "rule" is deleted when used in conjunction with "regulation" because it has the same meaning.
- Definitions are moved to the beginning of the applicable section, article, chapter, etc., to improve clarity and provide context.
- "And/or": This grammatical shortcut, which often leads to confusion or ambiguity, is amended throughout to reflect the appropriate meaning: "and" in the sense of all, inclusive; "or" in the sense of "either/any or both/all."

The following changes are made or not made, as the case may be, throughout proposed Title 23.1 and apply more specifically to the subject matter found in this title:

- "Course work" is changed to "coursework."
- "Governing body" is changed to "governing board" or "board of visitors," as the context requires. The term "local governing body" is retained as appropriate for localities.
- "In-state students" and similar variants of this term are stricken in favor of the standardized term "Virginia students."
- "Out-of-state students" and similar variants of this term are stricken in favor of the standardized term "non-Virginia students."
- "State institution of higher learning" and similar variants of this term are stricken in favor of the standardized term "public institution of higher education."
- To the extent feasible, variations are stricken in favor of the standardized term "tuition, mandatory fees, and other necessary charges."
- § 1-222 states that "[w]henver authority is conferred by law to three or more persons, a majority of such persons shall have the power to exercise such authority, unless otherwise provided." Except as otherwise provided *infra*, several articles and chapters throughout existing Title 23 are silent with regard to quorum for the operation of several boards and remain silent with regard to quorum in proposed Title 23.1 in light of the generally applicable § 1-222.
- "Within or without the Commonwealth" is changed to "within or outside the Commonwealth."

Substantive Changes Proposed in Title 23.1

When the Code Commission has approved a substantive change to a provision of existing law, it is noted in the drafting note for the affected section. These substantive changes include the following:

- A substantive change is made in proposed subsection C of § 23.1-210 to reduce the meeting frequency of the Private College Advisory Board from twice annually to once annually to reflect the current practice of this board.
- A substantive change is made in proposed subsection A of § 23.1-2619 to remove specific qualifications of members of the board of directors (advisory board) of the Hampton Roads and Eastern Shore Agricultural Research and Extension Centers in favor of more general qualifications. This substantive change reflects the current appointment method for this advisory board.
- A substantive change is made in proposed subsection D of § 23.1-3102 to establish a quorum for the meetings of the board of trustees of the A.L. Philpott Manufacturing Extension Partnership at eight members, which is fewer than a majority. The Code is currently silent on the quorum required for meetings of this organization.
- A substantive change is made in proposed § 23.1-3121 to reduce the number of members of the Southern Virginia Higher Education Foundation on the board of the Southern Virginia Higher Education Center from three to two and increase the representatives of business and industry on the board from three to four. Section 2.2-3701 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) defines "meeting" to include an informal assemblage of as many as three members. If the three current members of the board of the Center were to discuss board business while assembled at a Southern Virginia Higher Education Foundation meeting, such discussion could violate the open meeting provisions of § 2.2-3707.
- A substantive change is made in proposed § 23.1-3125 to broaden the duties of the Southwest Virginia Higher Education Center to include encouraging the expansion of higher education degrees, adult and continuing education, workforce training, and professional development through partnerships with public and private institutions of higher education in order to better align the Center's duties with its current mission and practices.
- A substantive change is made in proposed § 23.1-3126 to add the president of Virginia Commonwealth University as an ex officio member of the board of trustees of the Southwest Virginia Higher Education Center. The board lost one ex officio member due to the closure of Virginia Intermont College in 2014.
- Substantive changes are made in proposed § 23.1-3127 to give the board of trustees of the Southwest Virginia Higher Education Center the authority to establish and administer agreements with (i) public and private institutions of higher education in the Commonwealth to provide undergraduate-level and graduate-level instructional programs at the Center and (ii) Virginia Highlands Community College and other public and private institutions of higher education to provide freshman-level and sophomore-level courses and associate degrees. Under existing law, the Center is only permitted to establish and administer agreements with (a) public institutions of higher education in the

Commonwealth to provide graduate-level instructional programs at the Center and (b) Virginia Highlands Community College to provide associate degree instructional programs at the Center. This substantive change is intended to align the Center's powers with its current mission and practices.

- A substantive change is made in proposed § 23.1-3128 to specify that additional staff support for the functions of the Southwest Virginia Higher Education Center may be provided upon agreement by any public institution of higher education that offers courses or instructional programs at the Center. Under current law, such agreements are only permitted between the Center and Virginia Polytechnic Institute and State University, the University of Virginia, the University of Virginia's College at Wise, and Virginia Highlands Community College.
- A substantive change is made in proposed subsections A and D of § 23.1-3202 to (i) remove the restriction that members of the board of trustees of the Frontier Culture Museum of Virginia who are not residents of the Commonwealth shall serve at no expense to the Commonwealth and (ii) specify that all members are entitled to reimbursement for reasonable and necessary expenses, but only legislative members are entitled to be compensated at a per diem rate.
- A substantive change is made in proposed subsection C of § 23.1-3202 to specify that the board of trustees of the Frontier Culture Museum of Virginia may appoint an executive committee for the transaction of business in the recess of the board. Similar language is found in the enabling statutes of other boards in proposed Title 23.1. The existing statute is silent on the appointment and powers of the executive committee.
- A substantive change is made in proposed subdivision A 8 of § 23.1-3203 to remove the requirement that the Attorney General approve contracts entered into by the board of trustees of the Frontier Culture Museum of Virginia. The Attorney General does not exercise approval of such contracts.
- A substantive change is made in proposed subdivision 4 of § 23.1-3207 to remove the requirement that the Attorney General approve contracts entered into by the board of trustees of the Jamestown-Yorktown Foundation. The Attorney General does not exercise approval of such contracts.
- A substantive change is made in proposed § 23.1-3219 to specify that the Art and Architectural Review Board is authorized to exercise powers conferred to it by law in relation to additions, repairs, and alterations to the exterior of the Virginia Museum of Fine Arts. Existing law does not distinguish between the interior and the exterior of the building.

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PROPOSED ENACTMENT CLAUSES TO TITLE 23 RECODIFICATION BILL

2. That whenever any of the conditions, requirements, provisions, contents, or portions of § 2.2-108, Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, or Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, or Title 23 (§ 23-1 et seq.) of the Code of Virginia or any other title of the Code of Virginia as such titles existed prior to October 1, 2016, are transferred in the same or modified form to a new section or chapter of Title 23.1 or any other title of the Code of Virginia and whenever any such former section, article, or chapter is given a new number in Title 23.1 or any other title of the Code of Virginia, all references to § 2.2-108, Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, or Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, or Title 23 (§ 23-1 et seq.) of the Code of Virginia or any other title of the Code of Virginia shall be construed to apply to the new or renumbered section, article, or chapter containing such conditions, requirements, provisions, contents, or portions.

3. That the regulations of any department or agency affected by the revision of § 2.2-108, Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, or Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, or Title 23 (§ 23-1 et seq.) of the Code of Virginia or such other titles in effect on the effective date of this act shall continue in effect to the extent that they are not in conflict with this act and shall be deemed to be regulations adopted under this act.

4. That the provisions of § 30-152 of the Code of Virginia shall apply to the revision of Title 23 (§ 23-1 et seq.) of the Code of Virginia so as to give effect to other laws enacted by the 2016 Session of the General Assembly, notwithstanding the delay in the effective date of this act.

5. That the amendment of § 2.2-108 and the repeal of Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, and Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, and Title 23 (§ 23-1 et seq.) of the Code of Virginia, Chapter 471 of the Acts of Assembly of 1964, Chapter 396 of the Acts of Assembly of 1975, Chapter 170 of the Acts of Assembly of 1978, Chapter 217 of the Acts of Assembly of 1979, Chapter 121 of the Acts of Assembly of 1981, Chapter 329 of the Acts of Assembly of 1987, Chapter 386 of the Acts of Assembly of 1988, Chapter 454 of the Acts of Assembly of 1991, Chapters 87 and 478 of the Acts of Assembly of 2002, Chapter 658 of the Acts of Assembly of 2008, Chapters 820 and 844 of the Acts of Assembly of 2009, and Chapter 168 of the Acts of Assembly of 2013, effective as of October 1, 2016, shall not affect any act or offense done or committed, or any penalty incurred, or any right established, accrued, or accruing on or before such date, or any proceeding, prosecution, suit, or action pending on that date. Except as otherwise provided in this act, the amendment of § 2.2-108, the repeal of Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, and Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, and Title 23 (§ 23-1 et seq.) of the Code of Virginia, Chapter 471 of the Acts of Assembly of 1964, Chapter 396 of the Acts of Assembly of 1975, Chapter 170 of the Acts of Assembly of 1978, Chapter 217 of the Acts of Assembly of 1979, Chapter 121 of the Acts of Assembly of 1981, Chapter 329 of the Acts of Assembly of 1987, Chapter 386 of the Acts of Assembly of 1988, Chapter 454 of the Acts of Assembly of 1991, Chapters 87 and 478 of the Acts of Assembly of 2002, Chapter 658 of the Acts of Assembly of 2008, Chapters 820 and 844 of the Acts of Assembly of 2009, and Chapter 168 of the Acts of Assembly of 2013, and the enactment of Title 23.1 shall not apply to offenses committed prior to October 1, 2016, and prosecution for such

offenses shall be governed by the prior law, which is continued in effect for that purpose. For the purpose of this enactment, an offense was committed prior to October 1, 2016, if any of the essential elements of the offense occurred prior thereto.

6. That any notice given, recognizance taken, or process or writ issued before October 1, 2016, shall be valid although given, taken, or to be returned to a day after such date, in like manner as if Title 23.1 had been effective before the same was given, taken, or issued.

7. That if any clause, sentence, paragraph, subdivision, subsection, or section of Title 23.1 shall be adjudged in any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, subsection, or section thereof directly involved in the controversy in which the judgment shall have been rendered, and to this end the provisions of Title 23.1 are declared severable.

8. That the amendment of § 2.2-108 and the repeal of Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, and Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, and Title 23 (§ 23-1 et seq.) of the Code of Virginia, Chapter 471 of the Acts of Assembly of 1964, Chapter 396 of the Acts of Assembly of 1975, Chapter 170 of the Acts of Assembly of 1978, Chapter 217 of the Acts of Assembly of 1979, Chapter 121 of the Acts of Assembly of 1981, Chapter 329 of the Acts of Assembly of 1987, Chapter 386 of the Acts of Assembly of 1988, Chapter 454 of the Acts of Assembly of 1991, Chapters 87 and 478 of the Acts of Assembly of 2002, Chapter 658 of the Acts of Assembly of 2008, Chapters 820 and 844 of the Acts of Assembly of 2009, and Chapter 168 of the Acts of Assembly of 2013, effective as of October 1, 2016, shall not affect the validity, enforceability, or legality of any loan agreement, management agreement, memorandum of understanding, prepaid tuition contract, savings trust agreement, or other contract, or any right established or accrued under such loan agreement, management agreement, memorandum of understanding, prepaid tuition contract, savings trust agreement, or other contract, that existed prior to such amendment or repeal.

9. That the amendment of § 2.2-108 and the repeal of Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, and Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, and Title 23 (§ 23-1 et seq.) of the Code of Virginia, Chapter 471 of the Acts of Assembly of 1964, Chapter 396 of the Acts of Assembly of 1975, Chapter 170 of the Acts of Assembly of 1978, Chapter 217 of the Acts of Assembly of 1979, Chapter 121 of the Acts of Assembly of 1981, Chapter 329 of the Acts of Assembly of 1987, Chapter 386 of the Acts of Assembly of 1988, Chapter 454 of the Acts of Assembly of 1991, Chapters 87 and 478 of the Acts of Assembly of 2002, Chapter 658 of the Acts of Assembly of 2008, Chapters 820 and 844 of the Acts of Assembly of 2009, and Chapter 168 of the Acts of Assembly of 2013, effective as of October 1, 2016, shall not affect the validity, enforceability, or legality of any bond or other debt obligation authorized, issued, or outstanding prior to such amendment or repeal.

10. That Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, and Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, and Title 23 (§ 23-1 et seq.) of the Code of Virginia, Chapter 471 of the Acts of Assembly of 1964, Chapter 396 of the Acts of Assembly of 1975, Chapter 170 of the Acts of Assembly of 1978, Chapter 217 of the Acts of Assembly of 1979, Chapter 121 of the Acts of Assembly of 1981, Chapter 329 of the Acts of Assembly of 1987, Chapter 386 of the Acts of Assembly of 1988, Chapter 454 of the Acts of Assembly of 1991, Chapters 87 and 478 of the Acts of Assembly of 2002, Chapter 658 of the

Acts of Assembly of 2008, Chapters 820 and 844 of the Acts of Assembly of 2009, and Chapter 168 of the Acts of Assembly of 2013 are repealed.

11. That the provisions of this act shall not affect the existing terms of persons currently serving as members of any agency, board, authority, commission, or other entity and that appointees currently holding positions shall maintain their terms of appointment and continue to serve until such time as the existing terms might expire or become renewed. However, any new appointments made on or after October 1, 2016, shall be made in accordance with the provisions of this act.

12. That the provisions of this act shall become effective on October 1, 2016.

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~~CHAPTER 4.02.~~

~~TWO-YEAR COLLEGE TRANSFER GRANT PROGRAM.~~

Article 4.

Two-Year College Transfer Grant Program.

Drafting note: Existing Chapter 4.02 is reorganized as Article 3 of proposed Chapter 6.

~~CHAPTER 4.9 7.~~

~~VIRGINIA COLLEGE SAVINGS PLAN AND ABLE SAVINGS TRUST ACCOUNTS.~~

Drafting note: Existing Chapter 4.9, the Virginia College Savings Plan and ABLE Savings Trust Accounts, is reorganized as proposed Chapter 7.

~~§ 23-38.75~~ 23.1-700. Definitions.

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

"ABLE savings trust account" means an account established pursuant to this chapter to assist individuals and families to save private funds to support individuals with disabilities to maintain health, independence, and quality of life, with such account used to apply distributions for qualified disability expenses for an eligible individual, ~~both~~ as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

"Board" means the Board governing board of the ~~Virginia College Savings~~ Plan.

"College savings trust account" means an account established pursuant to this chapter to assist individuals and families to enhance the accessibility and affordability of higher education, with such account used to apply distributions from the account toward qualified higher education expenses at eligible educational institutions, ~~both~~ as both such terms are defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

"Contributor" means a person who contributes money to a savings trust account established pursuant to this chapter on behalf of a qualified beneficiary and who is listed as the owner of the savings trust account.

27 ["Non-Virginia public and accredited nonprofit independent or private institutions of](#)
28 [higher education" means public and accredited nonprofit independent or private institutions of](#)
29 [higher education that are located outside the Commonwealth.](#)

30 "Plan" means the Virginia College Savings Plan.

31 "Prepaid tuition contract" means the contract entered into by the ~~Board~~ [board](#) and a
32 purchaser pursuant to this chapter for the advance payment of tuition at a fixed, guaranteed level
33 ~~by the purchaser~~ for a qualified beneficiary to attend any ~~two-year or four-year~~ public institution
34 of higher education ~~in the Commonwealth~~ to which the qualified beneficiary is admitted.

35 ["Public institution of higher education" has the same meaning as provided in § 23.1-100.](#)

36 "Purchaser" means a person who makes or is obligated to make advance payments in
37 accordance with a prepaid tuition contract and who is listed as the owner of the prepaid tuition
38 contract.

39 "Qualified beneficiary" or "beneficiary" means (i) a resident of the Commonwealth, as
40 determined by the ~~Board~~ [board](#), who is the beneficiary of a prepaid tuition contract and who
41 may apply advance tuition payments to tuition as set forth in this chapter; (ii) a beneficiary of a
42 prepaid tuition contract purchased by a resident of the Commonwealth, as determined by the
43 [Board](#) [board](#), who may apply advance tuition payments to tuition as set forth in this chapter; or
44 (iii) a beneficiary of a savings trust account established pursuant to this chapter.

45 "Savings trust account" means an ABLE savings trust account or a college savings trust
46 account.

47 "Savings trust agreement" means the agreement entered into by the ~~Board~~ [board](#) and a
48 contributor ~~establishing that establishes~~ a savings trust account.

49 "Tuition" means the quarter, semester, or term charges imposed for undergraduate
50 tuition by any ~~two-year or four-year~~ public institution of higher education ~~in the Commonwealth~~
51 and all mandatory fees required as a condition of enrollment of all students. ~~A~~ [At the discretion](#)
52 [of the board, a](#) beneficiary may apply benefits under a prepaid tuition contract and distributions
53 from a savings trust account toward graduate-level tuition and toward tuition costs at such

54 eligible educational institutions, as that term is defined in 26 U.S.C. § 529 or any other
55 applicable section of the Internal Revenue Code of 1986, as amended, ~~as determined by the~~
56 ~~Board in its sole discretion.~~

57 **Drafting note: Technical changes.**

58 § ~~23-38.76~~ 23.1-701. ~~Virginia College Savings~~ Plan established; moneys; governing
59 board; ~~terms~~.

60 A. To enhance the accessibility and affordability of higher education for all citizens of
61 the Commonwealth, ~~there is hereby~~ and assist families and individuals to save for qualified
62 disability expenses, the Virginia College Savings Plan is established as a body politic and
63 corporate and an independent agency of the Commonwealth, ~~the Virginia College Savings Plan~~
64 ~~(the Plan)~~.

65 ~~Certain moneys~~ B. Moneys of the Plan that are contributions to savings trust accounts
66 made pursuant to this chapter, except as otherwise authorized or provided in this chapter, shall
67 be deposited as soon as practicable in a separate account or separate accounts in banks or trust
68 companies organized under the laws of the Commonwealth, national banking associations,
69 federal home loan banks, or, to the extent ~~then~~ permitted by law, savings institutions organized
70 under the laws of the Commonwealth or the United States. The savings program moneys in such
71 accounts shall be paid out on checks, drafts payable on demand, electronic wire transfers, or
72 other means authorized by officers or employees of the Plan.

73 C. All other moneys of the Plan, including payments received pursuant to prepaid tuition
74 contracts, bequests, endowments, grants from the United States government or its agencies or
75 instrumentalities, and any other available public or private sources of funds, ~~public or private,~~
76 shall be first deposited in the state treasury in a special nonreverting fund (the Fund). Such
77 moneys ~~then~~ shall then be deposited as soon as practicable in a separate account or separate
78 accounts in banks or trust companies organized under the laws of the Commonwealth, national
79 banking associations, federal home loan banks, or, to the extent ~~then~~ permitted by law, savings
80 institutions organized under the laws of the Commonwealth or the United States. Benefits

81 related to prepaid tuition contracts and Plan operating expenses shall be paid from the Fund.
82 Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund
83 but shall remain in the Fund. Interest and income earned from the investment of such funds shall
84 remain in the Fund and be credited to it.

85 ~~B.-D.~~ The Plan shall be administered by an 11-member ~~Board, as follows:~~ board that
86 consists of (i) the Director director of the State Council of Higher Education for Virginia or his
87 designee; the Chancellor of the Virginia Community College System or his designee; the State
88 Treasurer or his designee; and the State Comptroller or his designee; all of whom shall serve
89 ex officio with voting privileges, and (ii) seven nonlegislative citizen members, four ~~to of whom~~
90 shall be appointed by the Governor, one ~~to of whom shall~~ be appointed by the Senate
91 Committee on Rules ~~and,~~ two ~~to of whom shall~~ be appointed by the Speaker of the House of
92 Delegates, ~~with and all of whom shall have~~ significant experience in finance, accounting, law,
93 or investment management.

94 ~~Appointments~~ E. Members appointed to the board shall ~~be for~~ serve terms of four years,
95 ~~except that appointments to fill vacancies. Vacancies occurring other than by expiration of a~~
96 term shall be filled for the unexpired ~~terms term.~~ No ~~person shall be member~~ appointed to the
97 board shall serve ~~for or during~~ more than two ~~successive consecutive~~ four-year terms, ~~but after~~
98 ~~the expiration of a term of three years or less, or after the expiration of the remainder of a term~~
99 ~~to which appointed to fill a vacancy, two additional terms may be served by such member if~~
100 appointed thereto; however, a member appointed to serve an unexpired term is eligible to serve
101 two consecutive four-year terms immediately succeeding such unexpired term.

102 F. Ex officio members of the ~~Board board~~ shall serve terms coincident with their terms
103 of office.

104 ~~C.-G.~~ Members of the ~~Board board~~ shall receive no compensation but shall be
105 reimbursed for actual expenses incurred in the performance of their duties.

106 H. The ~~Board board~~ shall elect from its membership a chairman and a vice-chairman
107 annually.

108 I. A majority of the members of the Board board shall constitute a quorum.

109 **Drafting note: Technical changes.**

110 § ~~23-38.79:1~~ 23.1-702. Advisory committees to the Board board; membership; terms;
111 qualifications; duties.

112 A. To ~~further~~ assist the Board board in fulfilling its fiduciary duty as trustee of the funds
113 of the Plan and to assist the chief executive officer in directing, managing, and administering the
114 Plan's assets, the Board board shall appoint an Investment Advisory Committee to provide
115 sophisticated, objective, and prudent investment advice and direction.

116 1. Members of the Investment Advisory Committee shall demonstrate extensive
117 experience in any one or more of the following areas: domestic or international equity or fixed-
118 income securities, cash management, alternative investments, institutional real estate
119 investments, or managed futures.

120 2. The Investment Advisory Committee shall (i) review, evaluate, and monitor
121 investments and investment opportunities; (ii) make appropriate recommendations to the Board
122 board about such investments and investment opportunities; (iii) make appropriate
123 recommendations to the Board board about overall asset allocation; and (iv) perform such other
124 duties as the Board board may delegate to the Investment Advisory Committee.

125 B. To ~~further~~ assist the Board board in fulfilling its responsibilities relating to the
126 integrity of the Plan's financial statements, financial reporting process, and systems of internal
127 accounting and financial controls, the Board board shall appoint an Audit and Actuarial
128 Committee.

129 1. Members of the Audit and Actuarial Committee shall demonstrate an understanding of
130 generally accepted accounting principles, generally accepted auditing standards, enterprise risk
131 management principles, and financial statements, and evidence an ability to assess the general
132 application of such principles to the Plan's activities. The members should have experience in
133 preparing, auditing, analyzing, or evaluating financial statements of the same complexity as

134 those of the Plan, and an understanding of internal controls and procedures for financial
135 reporting.

136 2. In order to establish and maintain its effectiveness and independence, the following
137 persons individuals shall not be members of the Audit and Actuarial Committee: (i) current Plan
138 employees; (ii) individuals who have been employees of the Plan in any of the prior three fiscal
139 years; and (iii) immediate family members of an individual currently employed as an officer of
140 the Plan or who has been employed in such a capacity within the past three fiscal years.

141 3. The Audit and Actuarial Committee shall (i) review, examine, and monitor the Plan's
142 accounting and financial reporting processes and systems of internal controls; (ii) review and
143 examine financial statements and financial disclosures and discuss any findings with the Plan's
144 senior management; (iii) make appropriate recommendations and reports to the Board board;
145 and (iv) perform such other duties as the Board may delegate to the Committee.

146 4. The Audit and Actuarial Committee shall also monitor the Plan's external audit
147 function by (i) (a) participating in the retention, review, and discharge of independent auditors;
148 (ii) (b) discussing the Plan's financial statements and accounting policies with independent
149 auditors; and (iii) (c) reviewing the independence of independent auditors; and (v) perform such
150 other duties as the board may delegate to the Audit and Actuarial Committee.

151 C. In addition, the Board The board may appoint such other advisory committees as it
152 deems necessary and shall set the qualifications for members of any other such advisory
153 committee shall be set by the Board by resolution.

154 D. Advisory committee members shall serve at the pleasure of the Board board and may
155 be removed by a majority vote of the Board board.

156 E. Members of advisory committees shall receive no compensation but shall be
157 reimbursed for actual expenses incurred in the performance of their duties.

158 F. The disclosure requirements of subsection B of § 2.2-3114 of the State and Local
159 Government Conflict of Interests Act shall apply to any each member of any advisory
160 committee established pursuant to this section who is not also a Board board member.

161 G. The recommendations of an advisory committee are not binding upon the ~~Board~~
162 board or the designee appointed by the ~~Board~~ board to make investment decisions pursuant to
163 subsections A and B of § ~~23-38.80~~ 23.1-706.

164 **Drafting note: Technical changes.**

165 § ~~23-38.79~~ 23.1-703. Chief executive officer; ~~qualifications; duties of the Plan.~~

166 A. The ~~Board~~ board shall employ a chief executive officer to direct, manage, and
167 administer the Plan, ~~and who shall be authorized to.~~ The chief executive officer may employ
168 such staff as are necessary to accomplish the Plan's stated objectives.

169 B. The chief executive officer shall demonstrate (i) extensive experience in some or all
170 of the following areas: management, finance, law, regulatory affairs ~~and/or, and~~ investments,
171 and (ii) such other qualifications as the ~~Board~~ board may set.

172 C. The chief executive officer shall, in addition to such other duties as the ~~Board~~ board
173 may establish, (i) oversee the development, structure, evaluation, and implementation of the
174 Plan's strategic goals and objectives; (ii) facilitate communication among and between the
175 ~~Board~~ board, advisory committees, employees, account owners, beneficiaries, and outside
176 entities interested in the Plan; (iii) enhance the ~~Board's~~ board's ability to make effective and
177 prompt decisions in all matters related to the administration of the Plan; (iv) with the assistance
178 of the Investment Advisory Committee appointed by the ~~Board~~ board and investment
179 consultants, direct, manage, and administer the Plan's assets and programs; and (v) report to the
180 board periodically and as requested ~~to by~~ the ~~Board~~ board.

181 **Drafting note: Technical changes.**

182 § ~~23-38.77~~ 23.1-704. Powers and duties of ~~Board~~ the board.

183 The ~~Board~~ board shall ~~administer:~~

184 1. Administer the Plan established by this chapter ~~and shall develop;~~

185 2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as
186 defined in § ~~23-38.75~~ 23.1-700, at a fixed, guaranteed level for application at a ~~two-year or four-~~
187 ~~year~~ public institution of higher education ~~in the Commonwealth;~~ (ii) contributions to college

188 savings trust accounts established pursuant to this chapter on behalf of a qualified beneficiary in
189 order to apply distributions from the account toward qualified higher education expenses at
190 eligible educational institutions, ~~both~~ as both such terms are defined in § 529 of the Internal
191 Revenue Code of 1986, as amended, or other applicable federal law; and (iii) contributions to
192 ABLE savings trust accounts established pursuant to this chapter on behalf of a qualified
193 beneficiary in order to apply distributions from the account toward qualified disability expenses
194 for an eligible individual, ~~both~~ as both such terms are defined in § 529A of the Internal Revenue
195 Code of 1986, as amended, or other applicable federal law. ~~In addition, the Board shall have the~~
196 ~~power and duty to:~~

197 1-3. Invest moneys in the Plan in any instruments, obligations, securities, or property
198 deemed appropriate by the ~~Board~~ board;

199 2-4. Develop requirements, procedures, and guidelines regarding prepaid tuition
200 contracts and savings trust accounts, including, ~~but not limited to,~~ residency and other eligibility
201 requirements; the number of participants in the Plan; the termination, withdrawal, or transfer of
202 payments under a prepaid tuition contract or savings trust account; time limitations for the use
203 of tuition benefits or savings trust account distributions; and payment schedules;

204 3-5. Enter into contractual agreements, including contracts for legal, actuarial, financial,
205 and consulting services and contracts with other states to provide savings trust accounts for
206 residents of contracting states;

207 4-6. Procure insurance as determined appropriate by the board (i) against any loss in
208 connection with the Plan's property, assets, or activities and (ii) indemnifying ~~Board~~ board
209 members from personal loss or accountability from liability arising from any action or inaction
210 as a ~~Board~~ board member;

211 5-7. Make arrangements with ~~two-year and four-year~~ public institutions ~~in the~~
212 Commonwealth of higher education to fulfill obligations under prepaid tuition contracts and ~~to~~
213 apply college savings trust account distributions, including, ~~but not limited to,~~ (i) payment from
214 the Plan of the then actual in-state undergraduate tuition cost on behalf of a qualified beneficiary

215 of a prepaid tuition contract to the institution ~~in~~ to which the beneficiary is admitted and at
216 which the beneficiary is enrolled and (ii) application of such benefits towards graduate-level
217 tuition and ~~towards~~ toward tuition costs at such eligible educational institutions, as that term is
218 defined in 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of
219 1986, as amended, as determined by the Board in its sole discretion;

220 ~~6-8.~~ Develop and implement scholarship ~~and/or or~~ matching grant programs, or both, as
221 the ~~Board~~ board may deem appropriate, to further its goal of making higher education more
222 affordable and accessible to all citizens of the Commonwealth;

223 ~~7-9.~~ Apply for, accept, and expend gifts, grants, or donations from public or private
224 sources to enable it to carry out its objectives;

225 ~~8. Promulgate~~ 10. Adopt regulations and procedures and ~~to~~ perform any act or function
226 consistent with the purposes of this chapter; and

227 ~~9-11.~~ Reimburse, at its option, all or part of the cost of employing legal counsel and
228 such other costs as are demonstrated to have been reasonably necessary for the defense of any
229 Board board member, officer, or employee of the Plan upon the acquittal, dismissal of charges,
230 nolle prosequi, or any other final disposition concluding the innocence of such member, officer,
231 or employee who is brought before any regulatory body, summoned before any grand jury,
232 investigated by any law-enforcement agency, arrested, indicted, or otherwise prosecuted on any
233 criminal charge arising out of any act committed in the discharge of his official duties ~~which~~
234 that alleges a violation of state or federal securities laws. The ~~Board~~ board shall provide for the
235 payment of such legal fees and expenses out of funds appropriated or otherwise available to the
236 Board board.

237 **Drafting note: Technical changes are made, including removing "but not limited**
238 **to" when used in conjunction with "including" in subdivisions 4 and 7 on the basis of § 1-**
239 **218, which states "'Includes' means includes, but not limited to."**

240 ~~§ 23-38.78~~ 23.1-705. Board actions not a debt of Commonwealth.

241 A. As used in this section, "current obligations of the Plan" means amounts required for
242 the payment of contract benefits or other obligations of the Plan, the maintenance of the Plan,
243 and operating expenses for the current biennium.

244 B. No act or undertaking of the ~~Board shall be deemed to constitute~~ board is a debt ~~of the~~
245 ~~Commonwealth or any political subdivision thereof,~~ or a pledge of the full faith and credit of the
246 Commonwealth or ~~of~~ any political subdivision, ~~but shall be of the Commonwealth, and all such~~
247 acts and undertakings are payable solely from the Plan.

248 B.-C. Notwithstanding the provisions of subsection ~~A B~~, in order to ensure that the Plan
249 is able to meet its current obligations, the Governor shall include in the budget bills submitted
250 pursuant to § 2.2-1509 a sum sufficient appropriation for the purpose of ensuring that the Plan
251 can meet the current obligations of the Plan. Any sums appropriated by the General Assembly
252 for such purpose shall be deposited into the Fund. All amounts paid into the Fund pursuant to
253 this subsection shall constitute and be accounted for as advances by the Commonwealth to the
254 Plan and, subject to the rights of the Plan's contract holders, shall be repaid to the
255 Commonwealth without interest from available operating revenue of the Plan in excess of
256 amounts required for the payment of current obligations of the Plan. ~~As used in this section,~~
257 ~~"current obligations of the Plan" means amounts required for the payment of contract benefits or~~
258 ~~other obligations of the Plan, the maintenance of the Plan, and operating expenses for the~~
259 ~~current biennium.~~

260 **Drafting note: Technical changes are made, including moving a definition to the**
261 **beginning of the proposed section.**

262 § ~~23-38.80~~ 23.1-706. Standard of care; investment and administration of the Plan.

263 A. In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing
264 property for the benefit of the Plan, the ~~Board~~ board, and any person, investment manager, or
265 committee to whom the ~~Board~~ board delegates any of its investment authority, shall act as
266 trustee and shall exercise the judgment of care under the circumstances then prevailing, ~~which~~
267 that persons of prudence, discretion, and intelligence exercise in the management of their own

268 affairs, not in regard to speculation but to the permanent disposition of funds, considering the
269 probable income as well as the probable safety of their capital.

270 If the annual accounting and audit required by § ~~23-38.85~~ 23.1-710 reveal that there are
271 insufficient funds to ensure the actuarial soundness of the Plan, the ~~Board shall be authorized to~~
272 board may adjust the terms of subsequent prepaid tuition contracts, arrange refunds for current
273 purchasers to ensure actuarial soundness, or take such other action the ~~Board~~ board deems
274 appropriate.

275 B. The assets of the Plan shall be preserved, invested, and expended solely pursuant to
276 and for the purposes of this chapter and shall not be loaned or otherwise transferred or used by
277 the Commonwealth for any other purpose. Within the standard ~~prescribed of care set forth~~ in
278 subsection A, the ~~Board,~~ board and any person, investment manager, or committee to whom the
279 Board board delegates any of its investment authority, ~~is authorized to~~ may acquire and retain
280 every any kind of property and ~~every any~~ kind of investment, ~~specifically~~ including ~~but not~~
281 ~~limited to~~ (i) debentures and other corporate obligations of foreign or domestic corporations; (ii)
282 common or preferred stocks traded on foreign or domestic stock exchanges; (iii) not less than all
283 of the stock or 100 percent ownership of a corporation or other entity organized by the ~~Board~~
284 board under the laws of the Commonwealth for the purposes of acquiring and retaining real
285 property that the ~~Board board~~ is authorized under this chapter to acquire and retain; and (iv)
286 securities of any open-end or closed-end management type investment company or investment
287 trust registered under the federal Investment Company Act of 1940, as amended, including ~~such~~
288 investment companies or investment trusts ~~which that~~, in turn, invest in the securities of such
289 investment companies or investment trusts, ~~which that~~ persons of prudence, discretion, and
290 intelligence acquire or retain for their own account. ~~Within the limitations of the foregoing~~
291 ~~standard, the Board~~ The board may retain property properly acquired, without time limitation
292 and without regard to its suitability for original purchase. ~~This section shall not be construed to~~
293 ~~prohibit the investment of the Plan, by purchase or otherwise, in bonds, notes, or other~~
294 ~~obligations of the Commonwealth or its agencies and instrumentalities.~~

295 All provisions of this subsection shall apply to the portion of the Plan assets attributable
296 to savings trust account contributions and the earnings ~~thereon~~ on such contributions.

297 C. The selection of services related to the operation and administration of the Plan,
298 including, ~~but not limited to,~~ contracts or agreements for the management, purchase, or sale of
299 authorized investments or actuarial, recordkeeping, or consulting services, ~~shall be~~ are governed
300 by the ~~foregoing~~ standard of care set forth in subsection A and ~~shall are~~ not be subject to the
301 provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

302 D. No ~~Board board~~ board member ~~nor any or~~ person, investment manager, or committee to
303 whom the ~~Board board~~ board delegates any of its investment authority who acts ~~within~~ in accordance
304 with the standard of care set forth in subsection A shall be held personally liable for losses
305 suffered by the Plan on investments made pursuant to this chapter.

306 E. To the extent necessary to lawfully administer the Plan and in order to comply with
307 federal, state, and local tax reporting requirements, the Plan may obtain all necessary social
308 security account or tax identification numbers and such other data as the Plan deems necessary
309 for such purposes, whether from a contributor ~~or, a~~ purchaser, or ~~from~~ another state agency.

310 F. This section shall not be construed to prohibit the Plan's investment, by purchase or
311 otherwise, in bonds, notes, or other obligations of the Commonwealth or its agencies and
312 instrumentalities.

313 **Drafting note: Technical changes are made, including removing "but not limited**
314 **to" when used in conjunction with "including" in subsections B and C on the basis of § 1-**
315 **218, which states "'Includes' means includes, but not limited to."**

316 § ~~23-38.81~~ 23.1-707. Prepaid tuition contracts and ~~college and ABLE~~ savings trust
317 agreements; ~~terms; termination; etc.~~

318 A. Each prepaid tuition contract made pursuant to this chapter shall include the
319 following terms and provisions:

320 1. The amount of payment or payments and the number of payments required from a
321 purchaser on behalf of a qualified beneficiary;

322 2. The terms and conditions under which purchasers shall remit payments, including the
323 dates of such payments;

324 3. Provisions for late payment charges, defaults, withdrawals, refunds, and any penalties;

325 4. The name and date of birth of the qualified beneficiary on whose behalf the contract is
326 made;

327 5. Terms and conditions for a substitution for the qualified beneficiary originally named;

328 6. Terms and conditions for termination of the contract, including any refunds,
329 withdrawals, or transfers of tuition prepayments, and the name of the person ~~or persons~~ entitled
330 to terminate the contract;

331 7. The time period during which the qualified beneficiary ~~must~~ is required to claim
332 benefits from the Plan;

333 8. The number of credit hours or quarters, semesters, or terms contracted for by the
334 purchaser;

335 9. All other rights and obligations of the purchaser and the trust; and

336 10. Any other terms and conditions ~~which that~~ the ~~Board~~ board deems necessary or
337 appropriate, including those necessary to conform the contract with the requirements of Internal
338 Revenue Code § 529, as amended, which specifies the requirements for qualified state tuition
339 programs.

340 B. Each college savings trust agreement made pursuant to this chapter shall include the
341 following terms and provisions:

342 1. The maximum and minimum contribution allowed on behalf of each qualified
343 beneficiary for the payment of qualified higher education expenses at eligible institutions, ~~both~~
344 as both such terms are defined in § 529 of the Internal Revenue Code of 1986, as amended, or
345 other applicable federal law;

346 2. Provisions for withdrawals, refunds, transfers, and any penalties;

347 3. The name, address, and date of birth of the qualified beneficiary on whose behalf the
348 savings trust account is opened;

- 349 4. Terms and conditions for a substitution for the qualified beneficiary originally named;
- 350 5. Terms and conditions for termination of the account, including any refunds,
351 withdrawals, or transfers, and applicable penalties, and the name of the person ~~or persons~~
352 entitled to terminate the account;
- 353 6. The time period during which the qualified beneficiary ~~must~~ is required to use benefits
354 from the savings trust account;
- 355 7. All other rights and obligations of the contributor and the Plan; and
- 356 8. Any other terms and conditions ~~which that~~ the ~~Board~~ board deems necessary or
357 appropriate, including those necessary to conform the savings trust account with the
358 requirements of § 529 of the Internal Revenue Code of 1986, as amended, or other applicable
359 federal law.
- 360 C. Each ABLE savings trust agreement made pursuant to this chapter shall include the
361 following terms and provisions:
- 362 1. The maximum and minimum annual contribution and maximum account balance
363 allowed on behalf of each qualified beneficiary for the payment of qualified disability expenses,
364 as defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable
365 federal law;
- 366 2. Provisions for withdrawals, refunds, transfers, return of excess contributions, and any
367 penalties;
- 368 3. The name, address, and date of birth of the qualified beneficiary on whose behalf the
369 savings trust account is opened;
- 370 4. Terms and conditions for a substitution for the qualified beneficiary originally named;
- 371 5. Terms and conditions for termination of the account, including any transfers to the
372 state upon the death of the qualified beneficiary, refunds, withdrawals, transfers, applicable
373 penalties, and the name of the person ~~or persons~~ entitled to terminate the account;
- 374 6. The time period during which the qualified beneficiary ~~must~~ is required to use benefits
375 from the savings trust account;

376 7. All other rights and obligations of the contributor and the Plan; and
377 8. Any other terms and conditions that the ~~Board~~ board deems necessary or appropriate,
378 including those necessary to conform the savings trust account with the requirements of § 529A
379 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

380 D. In addition to the provisions required by subsection A, each prepaid tuition contract
381 shall include provisions for the application of tuition prepayments (i) at accredited, nonprofit,
382 independent or private institutions of higher education ~~located in Virginia~~, including actual
383 interest and income earned on such prepayments, and (ii) at non-Virginia public and ~~at~~
384 accredited, nonprofit, independent or private institutions of higher education ~~located in other~~
385 states, including principal and reasonable return on such principal as determined by the ~~Board~~
386 board. Payments authorized for accredited, nonprofit, independent or private institutions ~~located~~
387 in Virginia may of higher education shall not exceed the projected highest payment made for
388 tuition at a public institution of higher education ~~in Virginia~~ in the same academic year, less a
389 fee to be determined by the ~~Board~~ board. Payments authorized for non-Virginia public and ~~for~~
390 accredited, nonprofit, independent or private institutions of higher education ~~located in other~~
391 states may shall not exceed the projected average payment made for tuition at a public
392 institution of higher education ~~in Virginia~~ in the same academic year, less a fee to be determined
393 by the ~~Board~~ board.

394 E. All prepaid tuition contracts and savings trust agreements shall specifically provide
395 that, if after a specified period of time the contract or savings trust agreement has not been
396 terminated ~~nor and~~ the qualified beneficiary's rights have not been exercised, the ~~Board~~ board,
397 after making reasonable effort to contact the purchaser or contributor and the qualified
398 beneficiary or their agents, shall report such unclaimed moneys to the State Treasurer pursuant
399 to § 55-210.12.

400 F. Notwithstanding any provision of law to the contrary, money in the Plan ~~shall be is~~
401 exempt from creditor process and ~~shall is~~ not ~~be~~ liable to attachment, garnishment, or other
402 process, ~~nor shall it or~~ be seized, taken, appropriated, or applied by any legal or equitable

403 process or operation of law to pay any debt or liability of any purchaser, contributor, or
404 beneficiary, ~~provided, however, except~~ that the state of residence of the beneficiary of an ABLE
405 savings trust account shall be a creditor of such account in the event of the death of the
406 beneficiary.

407 G. No prepaid tuition contract or savings trust account shall be assigned for the benefit
408 of creditors, used as security or collateral for any loan, or otherwise subject to alienation, sale,
409 transfer, assignment, pledge, encumbrance, or charge.

410 H. The ~~Board's~~ board's decision on any dispute, claim, or action arising out of or related
411 to a prepaid tuition contract or savings trust agreement made or entered into pursuant to this
412 chapter or benefits ~~thereunder~~ under such prepaid tuition contract or savings trust agreement
413 shall be considered a case decision as defined in § 2.2-4001 and all proceedings related ~~thereto~~
414 to such dispute, claim, or action shall be conducted pursuant to Article 3 (§ 2.2-4018 et seq.) of
415 the Administrative Process Act. Judicial review shall be ~~exclusively~~ provided exclusively
416 pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

417 **Drafting note: Technical changes are made, including removing "or persons" in**
418 **subdivisions A 6, B 5, and C 5 pursuant to § 1-227, which states that throughout the Code**
419 **any word in the singular includes the plural and vice versa.**

420 ~~§ 23-38.82.~~

421 **Drafting note: Repealed by Acts 1997, cc. 785 and 861.**

422 ~~§ 23-38.83~~ 23.1-708. Plan property tax Assets of the Plan exempt from taxation.

423 The assets of the Plan and ~~its~~ their income ~~shall be~~ are exempt from state and local
424 taxation.

425 **Drafting note: Technical changes.**

426 ~~§ 23-38.84~~ 23.1-709. Annual report.

427 ~~The Board~~ On or before December 15, the board shall post on its website and submit to
428 the Governor, the Senate Committee on Finance, and the House Committees on Appropriations
429 and Finance, an annual statement ~~on or before December 15~~ of the receipts, disbursements, and

430 current investments of the Plan for the preceding year. The report shall set forth a complete
431 operating and financial statement covering the operation of the Plan during the year and shall
432 include a statement of projected receipts, disbursements, investments, and costs for the further
433 operation of the Plan.

434 **Drafting note: Technical changes.**

435 § ~~23-38.85~~ 23.1-710. Forms and audit of accounts and records; ~~audit of same~~.

436 The accounts and records of the ~~Board~~ board showing the receipt and disbursement of
437 funds from whatever source derived shall be in such form as the Auditor of Public Accounts
438 prescribes, provided that such accounts ~~shall~~ correspond as nearly as possible to the accounts
439 and records for such matters maintained by corporate enterprises. The Auditor of Public
440 Accounts, or his legally authorized representatives, shall annually audit the accounts of the
441 Board board, and the board shall bear the cost of such audit services ~~as shall be required shall be~~
442 borne by the Board.

443 **Drafting note: Technical changes.**

444 § ~~23-38.86~~ 23.1-711. Admission to institutions not guaranteed; coverage limitations.

445 Nothing in this chapter ~~nor or~~ in any prepaid tuition contract or savings trust agreement
446 entered into pursuant to this chapter shall be construed as a promise or guarantee ~~by~~:

447 1. By the Board board or the Commonwealth of any admission to, continued enrollment
448 at, or graduation ~~at from~~ any public ~~two-year or four-year~~ institution of higher education ~~in the~~
449 Commonwealth.

450 ~~Nothing in this chapter or in any prepaid tuition contract entered into pursuant to this~~
451 ~~chapter shall be construed as a promise or guarantee that~~:

452 2. That the beneficiary's cost of tuition at an institution of higher education other than a
453 public institution of higher education will be covered in full by the proceeds of the beneficiary's
454 tuition credits.

455 ~~Nothing in this chapter or in any savings trust agreement entered into pursuant to this~~
456 ~~chapter shall be construed as a promise or guarantee that~~; or

457 | 3. That any qualified higher education expense ~~shall~~ will be covered in full by
458 | contributions to or earnings on any savings trust account.

459 | **Drafting note: Technical changes.**

460 | § ~~23-38.87~~ 23.1-712. Payroll deductions.

461 | The Commonwealth ~~and its, the~~ agencies and localities of the Commonwealth and their
462 | subdivisions, and any employer in the Commonwealth are authorized to agree, by contract or
463 | otherwise, to remit payments or contributions on behalf of an employee toward prepaid tuition
464 | contracts or savings trust accounts through payroll deductions.

465 | **Drafting note: Technical changes.**

466 | § ~~23-38.87-1~~ 23.1-713. Liberal construction of chapter.

467 | Insofar as the provisions of this chapter are inconsistent with the provisions of any other
468 | general, special, or local law, ~~general, special, or local~~, the provisions of this chapter shall ~~be~~
469 | controlling control. This chapter ~~shall also constitute~~ constitutes full and complete authority,
470 | without regard to the provisions of any other law, for ~~the doing of performing~~ the acts ~~and~~
471 | ~~things herein~~ authorized in this chapter and shall be liberally construed to effect the purposes
472 | hereof of this chapter.

473 | **Drafting note: Technical changes.**

1 TITLE 2.2. ADMINISTRATION OF GOVERNMENT.

2 CHAPTER 1.

3 GOVERNOR.

4 § 2.2-108. Removal of members of certain boards, commissions, etc.

5 A. ~~Notwithstanding any provision of law to the contrary, the Governor may remove from~~
6 ~~office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the~~
7 ~~board of any public institution of higher education or other educational institution in Virginia,~~
8 ~~and fill the vacancy resulting from the removal. Each appointment to fill a vacancy shall be~~
9 ~~subject to confirmation by the General Assembly.~~

10 B. Notwithstanding any provision of law to the contrary, the Governor may remove from
11 office for malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism,
12 conflict of interests, failure to carry out the policies of the Commonwealth as established in the
13 Constitution or by the General Assembly, or refusal to carry out a lawful directive of the
14 Governor any member of any board, commission, council or other collegial body established by
15 the General Assembly in the executive branch of state government except those boards provided
16 for in subsection ~~A C~~ of § 23.1-1300, and fill the vacancy resulting from the removal subject to
17 confirmation by the General Assembly.

18 C. B. The Governor shall set forth in a written public statement his reasons for removing
19 any member pursuant to this section at the time the removal occurs. The Governor ~~shall be is~~ the
20 sole judge of the sufficiency of the cause for removal as set forth in this section.

21 **Drafting note: The provisions of subsection A of this section regarding the removal**
22 **of board members from public institutions of higher education or other educational**
23 **institutions are moved into proposed subsections C and D of § 23.1-1300 and §§ 23.1-3100**
24 **and 23.1-3200.**

25 TITLE 22.1. EDUCATION.

26 CHAPTER 2.

27 BOARD OF EDUCATION.

54 A. ~~In order to (i) stimulate the development of innovative programs for preschool~~
55 ~~through grade 12 students; (ii) provide opportunities for innovative instruction and assessment;~~
56 ~~(iii) provide teachers with a vehicle for establishing schools with alternative innovative~~
57 ~~instruction and school scheduling, management, and structure; (iv) encourage the use of~~
58 ~~performance-based educational programs; (v) establish high standards for both teachers and~~
59 ~~administrators; (vi) encourage greater collaboration between education providers from preschool~~
60 ~~to the postsecondary level; and (vii) develop models for replication in other public schools,~~
61 ~~college partnership laboratory schools may be established in Virginia as provided in this~~
62 ~~chapter.~~

63 B. ~~As used in this chapter,~~ unless the context requires a different meaning:

64 "At-risk pupil" means a student having a physical, emotional, intellectual,
65 socioeconomic, or cultural risk factor, as defined in Board ~~of Education~~ criteria, ~~which that~~
66 research indicates may negatively influence educational success.

67 "College partnership laboratory school" means a public, nonsectarian, nonreligious
68 school in the Commonwealth established by a public institution of higher education or private
69 institution of higher education that operates a teacher education program approved by the Board
70 ~~of Education.~~

71 "Governing board" means the board of a college partnership laboratory school that is
72 ~~party to the contract with the Board of Education, with the responsibility of~~ responsible for
73 creating, managing, and operating the college partnership laboratory school; and whose
74 members have been selected by the institution of higher education ~~establishing that establishes~~
75 the college partnership laboratory school. The governing board shall be under the control of the
76 institution of higher education ~~establishing that establishes~~ the college partnership laboratory
77 school.

78 B. College partnership laboratory schools may be established as provided in this chapter
79 to (i) stimulate the development of innovative programs for preschool through grade 12
80 students; (ii) provide opportunities for innovative instruction and assessment; (iii) provide

81 teachers with a vehicle for establishing schools with alternative innovative instruction and
82 school scheduling, management, and structure; (iv) encourage the use of performance-based
83 educational programs; (v) establish high standards for both teachers and administrators; (vi)
84 encourage greater collaboration between education providers from preschool to the
85 postsecondary level; and (vii) develop models for replication in other public schools.

86 **Drafting note: Technical changes are made, including moving chapter definitions to**
87 **the beginning of the section pursuant to Code style preference.**

88 § ~~23-299.1~~ 22.1-349.2. College Partnership Laboratory School Fund ~~established~~.

89 There is hereby created in the state treasury a special nonreverting fund to be known as
90 the College Partnership Laboratory School Fund, ~~hereafter~~ referred to in this section as "the
91 Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated in
92 accordance with the general appropriation act and any gifts, grants, bequests, or donations from
93 public or private sources shall be paid into the state treasury and credited to the Fund. Interest
94 earned on moneys in the Fund shall remain in the Fund and be credited to the Fund. Any
95 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not
96 revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely
97 for the purposes of establishing or supporting college partnership laboratory schools ~~in the~~
98 ~~Commonwealth~~ that stimulate the development of alternative education programs for preschool
99 through grade 12 students by providing opportunities for innovative instruction and greater
100 cooperation and coordination between institutions of higher education and preschool through
101 grade 12 education systems. Expenditures and disbursements from the Fund shall be made by
102 the State Treasurer on warrants issued by the Comptroller upon written request signed by the
103 Superintendent of Public Instruction. The Board of Education shall establish criteria for making
104 distributions from the Fund to a college partnership laboratory school requesting moneys from
105 the Fund and may issue guidelines governing the Fund as it deems necessary and appropriate.

106 **Drafting note: Technical changes.**

107 § ~~23-299.2~~ 22.1-349.3. Establishment and operation of college partnership laboratory
108 schools; requirements.

109 A. A college partnership laboratory school ~~shall be is~~ subject to all federal and state laws
110 and regulations and constitutional provisions prohibiting discrimination on the basis of
111 disability, race, creed, color, gender, national origin, religion, ancestry, or need for special
112 education services.

113 B. Enrollment in college partnership laboratory schools shall be open through a lottery
114 process on a space-available basis to any ~~child~~ student who is deemed to reside within the
115 Commonwealth ~~through a lottery process on a space-available basis~~. A waiting list shall be
116 established if adequate space is not available to accommodate all students whose parents have
117 requested to be entered in the lottery process. Such waiting list shall also be prioritized through
118 a lottery process, and parents shall be informed of their student's position on the list. For college
119 partnership laboratory schools that form a collaborative partnership, ~~in accordance with~~
120 subsection F, with one or more ~~public~~ local school divisions in accordance with subsection G,
121 enrollment in the college partnership laboratory school shall be administered by one of the
122 partnering divisions.

123 B. C. A college partnership laboratory school shall be administered and managed by a
124 governing board. Pursuant to a contract and as specified in § ~~23-299.3~~ 22.1-349.4, a college
125 partnership laboratory school ~~shall be is~~ subject to the requirements of the Standards of Quality,
126 including the Standards of Learning and the Standards of Accreditation, and such regulations as
127 are determined by the Board ~~of Education~~.

128 C. D. Pursuant to a college partnership laboratory school agreement, a college
129 partnership laboratory school ~~shall be is~~ responsible for its own operations, including, ~~but not~~
130 ~~limited to~~, such budget preparation, contracts for services, and personnel matters as are specified
131 in the agreement. A college partnership laboratory school may also negotiate and contract with a
132 school board, the governing body of an institution of higher education, or any third party for the
133 use of a school building ~~and or~~ grounds, the operation and maintenance ~~thereof of such building~~

134 [or grounds](#), and the provision of any service, activity, or undertaking that the college partnership
135 laboratory school is required to perform in order to carry out the educational program described
136 in its contract. Any services for which a college partnership laboratory school contracts with a
137 school board or institution of higher education shall not exceed the ~~school division's or~~
138 ~~institution's costs~~ [cost to the school division or institution](#) to provide such services.

139 ~~D. A. E.~~ [No](#) college partnership laboratory school shall ~~not~~ charge tuition for courses
140 required for high school graduation. However, (i) tuition may be charged for courses for which
141 the student receives college credit and ~~for~~ enrichment courses that are not required to earn a
142 ~~Board of Education approved~~ [Board-approved](#) high school diploma, and (ii) for college
143 partnership laboratory schools that form a collaborative partnership, ~~in accordance with~~
144 ~~subsection F~~, with one or more [public local](#) school divisions [in accordance with subsection G](#),
145 the school board of the partnering school division that administers student enrollment in
146 accordance with subsection A may charge tuition in accordance with § 22.1-5 for students who
147 do not reside within the partnering school division.

148 ~~E. F.~~ An approved college partnership laboratory school shall be designated as a local
149 education agency, but shall not constitute a school division.

150 ~~F. G.~~ College partnership laboratory schools are encouraged to develop collaborative
151 partnerships with [public local](#) school divisions for the purpose of building seamless education
152 opportunities for all ~~Virginia preschool through postsecondary~~ students, ~~from preschool to~~
153 ~~postsecondary education in the Commonwealth~~. An educational program provided to students
154 enrolled in a [public local](#) school division pursuant to a collaborative partnership between the
155 college partnership laboratory school and the [public local](#) school division ~~shall be considered to~~
156 ~~be is~~ the educational program of the [public local](#) school division for purposes of the Standards
157 of Accreditation.

158 **Drafting note: Technical changes.**

159 § ~~23-299.3~~ [22.1-349.4](#). Contracts for college partnership laboratory schools; release from
160 certain policies and regulations.

161 The contract between the college partnership laboratory school and the Board-~~of~~
162 ~~Education~~ shall reflect all agreements regarding the release of the college partnership laboratory
163 school from state regulations, consistent with the requirements of subsection-~~B C~~ of §~~23-299.2~~
164 ~~22.1-349.3~~. If the college partnership laboratory school application proposes a program to
165 increase the educational opportunities for at-risk students, the Board-~~of Education~~ may approve
166 an Individual School Accreditation Plan for the evaluation of the performance of the school.

167 Any material revision of the terms of the contract may be made only with the approval
168 of the Board-~~of Education~~ and the governing board of the college partnership laboratory school.

169 **Drafting note: Technical changes.**

170 §~~23-299.4~~ ~~22.1-349.5~~. College partnership laboratory school application.

171 A. Any public institution of higher education or private institution of higher education
172 ~~operating within the Commonwealth and having that has~~ a teacher education program approved
173 by the Board-~~of Education~~ may submit an application for formation of a college partnership
174 laboratory school.

175 B. Each college partnership laboratory school application shall provide or describe
176 thoroughly all of the following essential elements of the proposed school plan:

- 177 1. An executive summary;
- 178 2. The mission and vision of the proposed college partnership laboratory school,
179 including identification of the targeted student population;
- 180 3. The proposed location of the school;
- 181 4. The grades to be served each year for the full term of the contract;
- 182 5. Minimum, planned, and maximum enrollment per grade per year for the term of the
183 contract;
- 184 6. Background information on the proposed founding governing board members and, if
185 identified, the proposed school leadership and management team;
- 186 7. The school's proposed calendar and sample daily schedule;
- 187 8. A description of the academic program aligned with state standards;

188 9. A description of the school's educational program, including the type of learning
189 environment ~~(, such as classroom-based or independent study);~~ class size and structure;
190 curriculum overview; and teaching methods;

191 10. The school's plan for using internal and external assessments to measure and report
192 student progress in accordance with the Standards of Learning;

193 11. The school's plans for identifying and successfully serving students with disabilities,
194 students who are English language learners, students who are academically behind, and gifted
195 students, including ~~but not limited to~~ compliance with applicable laws and regulations;

196 12. A description of co-curricular and extracurricular programs and how they will be
197 funded and delivered;

198 13. Plans and timelines for student recruitment and enrollment, including lottery
199 procedures if sufficient space is unavailable;

200 14. The school's student disciplinary policies, including ~~those~~ disciplinary policies for
201 special education students;

202 15. An organization chart that clearly presents the school's organizational structure,
203 including lines of authority and reporting between the governing board, staff, any related bodies
204 ~~(such as advisory bodies or parent and teacher councils),~~ the Board of Education, and any
205 external organizations that will play a role in managing the school;

206 16. A clear description of the roles and responsibilities for the governing board, the
207 school's leadership and management team, and any other entities shown in the organization
208 chart;

209 17. A staffing chart for the school's first year and a staffing plan for the term of the
210 contract;

211 18. Plans for recruiting and developing school leadership and staff;

212 19. The school's leadership and teacher employment policies, including performance
213 evaluation plans;

- 214 20. A plan for the placement of college partnership laboratory school pupils, teachers,
215 and employees upon termination or revocation of the contract;
- 216 21. Explanation of any partnerships or contractual relationships central to the school's
217 operations or mission;
- 218 22. The school's plans for providing transportation, food service, and all other significant
219 operational or ancillary services;
- 220 23. Opportunities and expectations for parent involvement;
- 221 24. A detailed school start-up plan, ~~identifying that identifies~~ tasks, timelines, and
222 responsible individuals;
- 223 25. ~~Description~~ A description of the school's financial plan and policies, including
224 financial controls and audit requirements;
- 225 26. A description of the insurance coverage that the school will obtain;
- 226 27. Start-up and five-year budgets with clearly stated assumptions;
- 227 28. Start-up and first-year cash-flow projections with clearly stated assumptions;
- 228 29. Evidence of anticipated fundraising contributions, if claimed in the application;
- 229 30. A sound facilities plan, including backup or contingency plans if appropriate; and
- 230 31. Assurances that the college partnership laboratory school (i) is nonreligious in its
231 programs, admission policies, employment practices, and all other operations and (ii) does not
232 charge tuition, except as described in subsection ~~D E~~ of § ~~23-299.2~~ 22.1-349.3.
- 233 C. The purposes of the college partnership laboratory school application are to present
234 the proposed school's academic and operational vision and plans, demonstrate the applicant's
235 capacities to execute the proposed vision and plans, and provide the Board ~~of Education with~~ a
236 clear basis for assessing the applicant's plans and capacities. An approved college partnership
237 laboratory school application shall not serve as the school's contract. Within 90 days of approval
238 of a college partnership laboratory school application, the Board ~~of Education~~ and the governing
239 board of the approved school shall execute a contract that clearly sets forth the academic and
240 operational performance expectations and measures by which the college partnership laboratory

241 school will be judged and the administrative relationship between the Board-of-Education and
242 the college partnership laboratory school, including each party's rights and duties. The
243 performance expectations and measures set forth in the contract shall include ~~but need not be~~
244 ~~limited to~~ applicable federal and state accountability requirements. The performance provisions
245 may be refined or amended by mutual agreement after the college partnership laboratory school
246 is operating and has collected baseline achievement data for its enrolled students.

247 **Drafting note: The phrase "but not limited to" after "including" is stricken in**
248 **subdivision B 11 and proposed subsection C per § 1-218, which states: "'Includes' means**
249 **includes, but not limited to." Technical changes are made.**

250 § ~~23-299.5~~ 22.1-349.6. Review of college partnership laboratory school applications.

251 A. The Board-of-Education shall establish procedures for receiving, reviewing, and
252 ruling upon applications and shall make a copy of any such procedures available to all interested
253 parties upon request. If the Board finds that the application is incomplete, the Board shall
254 request the necessary additional information from the applicant. The ~~Board-of-Education's~~
255 Board's review procedures shall establish a review committee that may include experts with the
256 operation of similar schools located in other states.

257 B. To provide appropriate opportunity for input from parents, teachers, and other
258 interested parties and to obtain information to assist the Board-of-Education in its evaluation of a
259 college partnership laboratory school application, the Board-of-Education may establish a
260 procedure for public notice, comment, or hearings on such applications.

261 **Drafting note: Technical changes.**

262 § ~~23-299.6~~ 22.1-349.7. Decision of the Board-of-Education final.

263 The decision of the Board-of-Education to grant or deny a college partnership laboratory
264 school application or to revoke or fail to renew an agreement ~~shall be is~~ final and is not subject
265 to appeal.

266 **Drafting note: Technical changes.**

267 § ~~23-299.7~~ 22.1-349.8. College partnership laboratory school terms; renewals and
268 revocations.

269 A. A college partnership laboratory school may be approved or renewed for a period not
270 to exceed five school years. A college partnership laboratory school renewal application
271 submitted to the Board ~~of Education~~ shall contain:

272 1. A report on the progress of the school in achieving the goals, objectives, program and
273 performance standards for students, and such other conditions and terms as the Board ~~of~~
274 ~~Education~~ may require upon granting initial approval of the college partnership laboratory
275 school application; and

276 2. A financial statement, on forms prescribed by the Board, that discloses the costs of
277 administration, instruction, and other spending categories for the school and that has been
278 concisely and clearly written to enable the Board ~~of Education~~ and the public to compare such
279 costs with those of other schools or comparable organizations.

280 B. The Board ~~of Education~~ may revoke a contract if the college partnership laboratory
281 school does any of the following or otherwise fails to comply with the provisions of this
282 chapter:

283 1. Commits a material and substantial violation of any of the terms, conditions,
284 standards, or procedures required under this chapter or the contract;

285 2. Fails to meet or make sufficient progress toward the performance expectations set
286 forth in the contract;

287 3. Fails to meet generally accepted standards of fiscal management; or

288 4. Substantially violates any material provision of law from which the college
289 partnership laboratory school was not exempted.

290 C. If the Board ~~of Education~~ revokes or does not renew a college partnership laboratory
291 school contract, it shall clearly state, in a resolution, the reasons for the revocation or
292 nonrenewal.

293 **Drafting note: Technical changes.**

294 § ~~23-299.8~~ 22.1-349.9. Employment of professional, licensed personnel.

295 A. College partnership laboratory school personnel ~~shall be~~ are employees of the
296 institution of higher education ~~establishing that establishes~~ the school.

297 B. Teachers ~~working who work~~ in a college partnership laboratory school shall hold a
298 license issued by the Board ~~of Education~~ or, in the case of an instructor in the higher education
299 institution's Board-approved teacher education program, be eligible to hold a Virginia teaching
300 license. Teachers working in a college partnership laboratory school ~~shall be~~ are subject to the
301 requirements of §§ 22.1-296.1, 22.1-296.2, and 22.1-296.4 applicable to teachers employed by a
302 local school board.

303 C. Professional, licensed personnel of a college partnership laboratory school shall be
304 granted the same employment benefits given to professional, licensed personnel in public
305 schools in accordance with the agreement between the college partnership laboratory school and
306 the Board ~~of Education~~.

307 **Drafting note: Technical changes.**

308 § ~~23-299.9~~ 22.1-349.10. Funding of college partnership laboratory schools.

309 A. Each college partnership laboratory school shall receive such funds as may be
310 appropriated by the General Assembly in accordance with the general appropriation act.

311 B. The governing board of a college partnership laboratory school is authorized to accept
312 gifts, donations, or grants of any kind and to spend such funds in accordance with the conditions
313 prescribed by the donor. However, no gift, donation, or grant shall be accepted by the governing
314 board of a college partnership laboratory school if the conditions for such funds are contrary to
315 law or the terms of the agreement between the Board ~~of Education~~ and the college partnership
316 laboratory school.

317 C. Notwithstanding any other provision of law, the proportionate share of state and
318 federal resources allocated for students with disabilities and school personnel assigned to special
319 education programs shall be directed to college partnership laboratory schools enrolling such
320 students. The proportionate share of moneys allocated under other federal or state categorical

321 aid programs shall be directed to college partnership laboratory schools serving students eligible
322 for such aid.

323 D. College partnership laboratory schools ~~shall be~~ is eligible to apply for and receive any
324 federal or state funds otherwise allocated for college partnership laboratory schools ~~in the~~
325 Commonwealth.

326 E. Any tuition, room and board, and ~~any~~ other educational and related fees collected
327 from students enrolled at a college partnership laboratory school shall comply with Board ~~of~~
328 Education regulations and shall be credited to the account of such school.

329 F. Each college partnership laboratory school ~~shall be~~ is eligible to apply for and receive
330 available funds from the College Partnership Laboratory School Fund and the ~~establishing~~
331 institution of higher education that establishes the school.

332 **Drafting note: Technical changes.**

333 § ~~23-299.10~~ 22.1-349.11. Immunity.

334 A college partnership laboratory school ~~shall be~~ is immune from liability to the same
335 extent as is the public institution of higher education that ~~established~~ establishes the school, and
336 the employees and volunteers in a college partnership laboratory school are immune from
337 liability to the same extent as are the employees of the ~~establishing~~ institution of higher
338 education that establishes the school.

339 **Drafting note: Technical changes.**

340 TITLE ~~23~~ 23.1.

341 ~~EDUCATIONAL~~ INSTITUTIONS OF HIGHER EDUCATION; OTHER EDUCATIONAL
342 AND CULTURAL INSTITUTIONS.

343 SUBTITLE I.

344 GENERAL PROVISIONS.

345 CHAPTER 1.

346 DEFINITIONS AND GENERAL PROVISIONS.

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

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

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

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

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

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

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

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

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

392 "Non-Virginia student" means any student who has not established domicile in the
393 Commonwealth pursuant to § 23.1-502.

394 "Private institution of higher education" includes each nonprofit private institution of
395 higher education and proprietary private institution of higher education in the Commonwealth.

396 "Proprietary private institution of higher education" means any postsecondary school, as
397 that term is defined in § 23.1-213, in the Commonwealth that is privately owned, privately
398 managed, and obligated to pay federal income taxes in the Commonwealth and is certified by

399 [the Council to offer degrees or exempt from such certification pursuant to Article 3 \(§ 23.1-213](#)
400 [et seq.\) of Chapter 2.](#)

401 ["Public institution of higher education" includes the System as a whole and each](#)
402 [associate-degree-granting and baccalaureate public institution of higher education in the](#)
403 [Commonwealth.](#)

404 ["State Board" means the State Board for Community Colleges.](#)

405 ["System" means the Virginia Community College System.](#)

406 ["Virginia student" means any student who has established domicile in the](#)
407 [Commonwealth pursuant to § 23.1-502.](#)

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

411 [Article 2.](#)

412 [General Provisions.](#)

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

416 ~~§ 23-9.2 23.1-101. Public policy of Commonwealth in respect to endowment~~
417 ~~Endowment~~ funds of ~~state-supported public~~ institutions of higher education.

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

421 ~~Whereas, prospective donors to the endowment funds and donors of unrestricted gifts of~~
422 ~~the several institutions hesitate to contribute thereto on the ground that, to the extent that the~~
423 ~~income of the respective institutions is increased from private sources, the Commonwealth will~~
424 ~~withdraw its support; and~~

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

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

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

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

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

447 **Drafting note: Technical changes.**

448 ~~§ 23-4 23.1-102. Register of state property Chief executive officer of each public~~
449 institution of higher education; duties.

450 The chief executive officer of ~~every state each public~~ institution of higher education
451 shall ~~keep a book in which he shall cause to be registered;~~

452 1. Maintain a register that contains a description of all the property of the
453 Commonwealth at ~~such the~~ institution, ~~with a correct description thereof~~, for the information of
454 the governing board of visitors, of the institution and ~~others~~ any other interested party. ~~Any~~
455 ~~officer failing to comply with this section shall forfeit fifty dollars.~~

456 ~~§ 23-4.4. Authorization to transfer interest; Governor's approval required under certain~~
457 ~~circumstances.~~

458 ~~A. The boards of visitors, the State Board for Community Colleges, or their designees~~
459 ~~are authorized to assign any interest they possess in intellectual property or in materials in which~~
460 ~~the institution claims an interest, provided such assignment is in accordance with the terms of~~
461 ~~the institution's intellectual property policies adopted pursuant to subsection A of § 23-4.3.~~
462 ~~However, the Governor's prior written approval shall be required for transfers of such property~~
463 ~~developed wholly or predominately through the use of state general funds, exclusive of capital~~
464 ~~assets, and either (i) such property was developed by an employee of the institution acting~~
465 ~~within the scope of his assigned duties, or (ii) such property is to be transferred to an entity other~~
466 ~~than the Innovation and Entrepreneurship Investment Authority, an entity whose purpose is to~~
467 ~~manage intellectual properties on behalf of nonprofit organizations, colleges and universities, or~~
468 ~~an entity whose purpose is to benefit the respective institutions. The Governor may attach~~
469 ~~conditions to these transfers as he deems necessary. In the event the Governor does not approve~~
470 ~~such transfer, the materials shall remain the property of the respective institutions and may be~~
471 ~~used and developed in any manner permitted by law.~~

472 ~~B. The president of each state-supported institution of higher education, including the~~
473 ~~chancellor of the Virginia Community College System, shall, beginning with fiscal year 2016,~~
474 ~~include~~ 2. Include in its six-year plan adopted pursuant to ~~§ 23-38.87:17~~ 23.1-306 the following
475 for the most recently ended fiscal year: (i) the assignment during the year of any intellectual
476 property interests to a person or nongovernmental entity by the institution, any foundation
477 supporting the intellectual property research performed by the institution, or any entity affiliated
478 with the institution; (ii) the value of externally sponsored research funds received during the

479 year from a person or nongovernmental entity by the institution, any foundation supporting the
480 intellectual property research performed by the institution, or any entity affiliated with the
481 institution; and (iii) the number and types of patents awarded during the year to the institution,
482 any foundation supporting the intellectual property research funded by the institution, or any
483 entity affiliated with the institution that were developed in whole or part from externally
484 sponsored research provided by a person or nongovernmental entity. The plan shall report
485 separate aggregate data on (a) those persons or nongovernmental entities that have a principal
486 place of business in ~~Virginia~~ the Commonwealth as reflected in the assignment agreement or
487 awarding documents and (b) those persons or nongovernmental entities that do not have a
488 principal place of business in ~~Virginia~~ the Commonwealth as reflected in the assignment
489 agreement or awarding documents.

490 ~~§ 23-1.1. Report of athletic receipts and disbursements.~~

491 ~~It shall be the duty of the president or chairman of the board of visitors or trustees of~~
492 ~~every state institution of higher learning which maintains an intercollegiate athletic program to~~
493 3. For any institution that maintains an intercollegiate athletic program, cause to be made out by
494 the proper officer of such institution; and forwarded to the Comptroller annually by December
495 ~~thirty first~~ 31 a detailed statement of all athletic receipts and disbursements of such institution
496 and of any affiliated committee, group, corporation, or association charged with administering
497 the athletic program. Such report shall include all receipts from admission tickets, programs,
498 refreshment concessions, radio, television, and newsreel or movie rights; and all other receipts
499 related to any athletic contest or event. The report of disbursements shall include the name of
500 each person, firm, or corporation to whom such disbursement was made and the amount ~~thereof~~
501 of the disbursement. The report shall be kept on file by the Comptroller and shall be open to
502 public inspection at all reasonable times.

503 **Drafting note: Existing §§ 23-4 (as proposed subdivision 1) and 23-1.1 (as proposed**
504 **subdivision 3) are combined in this proposed section concerning duties of the chief**
505 **executive officer of public institutions of higher education. Proposed subdivision 2**

506 incorporates subsection B of existing § 23-4.4. The provision that any chief executive
 507 officer failing to keep a record of an institution's property for inspection by its governing
 508 board and the public is required to forfeit \$50 is recommended for repeal as being
 509 obsolete. Technical changes are made.

510 § ~~23-3.1~~ 23.1-103. ~~Conveyance~~ Localities; conveyance of property and appropriation of
 511 funds to Commonwealth for certain educational purposes.

512 A. The governing body of any ~~county, city or town~~ locality may, subject to written
 513 advice from the Governor that the gift is acceptable, convey to the Commonwealth by deed of
 514 gift any land, ~~either heretofore or hereafter acquired, which, in the discretion of such governing~~
 515 ~~body, that~~ is not required for the purposes of such ~~county, city, or town~~ locality, provided such
 516 land is to be used for the establishment, operation, or maintenance of a branch or division of a
 517 ~~state-supported college or university~~ public institution of higher education, the Jamestown-
 518 Yorktown Foundation, the Science Museum of Virginia, or the Virginia Museum of Fine Arts.
 519 For the purpose of acquiring such land the governing body of the locality may appropriate a
 520 portion of the general funds of ~~such county, city or town~~ the locality.

521 B. The governing body of any ~~county, city or town~~ locality may appropriate a portion of
 522 the locality's public funds ~~thereof~~ for capital outlays in connection with, ~~and~~ the operation or
 523 maintenance of; any ~~state-supported college or university~~ public institution of higher education
 524 or branch ~~thereof~~ or division of such institution, the Jamestown-Yorktown Foundation, the
 525 Science Museum of Virginia, or the Virginia Museum of Fine Arts.

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

529 § ~~23-4.2~~ 23.1-104. Disposition of ~~unclaimed lost or abandoned~~ property.

530 A. The ~~board of visitors or other~~ governing ~~body of every state~~ board of each public
 531 institution of higher education and ~~every private accredited nonprofit~~ each accredited nonprofit
 532 private institution of higher education ~~in the Commonwealth~~ may provide by regulation or

533 institution policy for the care, restitution, sale, destruction, or disposal of unclaimed personal
534 property, whether lost or abandoned, in the possession of the institution. Whenever procedures
535 in accordance with such regulations or institution policies and this section are followed and
536 ownership cannot be established with respect to certain property, neither the institution, ~~and the~~
537 ~~employees and agents thereof, shall have no liability nor any of its agents or employees is liable~~
538 to any person claiming any interest in the property.

539 A.B. In the case of tangible personal property, other than registered motor vehicles, lost
540 or abandoned at a public institution of higher education or accredited nonprofit private
541 institution of higher education:

542 1. The institution, upon receipt of ~~lost~~ such property, shall make reasonable efforts to
543 give notice that the property has been found to any person that the institution determines to
544 reasonably ~~appears~~ appear to be the owner. The institution shall hold such property ~~shall be held~~
545 ~~by the institution for a period of not less than~~ for at least 120 days. The institution shall allow a
546 claim upon satisfactory proof of it and payment of the institution's reasonable charges for
547 storage or other services necessary to preserve the property.

548 2. After the 120-day period, the institution may sell the property to the highest bidder at
549 public auction or by sealed bid at whatever location that the institution reasonably determines
550 affords to afford the most favorable market for the property. The institution may decline the
551 highest bid and reoffer the property for sale if it considers the price bid insufficient. The net
552 proceeds of any such sale ~~hereunder~~ shall be held ~~for a period of ninety at least 90~~ days and if
553 no claim is made ~~thereon~~ on the property within that time, such funds shall be credited to the
554 institution's operating fund. If the institution determines that the probable cost of sale of
555 property will exceed the sale proceeds, the property is inherently dangerous, or the property may
556 not lawfully be sold or used, the institution may provide for any such property, as appropriate
557 under the circumstances, to be destroyed or discarded at an appropriate location, retained for use
558 by the institution, or donated to an appropriate charitable organization.

559 3. Any sale ~~held hereunder pursuant to this subsection~~ shall be preceded by reasonable
560 notice ~~thereof, considering of the sale, taking into consideration~~ the type and value of property.
561 Such notice shall include ~~as a~~ at minimum the posting on a student bulletin board and
562 publication in a school newspaper. The institution, by the same time, shall mail notice of the
563 sale to the last known address of any person that the institution determines to reasonably ~~appears~~
564 appear to be the owner.

565 B-C. Whenever a motor vehicle is lost or abandoned on the campus of any public
566 institution of higher education or accredited nonprofit private institution of higher education that
567 ~~lies within a county, city, or town which is located in a locality that~~ has adopted an ordinance as
568 provided in Chapter 12 of Title 46.2, such motor vehicle shall be disposed of as provided in that
569 ordinance. Notwithstanding any provisions of Chapter 12 of Title 46.2, the proceeds of any sale
570 of a motor vehicle lost or abandoned ~~and unclaimed~~ on institutional property shall be credited to
571 the institution's operating fund after the ~~ninety day~~ 90-day holding period. The ~~board of visitors~~
572 ~~or other~~ governing body board of ~~an a~~ public institution of higher education having that has a
573 campus or part of a campus lying in a locality ~~which that~~ has not adopted such an ordinance,
574 may ~~promulgate a regulation~~ adopt regulations dealing with motor vehicles abandoned ~~within~~
575 on such campus or such part of the campus. Such regulations shall comply with all provisions of
576 Chapter 12 of Title 46.2 and ~~shall~~ have the same legal effect as though the institution ~~were was~~ a
577 political subdivision as defined in that chapter and the regulation was an ordinance. The
578 proceeds from any sale resulting from such regulations shall be held for ~~a period of ninety at~~
579 least 90 days and if no claim to the motor vehicle is made ~~therefor~~ within that time, such funds
580 shall be credited to the institution's operating fund.

581 C-D. Whenever any intangible personal property is believed to be lost or abandoned ~~or~~
582 unclaimed on the campus of a ~~state~~ public institution of higher education, it shall be
583 administered as provided in Article 4 (§ 55-210.12 et seq.) of Chapter 11.1 of Title 55.

584 D-E. Whenever any personal property, tangible or intangible, has been accepted for
585 safekeeping during a patient's stay by any hospital operated by a ~~state~~ public institution of

586 higher education, and ~~said such~~ property is believed by the appropriately designated official to
587 be lost or abandoned ~~or unclaimed~~, it shall be administered as provided in Article 4 (§ 55-
588 210.12 et seq.) of Chapter 11.1 of Title 55.

589 **Drafting note: Subsection A incorporates a reference to institution policies because**
590 **private institutions of higher education are not capable of promulgating regulations**
591 **pursuant to the Administrative Process Act (§ 2.2-4000 et seq.). Technical changes are**
592 **made.**

593 § ~~23-9.10:3~~ 23.1-105. ~~Authorization for Commonwealth or any political subdivision~~
594 ~~thereof to contract to furnish or to obtain educational or other related services to or from~~
595 Contracts with certain nonprofit private institutions of higher education.

596 A. For the purposes of this section:

597 ~~1.~~ "Private college" means a nonprofit private, ~~nonprofit~~ institution of higher education
598 ~~in the Commonwealth approved to confer degrees pursuant to Chapter 21.1 (§ 23-276.1 et seq.)~~
599 ~~of this title~~ whose primary purpose is to provide collegiate or graduate education and not to
600 provide religious training or theological education.

601 ~~2.~~ "Public college" means ~~any of the institutions of higher education listed in § 23-9.5.~~

602 ~~3.~~ "Services", "Services" includes ~~but is not limited to~~ a program or course of study
603 offered, or approved ~~for offer, to be offered~~ by a public institution of higher education or private
604 college ~~or by a public college~~; use of professional personnel; use of any real or personal
605 property owned, controlled, or leased for educational or ~~educationally~~ related purposes by ~~such~~
606 ~~private and public colleges~~ a public institution of higher education or private college; a study,
607 research, or investigation or ~~the like~~ similar activity by employees or students, or both, of ~~such~~
608 ~~colleges~~ a public institution of higher education or private college; or any other activity (i)
609 dealing with scientific, technological, humanistic, or other educational or related subjects; or (ii)
610 providing public service or student service activities.

611 B. The Commonwealth ~~and or~~ any of its political subdivisions may contract to obtain
612 from or furnish to private colleges educational or related services ~~from or to private colleges~~.

613 ~~1.C.~~ No contract for services between private colleges ~~on the one hand~~ and public
614 ~~colleges~~ institutions of higher education or educational agencies of the Commonwealth,
615 including ~~but not limited to~~ the ~~State~~ Board of Education, ~~on the other, shall be is~~ valid unless
616 approved by the ~~State~~ Council ~~of Higher Education~~.

617 ~~2.D.~~ Except as provided in ~~paragraph B 1 subsection C~~, contracts for services between
618 private colleges ~~on the one hand~~ and the Commonwealth or any of its political subdivisions ~~on~~
619 ~~the other~~ may be entered into in any ~~circumstances where~~ circumstance in which the
620 Commonwealth or its political subdivisions would, by virtue of law, have authority to contract
621 with private contractors for educational or related services and ~~with~~ public institutions of higher
622 education ~~in Virginia. C. When contracts covered by paragraph B 2 of this section are made by~~
623 ~~private colleges, such~~ Private colleges shall report ~~the such~~ contracts to the ~~State~~ Council ~~of~~
624 ~~Higher Education for information~~.

625 ~~D.E.~~ The ~~State~~ Council shall provide continuing evaluation of the effectiveness of ~~such~~
626 and make recommendations regarding contracts, ~~whether~~ made ~~under paragraph B 1 or B 2 of~~
627 ~~this section, and shall make recommendations regarding such contracts pursuant to this section~~.

628 ~~E.F.~~ The authority to contract for educational or related services shall include the
629 authority to accept gifts, donations, and matching funds to facilitate or advance programs.

630 ~~F.G.~~ Unless an ~~appropriations~~ appropriation act specifically provides otherwise, all
631 appropriations shall be construed to authorize contracts with private colleges for the provision of
632 educational or related services ~~which that~~ may be the subject of or included in the appropriation.

633 H. Nothing in this ~~chapter~~ section shall be construed to restrict or prohibit the use of any
634 federal, state, or local funds made available under any federal, state, or local appropriation or
635 grant.

636 **Drafting note: Technical changes are made, including the incorporation of title-**
637 **wide definitions.**

638 § ~~23-4.2:1~~ 23.1-106. Formation of not-for-profit benefits consortium.

639 A. As used in this section:

640 "Benefits consortium" means a nonstock corporation formed pursuant to subsection B.

641 "Benefits plan" means plans adopted by the board of directors of a benefits consortium
642 to provide health and welfare benefits to employees of private educational institutions that are
643 members of the benefits consortium, employees of the sponsoring association of the benefits
644 consortium, employees of the benefits consortium, and their dependents.

645 "Employee welfare benefit plan" has the meaning set forth in § 3(1) of the Employee
646 Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1).

647 "Private educational institution" means a ~~nonpublic, nonprofit college or university~~
648 [private institution of higher education](#) that is accredited by a nationally recognized regional
649 accreditation body or by the Board of Governors of the American Bar Association; and

- 650 1. Has its primary campus located within the Commonwealth;
- 651 2. Is owned and operated by a corporation, trust, association, or religious institution or
652 any subsidiary or affiliate of any such entity;
- 653 3. Has been in existence as a private educational institution in the Commonwealth for at
654 least 10 years;
- 655 4. Is a member in good standing of the sponsoring association; and
- 656 5. Otherwise qualifies as an institution of higher education as defined in § ~~23-276.1~~ [23.1-](#)
657 [213](#).

658 "Sponsoring association" means an association of private educational institutions that is
659 incorporated under the laws of the Commonwealth, has been in existence for at least 20 years,
660 and exists for purposes other than arranging for or providing health and welfare benefits to
661 members.

662 B. Notwithstanding any provision of law to the contrary, five or more private
663 educational institutions may form a not-for-profit benefits consortium for the purpose of
664 establishing a self-funded employee welfare benefit plan by acting as incorporators of a
665 nonstock corporation pursuant to the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.). In

666 addition to provisions required or permitted by the Virginia Nonstock Corporation Act, the
667 organizational documents of the benefits consortium shall:

668 1. Limit membership in the benefits consortium to private educational institutions, the
669 sponsoring association of the benefits consortium, and the benefits consortium;

670 2. Set forth the name and address of each of the initial members of the corporation;

671 3. Set forth requirements for the admission of additional private educational institutions
672 to the corporation and the procedure for admission of additional members;

673 4. Require that each initial member of the corporation and each additional private
674 educational institution admitted to membership agree to remain a member of the benefits
675 consortium for a period of at least five years from the date the consortium begins operations or
676 the date of its admission to membership, ~~as the case may be~~;

677 5. Provide that the number of directors of the corporation ~~shall be~~ is equal to the number
678 of members and include one person employed by each member and may provide for an
679 additional director who shall be an employee of the sponsoring association; however, two
680 individuals affiliated with the same member ~~may~~ shall not serve on the board of directors at the
681 same time;

682 6. Provide that the board of directors ~~shall have~~ has exclusive fiscal control over and be
683 responsible for the operation of the benefits plan and shall govern the benefits consortium in
684 accordance with the fiduciary duties defined in the federal Employee Retirement Income
685 Security Act of 1974;

686 7. Vest in the board of directors the power to make and collect special assessments
687 against members and, if any assessment is not timely paid, to enforce collection of ~~same~~ such
688 assessment in the name of the corporation;

689 8. State the purposes of the benefits consortium, including the types of risks to be shared
690 by its members;

691 9. Provide that each member shall be liable for its allocated share of the liabilities of the
692 benefits consortium as determined by the board of directors;

693 10. Require that the benefits consortium purchase and maintain (i) a bond that satisfies
694 the requirements of the Employee Retirement Income Security Act of 1974, (ii) fiduciary
695 liability insurance, and (iii) a policy ~~or policies~~ of excess insurance with a retention level
696 determined in accordance with sound actuarial principles from an insurer licensed to transact the
697 business of insurance in the Commonwealth;

698 11. Require that the benefits consortium be audited annually by an independent certified
699 public accountant engaged by the board of directors;

700 12. Prohibit the payment of commissions or other remuneration to any person on account
701 of the enrollment of persons in any benefit plan offered by the benefits consortium; and

702 13. Not include in the name of the corporation the words "insurance," "insurer,"
703 "underwriter," "mutual," or any other word or term or combination of words or terms that is
704 uniquely descriptive of an insurance company or insurance business unless the context of the
705 remaining words or terms clearly indicate that the corporation is not an insurance company and
706 is not carrying on the business of insurance.

707 C. ~~A~~. Each benefits consortium shall establish and maintain reserves determined in
708 accordance with sound actuarial principles. Capital may be maintained in the form of an
709 irrevocable letter of credit issued to the benefits consortium by a state or national bank
710 authorized to engage in the banking business in the Commonwealth.

711 D. Except to the extent specifically provided in this section, ~~a~~ each benefits consortium
712 organized under and operated in conformity with this section, ~~so long as it that~~ remains in good
713 standing under the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and otherwise meets
714 the requirements set forth in this section, ~~shall be is~~ governed solely by and ~~be~~ subject only to
715 the provisions of the Employee Retirement Income Security Act of 1974 as implemented by the
716 United States Department of Labor, ~~shall be is~~ exempt from all state taxation, and ~~shall is~~ not
717 otherwise ~~be~~ subject to the provisions of Title 38.2, including regulation as a multiple employer
718 welfare arrangement.

746 to advocate for and promote the development and operation of an educationally and
747 economically sound, vigorous, progressive, and coordinated system of higher education in the
748 Commonwealth ~~of Virginia~~ and ~~to~~ lead state-level strategic planning and policy development
749 and implementation based on research and analysis and in accordance with § ~~23-38.87-10~~ 23.1-
750 301 and subsection ~~B~~ A of § ~~23-38.88~~ 23.1-1002. The Council shall ~~also~~ seek to facilitate
751 collaboration among institutions of higher education that will enhance quality and create
752 operational efficiencies and ~~shall~~ work with institutions of higher education and their governing
753 boards on board development.

754 B. The Council shall be composed of ~~persons~~ individuals selected from the
755 Commonwealth at large without regard to political affiliation but with due consideration of
756 geographical representation. ~~Appointees~~ Nonlegislative citizen members shall have
757 demonstrated experience, knowledge, and understanding of higher education and workforce
758 needs. ~~Appointees~~ Nonlegislative citizen members shall be selected for their ability and all
759 appointments shall be of such nature as to aid the work of the Council and ~~to~~ inspire the highest
760 degree of cooperation and confidence. No officer, employee, trustee, or member of the
761 governing board of any institution of higher education, employee of the Commonwealth,
762 member of the General Assembly, or member of the ~~State~~ Board of Education ~~shall be~~ is
763 eligible for appointment to the Council except as specified in this section. All members of the
764 Council ~~shall be deemed~~ are members at large charged with the responsibility of serving the best
765 interests of the whole Commonwealth. No member shall act as the representative of any
766 particular region or of any particular institution of higher education.

767 C. The Council shall consist of 13 members: 12 nonlegislative citizen members
768 appointed by the Governor ~~and subject to confirmation by the General Assembly at its next~~
769 ~~regular session~~ and one ex officio member. At least one ~~appointee~~ nonlegislative citizen
770 member shall have served as a president or chief executive officer of a public institution of
771 higher education ~~in the Commonwealth~~. At least one nonlegislative citizen member shall be a
772 ~~sitting Virginia school superintendent, either at the state or local level~~ division superintendent or

773 [the Superintendent of Public Instruction](#). The President of the Virginia Economic Development
774 Partnership [Authority](#) shall serve ex officio with voting privileges.

775 D. All terms shall begin July 1. ~~Members shall be appointed for four-year terms, except~~
776 ~~that appointments to fill vacancies occurring shall be for the unexpired term.~~

777 ~~D.~~ No person having served on the Council for two terms of four years shall be eligible
778 for reappointment to the Council for two years thereafter.

779 ~~E.~~ ~~The Council shall elect a chairman and a vice-chairman from its own membership and~~
780 Nonlegislative citizen members shall serve for terms of four years. Vacancies occurring other
781 than by expiration of a term shall be filled for the unexpired term. No nonlegislative citizen
782 member shall serve for more than two consecutive terms; however, a nonlegislative citizen
783 member appointed to serve an unexpired term is eligible to serve two consecutive four-year
784 terms. No nonlegislative citizen member who has served two consecutive four-year terms is
785 eligible to serve on the Council until at least two years have passed since the end of his second
786 consecutive four-year term. All appointments are subject to confirmation by the General
787 Assembly. Nonlegislative citizen members shall continue to hold office until their successors
788 have been appointed and confirmed. Ex officio members shall serve a term coincident with their
789 term of office.

790 F. The Council shall elect a chairman and a vice-chairman from its membership. The
791 Council shall appoint a secretary and such other officers as it deems necessary ~~or advisable~~ and
792 ~~shall~~ prescribe their duties and ~~term~~ terms of office.

793 ~~F.~~ G. At each meeting, the Council shall involve the presidents of the public institutions
794 of higher education in its agenda. The presidents shall present information and comment on
795 issues of common interest. The presidents shall choose presenters to the Council from among
796 themselves who reflect the diversity of the institutions.

797 H. At each meeting, the Council may involve other groups, including the presidents of
798 nonprofit private, ~~nonprofit~~ institutions of higher education, in its agenda.

826 Powers and Duties.

827 **Drafting note: Existing powers and duties of the Council are reorganized in**
828 **proposed Article 2.**

829 ~~§ 23-9.5. Coordinating council for state-supported institutions of higher education.~~

830 ~~The Council shall constitute a coordinating council for the College of William and Mary~~
831 ~~in Virginia, George Mason University, Longwood University, James Madison University, the~~
832 ~~University of Mary Washington, Norfolk State University, Old Dominion University, Radford~~
833 ~~University, the University of Virginia, Virginia Commonwealth University, Virginia Military~~
834 ~~Institute, Virginia Polytechnic Institute and State University, Virginia State University,~~
835 ~~Christopher Newport University and the Virginia Community College System, branches,~~
836 ~~divisions or colleges of any of the foregoing, and such other state-supported institutions of~~
837 ~~higher education as may in the future be established.~~

838 **Drafting note: The provisions of existing § 23-9.5 establishing the Council as a**
839 **coordinating council for public institutions of higher education are stricken here and**
840 **incorporated into proposed subdivision 24 of § 23.1-203.**

841 ~~§ 23-9.6.~~

842 **Drafting note: Repealed by Acts 1974, c. 544.**

843 ~~§ 23-9.6:1 23.1-203. Duties of Council generally.~~

844 ~~In addition to such other duties as may be prescribed elsewhere, the State~~ The Council of
845 Higher Education shall:

846 1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection B A
847 of § ~~23-38.88~~ 23.1-1002 or (ii) once adopted, reflects the goals and objectives developed
848 pursuant to subdivision B 5 of § ~~23-38.87:20~~ 23.1-309 for higher education in the
849 Commonwealth, identifies a coordinated approach to such state and regional goals, and
850 emphasizes the future needs for higher education in ~~Virginia~~ the Commonwealth at both the
851 undergraduate and the graduate levels, ~~as well as~~ and the mission, programs, facilities, and
852 location of each of the existing institutions of higher education, each public institution's six-year

853 plan, and such other matters as the Council deems appropriate. The Council shall revise such
854 plans plan at least once every six years and shall submit such recommendations as are necessary
855 for the implementation of the plan to the Governor and the General Assembly.

856 2. Review and approve or disapprove any proposed change in the statement of mission
857 of any ~~presently existing~~ public institution of higher education and ~~to~~ define the mission of all
858 newly created public institutions of higher education ~~created after the effective date of this~~
859 ~~provision~~. The Council shall, ~~within the time prescribed in subdivision 1, make a~~ report such
860 approvals, disapprovals, and definitions to the Governor and the General Assembly ~~with respect~~
861 ~~to its actions hereunder~~ at least once every six years. No such actions shall become effective
862 until 30 days after adjournment of the session of the General Assembly next following the filing
863 of such a report. Nothing ~~contained~~ in this ~~provision~~ subdivision shall be construed to authorize
864 the Council to modify any mission statement adopted by the General Assembly, ~~nor to or~~
865 empower the Council to affect, either directly or indirectly, the selection of faculty or the
866 standards and criteria for admission of any public institution of higher education, whether
867 related to academic standards, residence, or other criteria; ~~it being the intention of this section~~
868 ~~that faculty~~. Faculty selection and student admission policies shall remain a function of the
869 individual public institutions of higher education.

870 3. Study any proposed escalation of any public institution of higher education to a
871 degree-granting level higher than that level to which it is presently restricted and ~~to~~ submit a
872 report and recommendation to the Governor and the General Assembly relating to the proposal.
873 The study shall include the need for and benefits or detriments to be derived from the escalation.
874 No such institution shall implement any such proposed escalation until the Council's report and
875 recommendation have been submitted to the General Assembly and the General Assembly
876 approves the institution's proposal.

877 4. Review and approve or disapprove all enrollment projections proposed by each public
878 institution of higher education. The Council's projections shall be ~~in numerical terms~~ organized
879 numerically by level of enrollment and shall be used solely for budgetary ~~and~~, fiscal, and

880 ~~strategic~~ planning purposes ~~only~~. The Council shall develop estimates of the number of degrees
881 to be awarded by each public institution of higher education and include those estimates in its
882 reports of enrollment projections. The student admissions policies for ~~the such~~ institutions and
883 their specific programs shall remain the sole responsibility of the individual governing boards ~~of~~
884 ~~visitors; however, but~~ all ~~four-year~~ baccalaureate public institutions of higher education shall
885 adopt dual admissions policies with ~~the comprehensive~~ community colleges; as required by §
886 ~~23-9.2:3.02~~ 23.1-907.

887 5. Review and approve or disapprove all new undergraduate or graduate academic
888 programs ~~which that~~ any public institution of higher education proposes. ~~As used herein,~~
889 ~~"academic programs" include both undergraduate and graduate programs.~~

890 6. Review and require the discontinuance of any undergraduate or graduate academic
891 program that is presently offered by any public institution of higher education when the Council
892 determines that such academic program is (i) nonproductive in terms of the number of degrees
893 granted, the number of students served by the program, the program's effectiveness, and
894 budgetary considerations; or (ii) supported by state funds and ~~is~~ unnecessarily duplicative of
895 academic programs offered at other public institutions of higher education ~~in the~~
896 Commonwealth. The Council shall make a report to the Governor and the General Assembly
897 with respect to the discontinuance of any such academic program. No such discontinuance shall
898 become effective until 30 days after the adjournment of the session of the General Assembly
899 next following the filing of such report.

900 7. Review and approve or disapprove the ~~creation and~~ establishment of any department,
901 school, college, branch, division, or extension of any public institution of higher education that
902 such institution proposes to ~~create and~~ establish. ~~This duty and responsibility shall be applicable~~
903 ~~to the proposed creation and establishment of departments, schools, colleges, branches,~~
904 ~~divisions and extensions~~, whether located on or off the main campus of ~~the such~~ institution ~~in~~
905 question. If any organizational change is determined by the Council to be proposed solely for
906 the purpose of internal management and the institution's curricular offerings remain constant,

907 the Council shall approve the proposed change. Nothing in this ~~provision subdivision~~ shall be
908 construed to authorize the Council to disapprove the ~~creation and~~ establishment of any such
909 department, school, college, branch, division, or extension ~~of any institution that has been~~
910 ~~created and~~ established by the General Assembly.

911 8. Review the proposed closure of any academic program in a high demand or critical
912 shortage area, as defined by the Council, by any public institution of higher education and assist
913 in the development of an orderly closure plan, when needed.

914 9. Develop a uniform, comprehensive data information system designed to gather all
915 information necessary to the performance of the Council's duties. The system shall include
916 information on admissions, ~~enrollments~~ enrollment, self-identified students with documented
917 disabilities, personnel, programs, financing, space inventory, facilities, and such other areas as
918 the Council deems appropriate. When consistent with the Government Data Collection and
919 Dissemination Practices Act (§ 2.2-3800 et seq.), the Virginia Unemployment Compensation
920 Act (§ 60.2-100 et seq.), and applicable federal law, the Council, acting solely or in partnership
921 with the Virginia Department of Education or the Virginia Employment Commission, may
922 contract with private entities to create de-identified student records in which all personally
923 identifiable information has been removed for the purpose of assessing the performance of
924 institutions and specific programs relative to the workforce needs of the Commonwealth. ~~For~~
925 ~~the purposes of this section, "de-identified student records" means records in which all~~
926 ~~personally identifiable information has been removed.~~

927 10. ~~Develop in~~ In cooperation with public institutions of higher education, develop
928 guidelines for the assessment of student achievement. ~~An~~ Each such institution shall use an
929 approved program that complies with the guidelines of the Council and is consistent with the
930 institution's mission and educational objectives in the development of such assessment. The
931 Council shall report ~~the institutions' assessments~~ each institution's assessment of student
932 achievement in the ~~biennial~~ revisions to the ~~state's master~~ Commonwealth's statewide strategic
933 plan for higher education.

934 11. ~~Develop in~~ In cooperation with the appropriate state financial and accounting
935 officials, develop and ~~to~~ establish uniform standards and systems of accounting, ~~record keeping~~
936 recordkeeping, and statistical reporting for ~~the~~ public institutions of higher education.

937 12. Review biennially and approve or disapprove all changes in the inventory of
938 educational and general space that any public institution of higher education ~~may propose,~~
939 proposes and ~~to make a~~ report such approvals and disapprovals to the Governor and the General
940 Assembly ~~with respect thereto~~. No such change shall ~~be made~~ become effective until 30 days
941 after the adjournment of the session of the General Assembly next following the filing of such
942 report.

943 13. Visit and study the operations of each ~~of the~~ public ~~institutions~~ institution of higher
944 education at such times as the Council ~~shall deem~~ deems appropriate and ~~to~~ conduct such other
945 studies in the field of higher education as the Council deems appropriate or as may be requested
946 by the Governor or the General Assembly.

947 14. Provide advisory services to ~~private,~~ each accredited ~~and~~ nonprofit ~~institutions~~
948 private institution of higher education; whose primary purpose is to provide collegiate or
949 graduate education and not to provide religious training or theological education; on academic,
950 administrative, financial, and space utilization matters. The Council may ~~also~~ review and advise
951 on joint activities, including contracts for services between ~~such~~ public and such private
952 institutions of higher education or between such private institutions of higher education and any
953 agency or political subdivision of the Commonwealth ~~or political subdivision thereof~~.

954 15. Adopt such ~~rules~~ policies and regulations as the Council ~~believes~~ deems necessary to
955 implement ~~all of the Council's~~ its duties ~~and responsibilities as set forth in this Code~~ established
956 by state law. ~~The various~~ Each public ~~institutions~~ institution of higher education shall comply
957 with such ~~rules~~ policies and regulations.

958 16. Issue guidelines consistent with the provisions of the federal Family ~~Education~~
959 Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, requiring public institutions
960 of higher education to release a student's academic and disciplinary record to a student's parent.

961 17. Require ~~that~~ each institution of higher education formed, chartered, or established in
962 the Commonwealth after July 1, 1980, ~~shall to~~ ensure the preservation of student transcripts in
963 the event of institutional closure or revocation of approval to operate in the Commonwealth ~~of~~
964 Virginia. An institution may ~~provide for~~ ensure the preservation of student transcripts by
965 binding agreement with another institution of higher education with which it is not corporately
966 connected or in such other way as the Council may authorize by regulation. In the event that an
967 institution closes, or has its approval to operate in the Commonwealth revoked, the Council,
968 through its ~~Director~~ director, may take such action as is necessary to secure and preserve the
969 student transcripts until such time as an appropriate institution accepts all or some of the
970 transcripts. Nothing in this ~~section~~ subdivision shall be deemed to interfere with the right of a
971 student to his own transcripts; ~~nor shall this section or~~ authorize disclosure of student records
972 except as may otherwise be authorized by law.

973 18. Require the development and submission of articulation, dual admissions, and
974 guaranteed admissions agreements between ~~two-year~~ associate-degree-granting and ~~four-year~~
975 baccalaureate public institutions of higher education ~~in Virginia~~.

976 19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint
977 Subcommittee Studying Higher Education Funding Policies for ~~the various~~ each public
978 ~~institutions~~ institution of higher education.

979 20. ~~Develop~~ In consultation with each public institution of higher education, develop a
980 one-year uniform certificate of general studies program, ~~in consultation with the Virginia~~
981 ~~Community College System and Virginia public institutions of higher education,~~ to be offered at
982 each comprehensive community college ~~in Virginia~~. Such program shall ensure that a
983 comprehensive community college student who completes the one-year certificate program ~~shall~~
984 ~~be able is eligible~~ to transfer all credits earned in academic subject coursework to a ~~four-year~~
985 baccalaureate public institution of higher education ~~in the Commonwealth~~ upon acceptance to
986 ~~the such~~ baccalaureate institution.

987 ~~§ 23-9.8. Cooperation with State Board of Education.~~

988 ~~The Council shall cooperate~~ 21. Cooperate with the ~~State~~ Board of Education in matters
989 of interest to both ~~the~~ public elementary and secondary schools and ~~the state-supported~~ public
990 institutions of higher education, particularly in connection with coordination of the college
991 admission requirements ~~and~~, coordination of teacher training programs with the public school
992 program. In accomplishing this responsibility, the Council shall consult with programs, and the
993 ~~Board on its~~ Board's Six-Year Educational Technology Plan for Virginia ~~and~~. The Council shall
994 encourage ~~the~~ public institutions of higher education to design programs which that include the
995 skills necessary for the successful implementation of ~~the~~ such Plan.

996 ~~§ 23-9.8:1. State Council of Higher Education to advise the Brown v. Board of~~
997 ~~Education Scholarship Awards Committee.~~

998 ~~Consistent with its statutory responsibilities for higher education in the Commonwealth,~~
999 ~~the Council shall advise~~ 22. Advise and provide technical assistance to the Brown v. Board of
1000 Education Scholarship ~~Awards~~ Committee in the implementation and administration of the
1001 Brown v. Board of Education Scholarship Program, pursuant to Chapter 34.1 (§ 30-231.01 et
1002 seq.) of Title 30.

1003 ~~§ 23-9.13. Cooperating with and utilizing facilities of existing state departments, etc.~~

1004 ~~In making the studies herein directed and in the performance of its duties hereunder the~~
1005 ~~Council shall, insofar~~ 23. Insofar as possible, seek the cooperation and utilize the facilities of
1006 existing state departments, institutions, and agencies in carrying out its duties.

1007 24. Serve as the coordinating council for public institutions of higher education.

1008 ~~§ 23-9.10:1. Coordinating agency for post-secondary educational programs for health~~
1009 ~~professions and occupations.~~

1010 ~~The State Council of Higher Education is hereby designated~~ 25. Serve as the planning
1011 and coordinating agency for all ~~post-secondary~~ postsecondary educational programs for all
1012 health professions and occupations. ~~The Council shall~~ and make recommendations, including
1013 those relating to financing, ~~whereby for providing~~ adequate and coordinated educational
1014 programs ~~may be provided~~ to produce an appropriate supply of properly trained personnel. The

1015 Council ~~is authorized to~~ may conduct such studies as it deems appropriate in furtherance of the
1016 requirements of this subdivision. All state departments and agencies shall cooperate with the
1017 Council in the execution of its responsibilities under this ~~section~~ subdivision.

1018 26. Carry out such duties as the Governor may assign to it in response to agency
1019 designations requested by the federal government.

1020 ~~In carrying out its duties and responsibilities, the Council, insofar~~ 27. Insofar as
1021 practicable, ~~shall~~ preserve the individuality, traditions, and sense of responsibility of ~~the~~
1022 respective institutions each public institution of higher education in carrying out its duties.

1023 ~~The Council, insofar~~ 28. Insofar as practicable, ~~shall~~ seek the assistance and advice of
1024 the respective institutions each public institution of higher education in fulfilling ~~all of~~ its duties
1025 and responsibilities.

1026 **Drafting note: In subdivision 15, "rules and regulations" is changed to read**
1027 **"regulations" per recommendation of the Code Commission. Subdivisions 21 through 26**
1028 **incorporate the provisions of existing §§ 23-9.8, 23-9.8:1, 23-9.13, 23-9.5, and 23-9.10:1 and**
1029 **the second sentence of existing § 23-261, respectively. Technical changes are made,**
1030 **including the incorporation of title-wide definitions and the replacement of references to**
1031 **"state" or "Virginia" with "Commonwealth" per Code Commission policy. The name of**
1032 **the Brown v. Board of Education Scholarship Committee in proposed subdivision 22 is**
1033 **corrected based on amendments made in 2010.**

1034 ~~§ 23-9.2:3.04~~ 23.1-204. (Expires June 30, 2017) Post-graduation employment rates.

1035 ~~By August 1, 2013, and each year thereafter, the State Council of Higher Education for~~
1036 Virginia ~~A. The Council~~ shall annually publish data on its website on the proportion of
1037 graduates ~~with employment at~~ who are employed (i) 18 months and (ii) five years after the date
1038 of graduation for each public institution of higher education and each nonprofit private ~~nonprofit~~
1039 institution of higher education eligible to participate in the Tuition Assistance Grant Program (§
1040 23-617 et seq.). The data shall include the program and the program level, as recognized by the
1041 State Council of Higher Education, for each degree awarded by each institution ~~and shall, at a~~

1042 ~~minimum, include~~; the percentage of graduates known to be employed in the Commonwealth,
1043 the average salary, and the average higher education-related debt for the graduates on which the
1044 data is based; rates of enrollment in remedial coursework for each institution; individual student
1045 credit accumulation for each institution; rates of postsecondary degree completion; and any
1046 other information that the Council determines is necessary to address adequate preparation for
1047 success in postsecondary education and alignment between secondary and postsecondary
1048 education. The Council shall disseminate to each public high school and each public institution
1049 of higher education ~~in the Commonwealth and private institution of higher education~~ for which
1050 the Council has student-level data a link on its website to the published data. The Council shall
1051 provide a notification template that each public high school may use to annually notify students
1052 and their parents about the availability of such data. The published data shall be consistent with
1053 the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) and the
1054 federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g).

1055 ~~§ 23-2.4. Postsecondary education and employment data.~~

1056 B. Each such institution of higher education shall provide a link to ~~the such published~~
1057 postsecondary education and employment data ~~published by the State Council of Higher~~
1058 ~~Education on its website pursuant to § 23-9.2:3.04.~~

1059 **Drafting note:** Existing § 23-2.4 is incorporated as subsection B. An obsolete
1060 reference to an August 1, 2013, deadline is stricken and technical changes are made.

1061 ~~CHAPTER 20.~~

1062 ~~RESPONSIBILITY FOR FEDERAL PROGRAMS.~~

1063 **Drafting note:** Since all sections except § 23-261 of existing Chapter 20 (§§ 23-261
1064 through 23-264) are repealed and existing § 23-261 is relocated to proposed Chapter 2,
1065 existing Chapter 20 is stricken.

1066 ~~§ 23-261, 23.1-205. Council responsible for federal programs Authority to carry out~~
1067 ~~federal requirements.~~

1068 The ~~State~~ Council ~~of Higher Education of Virginia shall have full authority to~~ may
1069 prepare plans, administer federal programs, and receive and disburse any federal funds in
1070 accordance with the responsibilities assigned to it by federal statutes or regulations. ~~It shall also~~
1071 ~~undertake such other duties as may be additionally assigned to it by the Governor in response to~~
1072 ~~agency designations requested by the federal government.~~

1073 **Drafting note:** The second sentence of existing § 23-261 is stricken and
1074 incorporated instead as proposed subdivision 26 of § 23.1-203. Technical changes are
1075 made, including the replacement of "shall have full authority" with "may."

1076 ~~§§ 23-262, 23-263.~~

1077 **Drafting note:** Repealed by Acts 1991, c. 590.

1078 ~~§ 23-264.~~

1079 **Drafting note:** Repealed by Acts 1984, c. 734.

1080 ~~§ 23-9.6:1.01~~ 23.1-206. Assessments of ~~institutional~~ the performance of public
1081 institutions of higher education.

1082 A. 1. The ~~State~~ Council shall develop and revise ~~from time to time as appropriate~~, in
1083 consultation with the respective ~~chairmen~~ Chairmen of the House Committees on Education and
1084 Appropriations and the Senate Committees on Finance and Education and Health or their
1085 designees, representatives of public institutions of higher education, and such other state
1086 officials as may be designated by the Governor, objective measures of educational-related
1087 performance and institutional performance benchmarks for such objective measures for each
1088 public institution of higher education. At a minimum, the ~~State~~ Council shall develop objective
1089 measures and institutional performance benchmarks for the goals and objectives set forth in
1090 ~~subdivisions B-1 through B-10 subsection A~~ of ~~§ 23-38.88~~ 23.1-1002.

1091 ~~The State Council shall develop the initial objective measures and performance~~
1092 ~~benchmarks for consideration by the Governor and the General Assembly no later than October~~
1093 ~~1, 2005.~~

1094 2. The Governor shall develop and revise ~~from time to time~~ as appropriate objective
1095 measures of financial and administrative management performance and related institutional
1096 performance benchmarks for the goals and objectives set forth in subdivision ~~B A~~ 11 of § ~~23-~~
1097 ~~38.88~~ 23.1-1002. ~~The Governor shall develop the initial measures and performance benchmarks~~
1098 ~~and report his recommendations to the General Assembly prior to November 15, 2005.~~

1099 B. The Governor shall include objective measures of financial and administrative
1100 management and educational-related performance and related institutional performance
1101 benchmarks as described in subsection A in "The Budget Bill" submitted as required by
1102 subsection A of § 2.2-1509 or in his proposed gubernatorial amendments to the general
1103 appropriation act pursuant to subsection E of § 2.2-1509.

1104 C. The ~~State~~ Council shall annually assess the degree to which each ~~individual~~ public
1105 institution of higher education has met the financial and administrative management and
1106 educational-related performance benchmarks set forth in the current general appropriation act ~~in~~
1107 ~~effect~~. Such annual assessment shall be based upon the objective measures and institutional
1108 performance benchmarks included in the annual current general appropriation act ~~in effect~~. The
1109 ~~State~~ Council shall request assistance from the Secretaries of Finance and Administration, who
1110 shall provide such assistance, for ~~purposes~~ the purpose of assessing whether ~~or not~~ public
1111 institutions of higher education have met the financial and administrative management
1112 performance benchmarks.

1113 No later than June 1 of every fiscal year ~~beginning with the fiscal year that immediately~~
1114 ~~follows the fiscal year of implementation as defined in § 2.2-5005~~, the ~~State~~ Council shall
1115 provide a certified written report of the results of such annual assessment to the Governor and
1116 the respective ~~chairmen~~ Chairmen of the House Committees on Education and Appropriations
1117 and the Senate Committees on Finance and Education and Health.

1118 ~~Those institutions~~ Each public institution of higher education that ~~are~~ is certified by the
1119 ~~State~~ Council as having met the financial and administrative management and educational-
1120 related performance benchmarks in effect for the fiscal year as set forth in the general

1121 appropriation act ~~shall be is~~ entitled to the financial benefits set forth in [subsection C of § 2.2-](#)
1122 [5005 23.1-1002](#). Such benefits shall first be provided as determined under such ~~section~~
1123 [subsection](#).

1124 ~~D. Notwithstanding any other provision of this section, no institution shall be required to~~
1125 ~~submit documentation that it has met the financial and administrative management and~~
1126 ~~educational related performance benchmarks set forth in the general appropriations act for the~~
1127 ~~fiscal years 2011 2012 and 2012 2013. If an institution is certified by the State Council as~~
1128 ~~having met the financial and administrative management and educational related performance~~
1129 ~~benchmarks for the fiscal year 2010 2011, then such institution shall be entitled to the financial~~
1130 ~~benefits set forth in subdivision B 14 of § 2.2 1124, subsection C of § 2.2 1132, subdivisions 4~~
1131 ~~and 5 of § 2.2 1149, subsection C of § 2.2 1150, subdivision C 2 of § 2.2 1153, § 2.2 1609,~~
1132 ~~subdivision A 4 of § 2.2 2007, subsection E of § 2.2 2901, § 2.2 5005, subdivisions 1 and 3 of §~~
1133 ~~23 38.90, and subsection C of § 36 98.1 for the fiscal years 2011 2012 and 2012 2013.~~

1134 **Drafting note: Obsolete language in subdivisions A 1 and 2 and subsections C and**
1135 **D is stricken. Technical changes are made, including striking the superfluous phrase**
1136 **"from time to time" in subdivisions A 1 and 2 per Code Commission policy.**

1137 § ~~23-9.6:2~~ [23.1-207](#). Tuition relief, refunds, and reinstatement for certain students [in the](#)
1138 [uniformed services](#).

1139 A. The Council shall issue and ~~from time to time~~ revise guidelines for tuition relief,
1140 refunds, and reinstatement for students whose service in the uniformed services has required
1141 their sudden withdrawal or prolonged absence from their enrollment in a public institution of
1142 higher education and shall provide for the required reenrollment of such students by the relevant
1143 institution. These guidelines shall be excluded from the provisions of the Administrative Process
1144 Act pursuant to § 2.2-4002.

1145 B. The Council shall appoint an advisory committee of at least 10 representatives of the
1146 public institutions [of higher education](#) to assist in the development and subsequent revision of

1147 ~~these such~~ guidelines. The Council shall consult with the Office of the Attorney General and
1148 shall provide opportunity for public comment prior to issuing ~~any~~ such guidelines or revisions.

1149 ~~The C. Such~~ guidelines shall include procedures for the required reenrollment of
1150 students whose service in the uniformed services precluded their completion of a semester or
1151 equivalent term and policies for the required reenrollment of such ~~military~~ students in the
1152 uniformed services.

1153 **Drafting note: Technical changes are made, including striking the superfluous**
1154 **phrase "from time to time" per Code Commission policy and logically imposing a**
1155 **subsection structure on the proposed section.**

1156 § 23-9.7.

1157 **Drafting note: Repealed by Acts 1974, c. 544.**

1158 § 23-9.9 23.1-208. Preparation of budget Budget requests; submission of budget requests
1159 to Council; coordinating requests; submission of and recommendations to Governor and General
1160 Assembly.

1161 A. The Council ~~of Higher Education~~ shall develop policies, formulae, and guidelines for
1162 the fair and equitable distribution and use of public funds among the public institutions of higher
1163 education, taking into account enrollment projections and recognizing differences ~~as well as~~ and
1164 similarities in institutional missions. Such policies, formulae, and guidelines ~~as are developed by~~
1165 ~~the Council~~ shall include provisions for operating expenses and capital outlay programs and
1166 shall be utilized by all public institutions of higher education in preparing requests for
1167 appropriations. The Council shall consult with the Department of Planning and Budget in the
1168 development of such policies, formulae, and guidelines to ~~insure~~ ensure that they are consistent
1169 with the requirements of the Department of Planning and Budget.

1170 B. Not less than ~~thirty~~ 30 days prior to submitting its biennial budget request to the
1171 Governor, the governing board of each public institution of higher education shall transmit to
1172 the Council such selected budgetary information relating to its budget request for maintenance
1173 and operation and for capital outlay as the Council shall reasonably require. The Council shall

1174 analyze such information in light of the Council's plans, policies, formulae, and guidelines and
1175 shall submit to the Governor recommendations for approval or modification of each institution's
1176 request together with a rationale for each such recommendation. The Council shall make
1177 available to the General Assembly its analyses and recommendations concerning institutional
1178 budget requests.

1179 C. Nothing ~~herein in this section~~ shall prevent any institution of higher education from
1180 appearing through its representatives or otherwise before the Governor ~~and his, the Governor's~~
1181 advisory committee on the budget, the General Assembly, or any committee ~~thereof of the~~
1182 General Assembly at any time.

1183 ~~§ 23-9.9:1. Funds for graduate marine science consortium.~~

1184 D. Funds for any consortium created by ~~the~~ The College of William and Mary in
1185 Virginia, Old Dominion University, the University of Virginia, and Virginia Polytechnic
1186 Institute and State University for the purpose of promoting graduate marine science education
1187 may be included in the budget request of and the appropriations to the ~~State Council of Higher~~
1188 Education.

1189 **Drafting note: Technical changes are made, including logically imposing a**
1190 **subsection structure on the proposed section. The provisions of existing § 23-9.9:1 are**
1191 **incorporated as proposed subsection D.**

1192 ~~§ 23-9.9:04~~ 23.1-209. Reports of expenditures of state funds.

1193 The governing ~~body board~~ of each public institution of higher education shall provide
1194 the ~~State Council of Higher Education~~ annual data indicating the apportionment and amounts of
1195 expenditures that the relevant institution expends by category, including academic costs,
1196 administration, research, and public service, as defined by the Council. The Council shall
1197 compile and submit a report of such data annually to the Governor and the General Assembly.

1198 **Drafting note: Technical changes.**

1199 ~~§ 23-9.10.~~

1200 **Drafting note: Repealed by Acts 1996, cc. 110 and 127.**

1201 § ~~23-9.10:2~~ 23.1-210. Advisory services to accredited nonprofit private ~~nonprofit~~
1202 ~~colleges and universities~~ institutions of higher education; ~~Private College Advisory Committee~~
1203 ~~continued as~~ Private College Advisory Board.

1204 (a) ~~A.~~ The Council shall provide advisory services to, ~~and with respect to, the~~ accredited
1205 nonprofit private, ~~accredited, nonprofit colleges and universities within the Commonwealth~~
1206 institutions of higher education on academic and administrative matters. The Council may ~~also~~
1207 review and advise on joint activities, including contracts for services, between private and
1208 public ~~colleges and universities~~ institutions of higher education and between private ~~colleges~~
1209 ~~and universities~~ institutions of higher education and any agency or political subdivision of the
1210 Commonwealth ~~or political subdivision thereof~~. The Council may collect and analyze such data
1211 as may be pertinent to such activities.

1212 (b) ~~The Private College Advisory Committee established and maintained by the Council~~
1213 ~~is continued and shall hereafter be known as the Private College Advisory Board.~~ B. The
1214 Council shall seek the advice of the Private College Advisory Board, and the Advisory Board
1215 shall assist the Council in the performance of its duties as required by subsection ~~(a) herein~~ A.
1216 The Private College Advisory Board shall be composed of ~~college and university~~
1217 representatives of nonprofit private institutions of higher education and such other members as
1218 the Council may select.

1219 (c) ~~The Private College Advisory Board and~~ shall be broadly representative of ~~the~~
1220 nonprofit private ~~sector of nonprofit institutions of~~ higher education ~~in the Commonwealth~~.

1221 C. The Private College Advisory Board shall meet at least ~~twice~~ once each year ~~and shall~~
1222 ~~advise the Council and the private accredited nonprofit colleges and universities in the~~
1223 ~~Commonwealth with respect to such matters as may come before it.~~

1224 ~~The Council may employ such qualified personnel as may be required to assist the~~
1225 ~~Private College Advisory Board in the performance of its duties.~~

1226 **Drafting note: The first sentence of existing subsection (b) is stricken as obsolete. A**
1227 **substantive change is made: meeting frequency in proposed subsection C is changed to**

1228 **once annually to reflect the current practice of the Private College Advisory Board. The**
1229 **power to employ personnel to assist the Private College Advisory Board in existing**
1230 **subsection (c) is stricken as unnecessary. Technical changes are made.**

1231 [§ 23-9.10:4.](#)

1232 **Drafting note: Repealed by Acts 2006, cc. 77 and 899, cl. 2.**

1233 [§§ 23-9.11, 23-9.12.](#)

1234 **Drafting note: Repealed by Acts 1974, c. 544.**

1235 [§ 23-9.13:1.](#)

1236 **Drafting note: Repealed by Acts 2014, c. 484, cl. 2.**

1237 [§ 23-9.14:3](#) [23.1-211](#). Distance learning reciprocity agreements; participation; Distance
1238 Learning Reciprocity Advisory Council.

1239 A. The ~~State~~ Council ~~of Higher Education~~ may enter into interstate reciprocity
1240 agreements that authorize accredited ~~degree-granting associate-degree-granting and~~
1241 [baccalaureate \(i\) public institutions of higher education and \(ii\) private](#) institutions of higher
1242 education ~~located in the Commonwealth~~ to offer postsecondary distance education. The ~~State~~
1243 Council shall administer such agreements and shall approve or disapprove participation in such
1244 agreements by accredited ~~degree-granting associate-degree-granting and baccalaureate (i) public~~
1245 [institutions of higher education and \(ii\) private](#) institutions of higher education ~~located in the~~
1246 ~~Commonwealth~~. Participation in the agreements ~~shall be~~ is voluntary.

1247 B. The ~~State~~ Council shall establish the Distance Learning Reciprocity Advisory
1248 Council, which shall include representatives from each ~~participating~~ institution that offers
1249 postsecondary distance education pursuant to an interstate reciprocity agreement as set forth in
1250 subsection A. The Advisory Council shall advise the ~~State~~ Council on the development of
1251 policies governing the terms of participation by eligible institutions, including the establishment
1252 of fees to be paid by participating institutions to cover direct and indirect administrative costs
1253 incurred by the ~~State~~ Council.

1254 ~~B. Nothing in this section shall be construed to prohibit accredited degree-granting~~
 1255 ~~institutions of higher education located in the Commonwealth that do not participate in any~~
 1256 ~~interstate reciprocity agreement entered into by the State Council of Higher Education from~~
 1257 ~~offering postsecondary distance education.~~

1258 **Drafting note: Subsection B of existing § 23-9.14:3 is stricken as unnecessary.**

1259 **Technical changes are made.**

1260 § ~~23-9.14~~ 23.1-212. Effect upon powers of governing boards of public institutions of
 1261 higher education; endowment funds.

1262 A. The powers of the governing boards of ~~the several~~ public institutions of higher
 1263 education over the affairs of such institutions ~~shall is~~ not ~~be~~ impaired by the provisions of this
 1264 chapter except to the extent that powers and duties are ~~herein~~ specifically conferred upon the
 1265 State Council of Higher Education in this chapter.

1266 B. The Council shall have no authority over the solicitation, investment, or expenditure
 1267 of endowment funds now held or in the future received by any ~~of the~~ public ~~institutions~~
 1268 institution of higher education.

1269 **Drafting note: Technical changes.**

1270 ~~CHAPTER 21.1.~~

1271 ~~REGULATION OF CERTAIN PRIVATE AND OUT-OF-STATE INSTITUTIONS OF~~
 1272 ~~HIGHER EDUCATION.~~

1273 Article 3.

1274 Regulation of Certain Private and Out-of-State Institutions of Higher Education.

1275 **Drafting note: Existing Chapter 21.1 is reorganized as proposed Article 3 of**
 1276 **Chapter 2.**

1277 § ~~23-276.1~~ 23.1-213. Definitions.

1278 As used in this ~~chapter~~ article, unless the context requires a different meaning:

1279 ~~"Academic-Vocational"~~ "Academic-vocational non-college degree school" ~~refers to~~
 1280 means a ~~noncollege~~ non-college degree school that offers degree and nondegree credit courses.

1281 "Agent" means a person who is employed by any institution of higher education or
1282 ~~noncollege~~ non-college degree school, whether such institution or school is located within or
1283 outside the Commonwealth, to act as an agent, solicitor, procurer, broker, or independent
1284 contractor to procure students or enrollees for any such institution or school by solicitation in
1285 any form at any place in the Commonwealth other than the office or principal location of such
1286 institution or school.

1287 "Certificate" ~~or "diploma"~~ means an award that is given by (i) institutions of higher
1288 education and academic-vocational non-college degree schools for successful completion of a
1289 curriculum ~~comprised of~~ consisting of courses that may also be taken for degree credit ~~and shall~~
1290 ~~apply only to those awards given for coursework offered by institutions of higher education and~~
1291 ~~academic-vocational noncollege degree schools or (ii) vocational non-college degree schools for~~
1292 successful completion of a curriculum. "Certificate" includes a diploma.

1293 "College" means any associate-degree-granting institution of higher education ~~that offers~~
1294 ~~associate or baccalaureate level degree programs or institution of higher education at which a~~
1295 bachelor's degree is the most advanced degree that is granted.

1296 "Continuing or professional education" means those classes, courses, and programs;
1297 designed specifically for individuals who have completed a degree in a professional field; that
1298 (i) are intended to fulfill the continuing education requirements for licensure or certification in
1299 ~~said profession; such professional field,~~ (ii) have been approved by a legislatively or judicially
1300 established board or agency responsible for regulating the practice of the profession; and (iii)
1301 are offered exclusively to an individual practicing in ~~the profession~~ such professional field.

1302 ~~"Council" means the State Council of Higher Education for Virginia.~~

1303 "Degree" means any earned award at the associate, baccalaureate, graduate, first
1304 professional, or specialist levels that represents satisfactory completion of the requirements of a
1305 program or course of study or instruction beyond the secondary school level.

1306 "Degree credit ~~course~~" means any earned credits awarded for successful completion of
1307 the requirements of a course of study or instruction beyond the secondary school level, ~~which~~

1308 ~~that~~ may be used toward completion of a certificate or ~~diploma, or an associate, baccalaureate,~~
1309 ~~graduate, first professional or specialist level~~ degree.

1310 "Fraudulent academic credential" means a ~~diploma, certification~~ certificate, academic
1311 transcript, or other document issued by a person or ~~an~~ other entity that is not an institution of
1312 higher education that provides evidence of or demonstrates completion of ~~course work~~
1313 coursework or academic credit that results in the issuance of ~~an associate or more advanced a~~
1314 degree.

1315 ~~"In-state institution" means an institution of higher education that is formed, chartered,~~
1316 ~~or established within Virginia. An out-of-state institution shall be deemed an in-state institution~~
1317 ~~for the purposes of certification as a degree-granting institution if (i) it has no instructional~~
1318 ~~campus in the jurisdiction in which it was formed, chartered, established, or incorporated and~~
1319 ~~(ii) it produces clear and convincing evidence that its main or principal campus is located in~~
1320 Virginia.

1321 "Institution of higher education" or "institution" means any person or other entity, other
1322 than a ~~Virginia state-supported public~~ institution of higher education ~~named in § 23-9.5~~ or any
1323 ~~public institution of higher education established in statute as an authority and declared a~~
1324 ~~governmental instrumentality~~ other entity authorized to issue bonds pursuant to ~~§ 23-14~~ 23.1-
1325 1100, that has received approval from the Council to (i) use the term "college" or "university,"
1326 or words of like meaning, in its name or in any manner in connection with its academic affairs
1327 or business; (ii) enroll students; ~~or~~ and (iii) offer approved courses for degree credit or programs
1328 of study leading to a degree or ~~to~~ offer degrees either at a site ~~in Virginia~~ or via
1329 telecommunications equipment located ~~within Virginia in the Commonwealth.~~

1330 "Multistate compact" means any agreement involving two or more states to jointly offer
1331 jointly postsecondary educational opportunities; pursuant to policies and procedures ~~set forth by~~
1332 established in such agreement and approved by the Council.

1333 ~~"Nonecollege~~ "Non-college degree school" means any ~~postsecondary school person or~~
1334 other entity that offers courses or programs of study that do not lead to ~~an associate or higher~~

1335 ~~level a~~ degree. ~~Such schools may be~~ "Non-college degree school" includes academic-vocational
1336 ~~or non-college degree schools and~~ vocational non-college degree schools.

1337 "Nondegree credit ~~course~~" means any earned credits awarded for successful completion
1338 of the requirements of a course of study or instruction beyond the secondary school level, ~~which~~
1339 that may be used toward completion of a certificate ~~or diploma~~, but may not be used to earn ~~an~~
1340 associate or higher level a degree.

1341 "Out-of-state ~~institution~~" means ~~an institution of higher education that is~~ formed,
1342 chartered, established, or incorporated outside of the Commonwealth.

1343 "Postsecondary school" ~~or "school"~~ means any entity institution of higher education or
1344 non-college degree school offering formal instructional programs with a curriculum designed
1345 primarily for students who have completed the requirements for a high school diploma or its
1346 equivalent. ~~Such schools include~~ "Postsecondary school" includes programs of academic,
1347 vocational, and continuing professional education, ~~and exclude~~ except course or programs of
1348 continuing professional education set forth in subdivision B 4 of § 23.1-226. "Postsecondary
1349 school" does not include avocational and adult basic education programs. ~~For the purposes of~~
1350 ~~this chapter, a "postsecondary school" shall be classified as either an institution of higher~~
1351 ~~education as defined in this section or a noncollege degree school, as defined in this section.~~

1352 "Program" means a curriculum or course of study in a discipline or interdisciplinary area
1353 that leads to a degree, or certificate, ~~or diploma~~.

1354 "Program area" means a general group of disciplines in which one or more ~~degree~~
1355 programs, ~~certificates, or diplomas~~ may be offered.

1356 "Proprietary" means ~~a~~ privately owned ~~and,~~ privately managed, and profit-making
1357 ~~institution of higher education or noncollege degree school~~.

1358 "Site" means a location in ~~Virginia~~ the Commonwealth where a postsecondary school (i)
1359 offers ~~one or more courses~~ at least one course on an established schedule and (ii) enrolls at least
1360 two ~~or more persons~~ individuals who are not members of the same household, regardless of the

1361 presence or absence of administrative capability at such location. A site may be a branch of such
1362 postsecondary school, and shall not be required to possess administrative capability.

1363 "Teachout plan" means a written agreement between or among postsecondary schools
1364 that provides for the equitable treatment of students if one party to the agreement ~~stops offering~~
1365 ceases to offer an educational program before all students enrolled in that program complete the
1366 program.

1367 "University" means any baccalaureate institution ~~offering programs leading to degrees or~~
1368 degree credit beyond the baccalaureate level of higher education.

1369 "Vocational non-college degree school" ~~refers to means~~ a ~~noncollege non-college~~ degree
1370 school that offers only courses for nondegree credit ~~courses, and shall.~~ "Vocational non-college
1371 degree school" does not include instructional programs that are intended solely for recreation,
1372 enjoyment, or personal interest, or as a hobby, or courses or instructional programs ~~of~~
1373 instruction that prepare individuals to teach such pursuits.

1374 **Drafting note: Technical changes are made to the article-wide definitions section.**
1375 **The definition of "in-state institution" is deleted; the term "in-state institution" is not used**
1376 **in this proposed article.**

1377 § ~~23-276.1-1~~ 23.1-214. Certified mail; subsequent mail or notices may be sent by regular
1378 mail.

1379 Whenever ~~in this chapter~~ the Council is required to send any mail or notice by certified
1380 mail pursuant to this article and such mail or notice is sent certified mail, return receipt
1381 requested, ~~then the Council may send~~ any subsequent, identical mail or notice ~~that is sent by the~~
1382 Council may be sent by regular mail.

1383 **Drafting note: Technical changes are made, including the usage of the active voice.**

1384 § ~~23-276.3~~ 23.1-215. Authority of the ~~State Council of Higher Education~~; regulations;
1385 standards for postsecondary schools; delegation of authority to director.

1386 A. The ~~State Council of Higher Education for Virginia~~ shall adopt, pursuant to the
1387 Administrative Process Act (§ 2.2-4000 et seq.), such regulations as may be necessary to

1388 implement the provisions of this ~~chapter. The Council's regulations shall include, but need not~~
1389 ~~be limited to~~ article, including (i) procedures by which a postsecondary school may apply for
1390 Council approval to confer degrees in ~~Virginia the Commonwealth~~; (ii) measures designed to
1391 ensure that all postsecondary schools that are subject to the provisions of this ~~chapter~~ article
1392 meet the minimal ~~academic~~ standards established pursuant to subsection B; (iii) protections for
1393 students pursuing postsecondary education opportunities in postsecondary schools subject to the
1394 provisions of this ~~chapter~~ article; and (iv) information to assist persons who rely on
1395 postsecondary degrees, ~~diplomas, and or~~ certificates ~~in judging to judge~~ the competence of
1396 individuals in receipt of such degrees or certificates.

1397 B. The Council shall establish minimal standards ~~established by the Council shall~~
1398 ~~include, but need not be limited to, for postsecondary schools that include standards for~~ faculty
1399 preparation and experience, educational programs, physical plants, additional locations,
1400 finances, guaranty instruments, advertising and publications, maintenance of student records,
1401 personnel qualifications, student services, the method for collecting and refunding tuition and
1402 fees, library resources and services, organization and administration, changes of ownership or
1403 control, procedures for student admission and graduation, agent or solicitor requirements,
1404 consistency of a postsecondary school's stated purpose with the proposed offerings, reporting
1405 requirements, and any other relevant standards or requirements ~~promulgated~~ adopted by ~~action~~
1406 ~~of the Council or~~ an accrediting agency recognized by the ~~United States U.S.~~ Department of
1407 Education.

1408 C. The Council shall prescribe the manner, conditions, and language to be used by a
1409 postsecondary school, ~~person,~~ or agent ~~thereof in disclosing of such school to disclose~~ or
1410 ~~advertising~~ advertise that the postsecondary school has received certification from the Council
1411 to offer postsecondary programs in ~~Virginia the Commonwealth~~.

1412 D. ~~In addition to the other requirements of this chapter, the~~ The Council may establish
1413 separate certification criteria for various postsecondary school classifications.

1414 E. ~~Pursuant to the provisions of this chapter and its implementing regulations, the~~ The
1415 Council may grant to its director the authority to take, ~~on its behalf,~~ specific actions on its behalf
1416 in furtherance of the provisions of this article.

1417 **Drafting note: Technical changes.**

1418 § ~~23-276.13~~ 23.1-216. ~~Establishment of the~~ Career College Advisory Board established.

1419 A. The Council shall establish and seek the advice of the Career College Advisory
1420 Board, which shall assist the Council in the performance of its duties and provide advisory
1421 services in academic and administrative matters related to proprietary private ~~proprietary~~
1422 ~~institutions of higher education and academic vocational noncollege degree schools~~
1423 postsecondary schools, excluding vocational non-college degree schools. The Career College
1424 Advisory Board shall be composed of college and university representatives and such other
1425 members as the Council may select and shall be broadly representative of ~~the~~ proprietary private
1426 ~~proprietary sector of institutions of higher education and academic vocational noncollege degree~~
1427 secondary schools, excluding vocational non-college degree schools.

1428 B. The Career College Advisory Board shall meet at least twice each year and ~~shall~~
1429 advise the Council and ~~the~~ proprietary private ~~proprietary accredited institutions of higher~~
1430 ~~education and academic vocational noncollege degree schools in the Commonwealth~~
1431 postsecondary schools, excluding vocational non-college degree schools, regarding such matters
1432 as may come before ~~it~~ the Career College Advisory Board. The Council may employ such
1433 qualified personnel as may be required to assist the Career College Advisory Board in the
1434 performance of its duties.

1435 **Drafting note: Technical changes.**

1436 § ~~23-276.14~~ 23.1-217. ~~Certificates generally~~ Certification required.

1437 A. No person shall open, operate, or conduct any postsecondary school in ~~this~~ the
1438 Commonwealth without ~~a certificate~~ certification to operate such postsecondary school issued
1439 by the Council. The Council shall ~~issue a certificate to~~ certify those postsecondary schools in
1440 compliance with ~~the~~ Council regulations issued pursuant to this ~~chapter~~ article.

1441 B. Postsecondary schools shall seek such certification from the Council immediately
1442 after receipt of a valid business license issued by the relevant official of the locality in which it
1443 seeks to operate.

1444 **Drafting note: Technical changes are made, including the replacement of references**
1445 **of "certificate" with "certification." Certificate is already defined for the article.**

1446 § ~~23-276.15~~ 23.1-218. List of postsecondary schools holding valid ~~certificates~~
1447 certification.

1448 The Council shall maintain a list of postsecondary schools holding valid ~~certificates~~
1449 certification under the provisions of this ~~chapter, which article and~~ shall ~~be~~ make such list
1450 available ~~for the information of~~ to the public.

1451 Upon confirmation of any notification or discovery of any postsecondary school
1452 operating without its certification or approval, the Council shall notify in writing the relevant
1453 local Commissioner of the Revenue or other official serving such equivalent functions of the
1454 postsecondary school's violation of such certification or approval requirement, and shall
1455 recommend revocation of the postsecondary school's business license.

1456 **Drafting note: Technical changes are made, including the replacement of references**
1457 **of "certificate" with "certification." Certificate is already defined for the article.**

1458 § ~~23-276.4~~ 23.1-219. Council certification ~~required for the conferring of certain degrees~~
1459 ~~and other awards or the offering of certain programs;~~ requirements and prohibitions.

1460 A. Without obtaining the certification of the Council or a determination that the activity
1461 or program is exempt from such certification requirements, no postsecondary school subject to
1462 the provisions of this ~~chapter~~ article shall:

1463 1. Use the term "college" or "university" or abbreviations or words of similar meaning in
1464 its name or in any manner in connection with its academic affairs or business;

1465 2. Enroll students;

1466 3. Offer degrees, courses for degree credit, programs of study leading to a degree, or
1467 courses for nondegree credit ~~courses~~, either at a site ~~in Virginia~~ or via telecommunications
1468 equipment located within ~~Virginia~~ the Commonwealth; or

1469 4. Initiate other programs for degree credit or award degrees, or certificates, ~~or diplomas~~
1470 at a new or additional level.

1471 B. All institutions of higher education and academic-vocational ~~noncollege~~ non-college
1472 degree schools subject to the provisions of this ~~chapter~~ article shall be fully accredited by an
1473 accrediting agency recognized by the ~~United States~~ U.S. Department of Education.

1474 C. All ~~out-of-state academic-vocational noncollege degree schools operating in good~~
1475 ~~standing in the Commonwealth prior to July 1, 2006, that have not obtained accreditation by an~~
1476 ~~accrediting agency recognized by the United States Department of Education shall secure~~
1477 ~~accreditation candidacy status by July 1, 2009, and shall secure full accreditation by an~~
1478 ~~accrediting body recognized by the United States Department of Education by July 1, 2012.~~
1479 Further, on and after July 1, 2006, all out-of-state academic-vocational ~~noncollege~~ non-college
1480 degree schools, subject to the provisions of this ~~chapter,~~ article shall disclose their accreditation
1481 status in all written materials advertising or describing ~~the~~ such school that are distributed to
1482 prospective or enrolled students or the general public.

1483 ~~C. Institutions of higher education~~ D. No postsecondary school shall ~~not~~ be required to
1484 obtain another certification from the Council to operate in ~~Virginia~~ the Commonwealth if ~~they it~~
1485 (i) ~~were was~~ formed, chartered, or established in the Commonwealth, or chartered by an Act of
1486 Congress; (ii) ~~have has~~ maintained ~~a its~~ main ~~or branch~~ campus continuously in the
1487 Commonwealth for at least 20 calendar years under ~~their its~~ current ownership; (iii) ~~were was~~
1488 continuously approved or authorized to confer or grant academic or professional degrees by the
1489 Council, ~~by~~ the Board of Education, or ~~by~~ an act of the General Assembly during those 20
1490 years; and (iv) ~~are is~~ fully accredited by an accrediting agency that is recognized by, and has
1491 met the criteria for Title IV eligibility of the ~~United States~~ U.S. Department of Education. If ~~the~~
1492 Council revokes an institution's authorization to confer or grant academic or professional

1493 degrees ~~is revoked~~, the institution ~~must~~ is required to seek recertification ~~and must do so~~
1494 annually until it meets the criteria of this subsection.

1495 ~~D. E.~~ In addition to such other requirements as are established in this ~~chapter article~~ or
1496 the regulations of the Council, any ~~postsecondary school formed, chartered, or established~~
1497 ~~outside of the Commonwealth~~ out-of-state institution of higher education or academic-
1498 vocational non-degree school shall provide verification that:

1499 1. The institution or school is fully accredited by an accrediting agency recognized by
1500 the ~~United States~~ U.S. Department of Education;

1501 2. All courses, degrees, or certificates, ~~or diploma programs~~ offered at any ~~Virginia~~ site
1502 are also offered at ~~the school's main~~ an out-of-state campus of the institution or school;

1503 3. All credits earned at any ~~Virginia~~ site are transferable to an ~~institution's main~~ out-of-
1504 state campus of the institution or school; and

1505 4. The institution or school has complied with the requirements of either Article 17 (§
1506 13.1-757 et seq.) of Chapter 9 of Title 13.1 or Article 14 (§ 13.1-919 et seq.) of Chapter 10 of
1507 Title 13.1.

1508 ~~E. F.~~ Any postsecondary school that seeks to conduct telecommunications activities from
1509 a ~~Virginia~~ site shall apply for Council approval to conduct such activity and shall comply with
1510 this ~~chapter article~~ and the Council's regulations in the same manner as any other postsecondary
1511 school subject to this ~~chapter article~~.

1512 **Drafting note: Language in proposed subsection C is stricken as obsolete. Technical**
1513 **changes are made, including striking "Virginia" where it occurs immediately preceding**
1514 **"site"; such specification is already included in the article-wide definition.**

1515 § ~~23-276.5~~ 23.1-220. Approval procedures.

1516 A. Prior to Council approval for a postsecondary school to use the term "college" or
1517 "university" or abbreviations or words of similar meaning in its name or in any manner in
1518 connection with its academic affairs or business, ~~to~~ offer courses or programs for degree credit,
1519 enroll students in any courses or programs, or confer or award degrees, each postsecondary

1520 school shall be evaluated by the Council in accordance with the regulations adopted pursuant to
1521 ~~this chapter § 23.1-215.~~

1522 B. Upon finding that the applicant has fully complied with the regulations adopted
1523 pursuant to § 23.1-215, the Council shall approve the application.

1524 C. The Council may defer a decision on an application upon determining that additional
1525 information is needed.

1526 D. The Council shall not take into account duplication of effort by public institutions of
1527 higher education and private institutions ~~in the Commonwealth of higher education~~ or other
1528 questions of need when considering an application.

1529 **Drafting note: Technical changes are made, such as including adding cross-**
1530 **references in subsections A and B.**

1531 § ~~23-276.6~~ 23.1-221. Refusal, suspension, and revocation of approval or certification.

1532 A. The Council may refuse to grant a certification, may revoke or suspend a prior
1533 approval or certification, ~~as the case may be~~, including any approval or authorization issued
1534 prior to July 1, 1980, and may add conditions to any approval or certification, ~~as the case may~~
1535 ~~be~~, on such grounds as may be provided in its regulations or ~~any of if~~ the ~~following grounds~~
1536 postsecondary school:

1537 1. ~~The school submits~~ Submits or has submitted any false or misleading information to
1538 the Council in connection with its approval;

1539 2. ~~The school or any of its locations fails~~ Fails to meet or to maintain compliance with
1540 the Council's regulations at any of its locations;

1541 3. ~~The school publicly~~ Publicly makes or causes to be made any false or misleading
1542 representation that it has complied with any requirement of this ~~chapter article~~ or the Council's
1543 regulations;

1544 4. ~~The school violates~~ Violates any provision of this ~~chapter article~~ or the Council's
1545 regulations; or

1546 5. ~~The school fails~~ Fails or refuses to furnish the Council with any requested information
1547 or records required by this ~~chapter article~~ or the Council's regulations.

1548 B. The Council may refuse to grant an approval or may place conditions on an approval
1549 for a request to use a name that incorporates terms deemed by the Council to be misleading to
1550 consumers, students, or the general public regarding the postsecondary school's affiliation or
1551 association with any public institution ~~or system~~ of higher education ~~in the Commonwealth. The~~
1552 Council but shall not, ~~however,~~ add conditions to, revoke, or suspend a prior approval of a
1553 name. The Council shall, by regulation, designate the terms deemed to be misleading, which
1554 shall include, ~~but shall not be limited to,~~ "public university," "public college," and "community
1555 college."

1556 C. The Council shall notify ~~the a~~ postsecondary school by certified mail, return receipt
1557 requested, of its intention to deny an application, suspend or revoke a prior approval or
1558 certification, ~~as the case may be,~~ or add conditions to an approval or certification, ~~as the case~~
1559 may be, and ~~shall~~ state in writing the reasons for the denial, suspension, revocation, or
1560 conditions. The postsecondary school may, within 10 days of receipt of the certified mail notice,
1561 submit a written request for a proceeding before the Council pursuant to Article 3 (§ 2.2-4018 et
1562 seq.) of Chapter 40 of Title 2.2.

1563 D. The Council may issue orders to comply with its regulations or the provisions of this
1564 chapter article; unless an emergency exists, such orders shall only be issued after a proceeding
1565 pursuant to Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of Title 2.2.

1566 E. In accordance with Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of Title 2.2, any
1567 postsecondary school aggrieved by (i) a decision of the Council to deny an application ~~or,~~
1568 suspend or revoke a prior approval or certification, ~~as the case may be,~~ or add conditions to an
1569 approval or certification, ~~or aggrieved by (ii)~~ any order to comply with this article or the
1570 Council's regulations ~~or this chapter~~ may appeal such decision. The Council shall make a final
1571 administrative decision on such appeal in accordance with the Administrative Process Act (§
1572 2.2-4000 et seq.).

1573 F. In order to regain approval, a postsecondary school that has had its approval or
1574 certification, ~~as the case may be~~ revoked or suspended by the Council shall file a new
1575 application for certification and ~~shall~~ provide clear and convincing evidence that the conditions
1576 resulting in the suspension or revocation have been remedied and ~~that~~ the postsecondary school
1577 is in compliance with this ~~chapter article~~ and the Council's regulations.

1578 **Drafting note: Technical changes are made, including changing ambiguous**
1579 **references from "school" to "postsecondary school."**

1580 § ~~23-276.7~~ 23.1-222. Emergency actions.

1581 A. The Council may, by regulation, authorize its director to take immediate action on its
1582 behalf in any instance in which a postsecondary school holding certification to operate in
1583 Virginia the Commonwealth is the subject of an adverse action by the ~~United States~~ U.S.
1584 Department of Education or ~~by~~ the postsecondary school's accrediting agency. When such
1585 adverse action threatens a disruption of the operation of the postsecondary school and exposes
1586 students to a loss of course or degree credit or financial loss, the director may ~~take any or all of~~
1587 ~~the following actions:~~

1588 1. Suspend new enrollment in specified programs, ~~or~~ or degree levels or ~~in~~ all programs
1589 and degree levels that have been approved by the Council;

1590 2. Require the postsecondary school to provide a guaranty instrument in the amount
1591 necessary to cover the refund of unearned tuition to all students enrolled at the time of the
1592 action; or

1593 3. Take such other actions as may be necessary to protect the rights of currently enrolled
1594 or future students.

1595 B. At its next regularly scheduled meeting, the Council shall either ratify the director's
1596 action or take such other actions as it ~~may deem~~ deems necessary.

1597 **Drafting note: Technical changes are made, including changing ambiguous**
1598 **references from "school" to "postsecondary school."**

1599 § ~~23-276.8~~ 23.1-223. Preservation of students' records ~~required~~.

1600 A. In the event of school closure or revocation of its approval or certification, the
1601 [postsecondary](#) school shall (i) make arrangements for the transfer of the academic and financial
1602 records of all students to the Council within 30 days of the closure or (ii) with the approval of
1603 the Council, ensure preservation of the academic and financial records of all students by
1604 entering an agreement with another [postsecondary](#) school. An out-of-state [postsecondary](#) school
1605 that is public or corporately held may retain records at the [postsecondary](#) school's location
1606 outside of the Commonwealth but shall provide the Council with the contact information needed
1607 for each student to obtain copies of his academic and financial records.

1608 B. This section shall not be deemed to interfere with students' rights to have access to
1609 and obtain copies of their own records or to authorize disclosure of student records except in
1610 compliance with applicable state and federal law, including the federal Family Educational
1611 Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, ~~as amended~~.

1612 **Drafting note: Technical changes.**

1613 § ~~23-276.9~~ [23.1-224](#). Fees.

1614 The Council may, ~~as it deems necessary to comply with the provisions of this chapter~~
1615 ~~and its regulations~~, establish [nonrefundable](#) fees for services and methods for collecting such
1616 fees. ~~All fees shall be nonrefundable.~~

1617 **Drafting note: Technical changes.**

1618 § ~~23-276.10~~ [23.1-225](#). Prohibited acts.

1619 A. Without prior Council approval, no person or other entity subject to the provisions of
1620 this ~~chapter article~~ shall use in any manner, within the Commonwealth ~~of Virginia~~, the term
1621 "college" or "university" or abbreviations or words of similar meaning in its name ~~or in any~~
1622 ~~manner~~, in connection with its academic affairs or business, or in any literature, catalog,
1623 pamphlet, or descriptive material.

1624 This subsection shall not apply to any person or other entity that (i) used the term
1625 "college" or "university" openly and conspicuously in its title within the Commonwealth prior to
1626 July 1, 1970; (ii) was granted authority to operate in ~~Virginia~~ [the Commonwealth](#) by the Council

1627 between July 1, 1970, and July 1, 2002, and maintains valid authority to so operate in ~~Virginia~~
1628 the Commonwealth on or after July 1, 2002; (iii) was exempted from the provisions of former
1629 Chapter 21 (§ 23-265 et seq.) of ~~this title~~ Title 23, as such law was in effect prior to July 1,
1630 2002; or (iv) was authorized by the Council to use a name while its request for approval to
1631 enroll students is pending before the Council.

1632 B. No person or other entity shall sell, barter, or exchange for any consideration, or
1633 attempt to sell, barter, or exchange for any consideration, any degree credit, degree, ~~diploma~~, or
1634 certificate.

1635 C. No person or other entity shall ~~use~~:

1636 1. Use or attempt to use, in connection with any business, trade, profession, or
1637 occupation, any degree ~~or certification of degree or credit~~, degree credit, or certificate,
1638 including, ~~but not limited to, a any~~ transcript of coursework that ~~he it~~ knows or has reason to
1639 know has been fraudulently issued, obtained, forged, materially altered, or purchased;

1640 ~~D. No person or other entity shall issue~~ 2. Issue or manufacture a fraudulent academic
1641 credential;

1642 ~~E. No person or other entity shall physically~~ 3. Physically present a fraudulent academic
1643 credential, knowing it is fraudulent, in an attempt to obtain employment, promotion, licensure,
1644 or admission to an institution of higher education;

1645 ~~F. No person or entity that is not an institution of higher education accredited by an~~
1646 ~~accrediting agency recognized by the U.S. Department of Education, or having the foreign~~
1647 ~~equivalent of such accreditation, shall in~~

1648 4. In any way represent that it is an institution of higher education that is accredited by
1649 an accrediting agency recognized by the U.S. Department of Education or has the foreign
1650 equivalent of such accreditation if the person or entity is not so accredited; or

1651 ~~G. Unless exempted from the provisions of this chapter or granted approval by the~~
1652 ~~Council in accordance with this chapter and relevant regulations, no person or other entity shall~~
1653 ~~represent~~ 5. Represent that credits earned at or granted by any institution of higher education or

1654 academic-vocational ~~noncollege~~ non-college degree school may be applied for credit toward a
1655 degree unless such person is exempted from the provisions of this article or granted certification
1656 or approval by the Council in accordance with this article and the Council's regulations.

1657 **Drafting note: Technical changes are made. Existing subsections D through G are**
1658 **logically reorganized as subdivisions A 2 through 5.**

1659 § ~~23-276.2~~ 23.1-226. Exemptions.

1660 A. The provisions of this ~~chapter~~ article shall not apply to ~~the public state supported~~
1661 ~~institutions named in § 23-9.5 or~~ any public institution of higher education ~~established in statute~~
1662 ~~as an authority and declared a governmental instrumentality pursuant to § 23-14 as that term is~~
1663 defined in § 23.1-100 or any entity authorized to issue bonds pursuant to § 23.1-1100.

1664 B. ~~In addition, the~~ The following activities or programs offered by postsecondary
1665 schools that are otherwise subject to this ~~chapter shall be~~ are exempt from its provisions:

1666 1. The awarding of ~~an~~ any honorary degree conferred that clearly states on its face that it
1667 is honorary in nature and is regarded as (i) commemorative in recognition of an individual's
1668 contributions to society and (ii) not representative of the satisfactory completion of any or all ~~or~~
1669 ~~any part~~ of the requirements of a program or course of study; ~~such degree shall clearly state on~~
1670 ~~its face that it is honorary in nature;~~

1671 2. A nursing education program or curriculum regulated by the Board of Nursing;

1672 3. A professional or occupational training program subject to the approval of (i) a
1673 regulatory board pursuant to Title 54.1 or (ii) ~~other~~ another state or federal governmental
1674 agency;

1675 4. ~~Those courses or programs of instruction given by~~ Any course or program of
1676 instruction provided or approved by any professional body, fraternal organization, civic club, or
1677 benevolent order ~~that are principally for~~ for which the principal purpose is continuing or
1678 professional education or a similar purpose and for which no degree credit is awarded;

1679 5. ~~Those courses or programs~~ Any course or program offered through approved
1680 multistate compacts, including, ~~but not limited to,~~ the Southern Regional Education Board's
1681 Electronic Campus;

1682 6. ~~Those courses~~ Any course offered and delivered by a postsecondary school ~~that is~~
1683 ~~accredited by an entity recognized by the U.S. Department of Education for accrediting~~
1684 ~~purposes, if such courses are provided,~~ solely on a contractual basis for which (i) no individual
1685 is charged tuition and ~~for which~~ (ii) there is no advertising for open enrollment;

1686 7. Any school, institute, or course of instruction offered by any trade association or any
1687 nonprofit affiliate of a trade association on subjects related to the trade, business, or profession
1688 represented by such association;

1689 8. Any public or private high school accredited or recognized by the Board of Education
1690 that has offered or may offer one or more courses ~~cited as provided~~ in this ~~chapter article~~, if the
1691 school collects any tuition, fees ~~and, or~~ charges ~~made by the school are collected~~ as ~~may be~~
1692 permitted by Title 22.1, in the case of a public school, or pursuant to regulations prescribed by
1693 the relevant governing body ~~of such~~ in the case of a private school; or

1694 9. Tutorial instruction delivered and designed to supplement regular classes for students
1695 enrolled in any public or private school or ~~to~~ prepare an individual for an examination for
1696 professional practice or higher education.

1697 C. The Council shall exempt from the provisions of this ~~chapter article~~ any
1698 postsecondary school whose primary purpose is to provide religious or theological education.
1699 Postsecondary schools shall apply for exemptions to confer ~~diplomas,~~ certificates, or degrees
1700 related to religion and theology. Exemptions may be granted for a maximum of five years,
1701 unless the postsecondary school has been granted a standing exemption prior to July 1, 2002.

1702 Each postsecondary school seeking such an exemption or continuation of such an
1703 exemption shall file such information as may be required by the Council. If the Council does not
1704 grant a postsecondary school an exemption, the postsecondary school shall be notified in writing
1705 with the reasons for the exemption denial. The affected postsecondary school ~~shall have~~ has the

1706 right to appeal the Council's decision pursuant to Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of
1707 Title 2.2. The Council shall, in each instance, determine the applicability of the exemption as
1708 provided in this section.

1709 D. Notwithstanding the exemptions provided in this section, exempted postsecondary
1710 schools ~~shall be~~ are subject to the provisions of subsection B of § ~~23-276.6~~ 23.1-221 and a
1711 postsecondary school may seek Council approval for an otherwise exempt activity or program.

1712 **Drafting note: Technical changes are made, including striking the phrase "but not**
1713 **limited to" after "including" in subdivision B 5 pursuant to § 1-218, which states:**
1714 **"'Includes' means includes, but not limited to."**

1715 § ~~23-276.11~~ 23.1-227. Virginia law to apply to contracts.

1716 The laws of ~~Virginia~~ the Commonwealth shall govern any agreement, contract, or
1717 instrument of indebtedness executed between a postsecondary school and any person enrolling
1718 in any course or program offered or to be offered by such school in ~~Virginia and the~~
1719 Commonwealth or any person employed or offered employment by such school in ~~Virginia the~~
1720 Commonwealth.

1721 **Drafting note: Technical changes.**

1722 § ~~23-276.12~~ 23.1-228. Violations; ~~criminal penalty; injunction proceeding; civil penalty~~
1723 penalties; remedies.

1724 A. Violations of this ~~chapter article~~ or the Council's implementing regulations ~~may be~~
1725 are punishable as a Class 1 misdemeanor. Each degree, ~~diploma~~, certificate, program, academic
1726 transcript, or course of study offered, conferred, or used in violation of this ~~chapter article~~ or the
1727 Council's regulations shall constitute a separate offense.

1728 B. ~~The Council may also institute a proceeding in equity to enjoin any violation of this~~
1729 ~~chapter or its implementing regulations. Further, if~~ If no criminal prosecution is instituted
1730 against such postsecondary school pursuant to subsection A, the Council ~~shall have the authority~~
1731 to may recover a civil penalty of at least \$200 but not more than \$1,000 per ~~violation, with each~~

1732 ~~unlawful act constituting a~~ separate ~~violation offense set forth in subsection A~~. In no event shall
1733 the civil penalties against any one person, corporation, or other entity exceed \$25,000 per year.

1734 C. ~~Upon~~ The Council may institute a proceeding in equity to enjoin any violation of this
1735 article or its implementing regulations and upon substantially prevailing on the merits of the
1736 case and unless special circumstances would render such an award unjust, the Council ~~shall be~~
1737 is entitled to an award of reasonable ~~attorney's~~ attorney fees and costs in any such action ~~to~~
1738 ~~enjoin violations of this chapter or its implementing regulations~~.

1739 **Drafting note: Technical changes are made, including changing "attorney's fees" to**
1740 **"attorney fees" in subsection C per Code style.**

1741 § ~~23-276.16~~ 23.1-229. ~~School~~ Postsecondary school closure procedures.

1742 A. ~~A~~ Each postsecondary school shall notify the Council of its intention to close at least
1743 30 days prior to the closure. The notice shall be accompanied by a comprehensive plan for
1744 closure and a teachout plan that makes provision for presently enrolled students to complete the
1745 program of instruction for which they have enrolled, either at ~~the~~ such postsecondary school or
1746 at another postsecondary school certified by the Council or authorized to operate in the
1747 Commonwealth. ~~The~~ Each closing postsecondary school shall obtain the Council's approval of
1748 the teachout plan prior to implementation.

1749 B. ~~The~~ Each closing postsecondary school shall notify the Council, in writing, if there is
1750 no comparable program for the purposes of developing a teachout plan within 50 miles of the
1751 closing postsecondary school or if the closing postsecondary school is unable to enter a teachout
1752 agreement with another postsecondary school. This information shall be provided at the time the
1753 closing postsecondary school notifies the Council of its intention to close.

1754 C. Owners or senior administrators of a postsecondary school that closes without
1755 providing (i) an adequate teachout plan or refunds of unearned tuition and (ii) appropriate
1756 preservation of records shall be denied certification to operate another postsecondary school in
1757 the Commonwealth.

1758 **Drafting note: Technical changes.**

- 1759 ~~§ 23-8.1.~~
- 1760 **Drafting note: Repealed by Acts 1980, c. 658.**
- 1761 ~~§ 23-8.2.~~
- 1762 **Drafting note: Repealed by Acts 1991, c. 590.**
- 1763 ~~§ 23-8.3, 23-9.~~
- 1764 **Drafting note: Repealed by Acts 1980, c. 658.**
- 1765 ~~CHAPTER 21.~~
- 1766 ~~REGULATION OF CONFERRING DEGREES, ETC.~~
- 1767 ~~§§ 23-265 through 23-276.~~
- 1768 **Drafting note: Repealed by Acts 2002, c. 178, cl. 2.**
- 1769 ~~CHAPTER 4.9:1 3.~~
- 1770 THE VIRGINIA HIGHER EDUCATION OPPORTUNITY ACT OF 2011.
- 1771 **Drafting note: Technical changes.**
- 1772 ~~§ 23-38.87:11~~ 23.1-300. Definitions.
- 1773 ~~For purposes of As used in~~ this chapter, unless the context ~~clearly~~ requires ~~otherwise a~~
- 1774 different meaning:
- 1775 "College degree" means an undergraduate degree from an accredited ~~two-year~~ associate-
- 1776 degree-granting or ~~four-year~~ baccalaureate (i) public institution of higher education or (ii)
- 1777 private institution of higher education.
- 1778 "Cost of education" means the operating funds necessary during a fiscal year to provide
- 1779 educational and general services, other than research and public service, to students attending an
- 1780 institution in that fiscal year.
- 1781 ~~"Council" means the State Council of Higher Education for Virginia.~~
- 1782 "Educational and general fees" means fees over and above tuition charged for certain
- 1783 educational and general services.
- 1784 "Educational and general services" means services associated with instruction, academic
- 1785 support, student services, institutional support, research, public service, ~~and or~~ operation and

1786 maintenance of physical plant, with adjustments based on particular state policies related to
1787 specific institutional conditions, ~~but~~. "Educational and general services" does not include
1788 services associated with programs and administrative services that are required to be self-
1789 supporting or are otherwise supported by funds other than general funds, such as food services,
1790 university-owned or university-leased dormitories or other living facilities, athletic programs,
1791 ~~and or~~ other self-supporting programs.

1792 "Enrollment" or "student enrollment" means the number of full-time equivalent students.

1793 "Fiscal year" means the period from July 1 of one calendar year to June 30 of the next
1794 calendar year.

1795 ~~"Institution" or "public institution of higher education" means each two-year and four-~~
1796 ~~year public institution of higher education in the Commonwealth and, in the case of the Virginia~~
1797 ~~Community College System, the system as a whole, not each community college.~~

1798 "Peer institutions" ~~for an institution~~ means those institutions determined by the Council,
1799 in consultation with ~~the a public~~ institution of higher education, the Secretary of Education or
1800 his designee, the Director of the Department of Planning and Budget or his designee, and the
1801 Chairmen of the House Committee on Appropriations and the Senate Committee on Finance or
1802 their designees, to be most similar to ~~the such public~~ institution of higher education and
1803 ~~therefore to~~ provide a fair comparison in determining ~~what the~~ appropriate and competitive
1804 faculty salaries for ~~that such public~~ institution should be of higher education.

1805 "Public institution of higher education" does not include each comprehensive community
1806 college.

1807 "STEM" means science, technology, engineering, and mathematics.

1808 "Student" means a full-time or part-time undergraduate, graduate, or professional student
1809 attending a public institution of higher education and enrolled in a degree program.

1810 ~~"Virginia student" means a student who is eligible for in-state tuition pursuant to § 23-~~
1811 ~~7.4.~~

1812 **Drafting note: The definition of "Council" is stricken here because it is included in**
1813 **proposed § 23.1-100, the definitions section that applies title wide. The title-wide definition**
1814 **of "public institution of higher education" from proposed § 23.1-100 is added so that**
1815 **comprehensive community colleges can be expressly excluded from that definition for the**
1816 **purposes of this proposed chapter. The definition of "Virginia student" is stricken here**
1817 **because such term is defined title-wide in § 23.1-100.**

1818 § ~~23-38.87:10~~ 23.1-301. Short title; ~~purpose objective; purposes~~.

1819 A. This chapter may be cited as the "Preparing for the Top Jobs of the 21st Century: The
1820 Virginia Higher Education Opportunity Act of 2011," the "Top Jobs Act," or "TJ21."

1821 B. The objective of this chapter is to fuel strong economic growth in the Commonwealth
1822 and prepare Virginians for the top job opportunities in the knowledge-driven economy of the
1823 21st century by establishing a long-term commitment, policy, and framework for sustained
1824 investment and innovation that will (i) enable the Commonwealth to build upon the strengths of
1825 its excellent higher education system and achieve national and international leadership in
1826 college degree attainment and personal income; and ~~that will~~ (ii) ensure that these educational
1827 and economic opportunities are accessible and affordable for all capable and committed
1828 Virginia students.

1829 C. In furtherance of ~~this the~~ objective set forth in subsection A, the following purposes
1830 shall inform the development and implementation of funding policies, performance criteria,
1831 economic opportunity metrics, and recommendations required by this chapter:

1832 1. To ensure an educated workforce in ~~Virginia the Commonwealth~~ through a public-
1833 private higher education system whose hallmarks are instructional excellence, affordable access,
1834 economic impact, institutional diversity and managerial autonomy, cost-efficient operation,
1835 technological and pedagogical innovation, and reform-based investment;

1836 2. To take optimal advantage of the demonstrated correlation between higher education
1837 and economic growth by investing in higher education in a manner that will generate economic

1838 growth, job creation, personal income growth, and revenues generated for state and local
1839 government in ~~Virginia the Commonwealth~~;

1840 3. To (i) place ~~Virginia the Commonwealth~~ among the most highly educated states and
1841 countries by conferring approximately 100,000 cumulative additional undergraduate degrees on
1842 Virginians between 2011 and 2025, accompanied by a comparable percentage increase in
1843 privately conferred ~~Virginia~~ undergraduate degrees in the Commonwealth over the same period,
1844 and ~~to~~ (ii) achieve ~~these targets this purpose~~ by expanding enrollment of Virginians at public
1845 institutions of higher education and private institutions of higher education ~~institutions in the~~
1846 Commonwealth, improving undergraduate graduation and retention rates in the ~~Virginia~~ higher
1847 education system in the Commonwealth, and increasing degree completion by Virginians with
1848 partial credit toward a college degree, including students with ongoing job and family
1849 commitments who ~~need~~ require access to nontraditional college-level educational opportunities;

1850 4. To enhance personal opportunity and earning power for individual Virginians by (i)
1851 increasing college degree attainment in the Commonwealth, especially in high-demand, high-
1852 income fields such as ~~science, technology, engineering, mathematics, STEM~~ STEM and health care,
1853 fields and ~~by~~ (ii) providing information about the economic value and impact of individual
1854 degree programs by institution;

1855 5. To promote university-based research that produces outside investment in ~~Virginia the~~
1856 Commonwealth, fuels economic advances, triggers commercialization of new products and
1857 processes, fosters the formation of new businesses, leads businesses to bring their facilities and
1858 jobs to ~~Virginia the Commonwealth~~, and in other ways helps place the Commonwealth on the
1859 leading cutting edge in of the knowledge-driven economy;

1860 6. To support the national effort to enhance the security and economic competitiveness of
1861 the United States ~~of America~~, and ~~to~~ secure a leading economic position for the Commonwealth
1862 ~~of Virginia~~, through increased research and instruction in ~~science, technology, engineering,~~
1863 mathematics, STEM and related fields, ~~which that~~ require qualified faculty, appropriate research

1864 facilities and equipment, public-private and intergovernmental collaboration, and sustained state
1865 support;

1866 7. To preserve and enhance the ~~Virginia higher education system's~~ excellence and cost-
1867 efficiency of the Commonwealth's higher education system through reform-based investment
1868 that promotes innovative instructional models and pathways to degree attainment, including
1869 optimal use of physical facilities and instructional resources throughout the year, technology-
1870 enhanced instruction, sharing of instructional resources between ~~and among~~ colleges,
1871 universities, and other degree-granting entities in the Commonwealth, increased online learning
1872 opportunities for nontraditional students, improved rate and pace of degree completion,
1873 expanded availability of dual enrollment and advanced placement options and early college
1874 commitment programs, expanded comprehensive community college transfer options leading to
1875 bachelor's degree completion, and enhanced college readiness before matriculation, ~~among other~~
1876 reforms;

1877 8. To realize the potential for enhanced benefits from the Restructured Higher Education
1878 Financial and Administrative Operations Act ~~of 2005~~ (§ ~~23-38.88~~ 23.1-1000 et seq.); through a
1879 sustained commitment to the principles of autonomy, accountability, affordable access, and
1880 mutual trust and obligation underlying the restructuring initiative;

1881 9. To establish a higher education funding framework and policy that promotes stable,
1882 predictable, equitable, and adequate funding, facilitates effective planning at the institutional
1883 and state levels, provides incentives for increased enrollment of Virginia students at public ~~and~~
1884 or nonprofit private ~~nonprofit colleges and universities in the Commonwealth~~ institutions of
1885 higher education, provides need-based financial aid for low-income and middle-income students
1886 and families, relieves the upward pressure on tuition associated with loss of state support due to
1887 economic downturns or other causes, and provides financial incentives to promote innovation
1888 and enhanced economic opportunity in furtherance of the objective of this chapter set forth in
1889 subsection A; and

1890 10. To recognize that the unique mission and contributions of each public institution of
1891 higher education ~~in the Commonwealth and private institution of higher education~~ is consistent
1892 with the desire to build upon the strengths of the Commonwealth's excellent system of higher
1893 education, ~~to~~ afford these unique missions and contributions appropriate safeguards, and ~~to~~
1894 allow these attributes to inform the development and implementation of funding policies,
1895 performance criteria, economic opportunity metrics, and recommendations in the furtherance of
1896 ~~this chapter's objectives~~ the objective of this chapter set forth in subsection A.

1897 **Drafting note: References to "Virginia" are replaced with "the Commonwealth"**
1898 **per Code style and Code Commission policy. Technical changes are made.**

1899 § ~~23-38.87:12~~ 23.1-302. ~~Higher Public institutions of higher~~ education; funding ~~policy~~.

1900 ~~The funding policy for Each~~ public ~~institutions~~ institution of higher education shall ~~be~~
1901 ~~comprised of amounts for each institution~~ receive funds from the state general fund, ~~from funds~~
1902 or sources other than the state general fund, or both, for each fiscal year of ~~a~~ each biennium for:

1903 1. Basic operations and instruction, as provided in § ~~23-38.87:13~~ 23.1-303;

1904 2. Each Virginia undergraduate student actually enrolled at the institution, as provided in
1905 § ~~23-38.87:14~~ 23.1-304;

1906 3. Need-based financial aid, as provided in § ~~23-38.87:15~~ 23.1-306; and

1907 4. Support for targeted financial incentives that encourage and reward progress toward
1908 the policy objectives specified in this chapter, as provided in § ~~23-38.87:16~~ 23.1-305.

1909 **Drafting note: Technical changes.**

1910 § ~~23-38.87:13~~ 23.1-303. Calculation of state general fund share of an institution's basic
1911 operations and instruction funding need; cost of education.

1912 A. Following consultation with each public institution of higher education and the
1913 Higher Education Advisory Committee described in § ~~23-38.87:20~~ 23.1-309, the Council shall
1914 calculate ~~each institution's~~ the basic operations and instruction funding need of each public
1915 institution of higher education as provided in subsection B for each year of the next biennium
1916 and ~~shall~~ make ~~that~~ such calculation available to the Governor, the General Assembly, and all

1917 public institutions of higher education. ~~Each~~ The Governor shall take into account each
1918 institution's basic operations and instruction funding need, and the Commonwealth's funding
1919 split policy established in the general appropriation act by which 67 percent of an institution's
1920 cost of education for Virginia students is funded from the state general fund and 33 percent from
1921 funds other than the state general fund, ~~shall be taken into account by the Governor~~ during the
1922 preparation of his proposed biennial budget bill ~~recommending the appropriation act~~ for the next
1923 biennium, and ~~by~~ the General Assembly shall take such items into account in enacting ~~that the~~
1924 general appropriation act for the next biennium. Between ~~these such~~ biennial recalculations, ~~an~~
1925 institution's appropriated the General Assembly may increase or decrease the appropriation of
1926 basic operations and instruction funding ~~may be increased or decreased for (i) to a public~~
1927 institution of higher education to correspond with an increase or decrease in Virginia
1928 undergraduate student enrollment at the institution as provided in § ~~23-38.87:14~~ 23.1-304, ~~(ii) or~~
1929 the institution's meeting or not meeting targeted financial incentives listed in § ~~23-38.87:16~~
1930 23.1-305, ~~and (iii) or for~~ any other purpose deemed appropriate by the General Assembly.

1931 B. ~~An institution's~~ The basic operations and instruction funding need of each public
1932 institution of higher education for each fiscal year of the biennium shall ~~be consist of~~ the sum of
1933 (i) the institution's cost of education for the total enrollment ~~of students who actually attended~~
1934 that institution in actual attendance during the fiscal year that ended on June 30 of each odd-
1935 numbered year, which shall be determined using a cost-based funding policy that consists of (a)
1936 a set of formulas for calculating (1) educational cost based on faculty-student ratios by
1937 discipline and level, and (2) the educational and general programs of instruction, academic
1938 support, student services, institutional support, and operation and maintenance of physical plant,
1939 with and (b) adjustments ~~to the funding policy~~ based on particular state policies or specific
1940 institutional missions or conditions; (ii) the amount required to reach the Commonwealth's
1941 faculty salary goal of the 60th percentile of the most recently reported average faculty salaries
1942 paid by that institution's peer institutions, as established in the general appropriation act; and

1943 (iii) such other funding for educational and general services as the General Assembly may
1944 appropriate.

1945 C. State general funds shall be allocated and appropriated to [public institutions of higher](#)
1946 [education](#) in a fair and equitable manner such that, to the extent practicable, the percentage of
1947 the cost of education for Virginia students enrolled at an institution to be funded from state
1948 general funds is the same for each institution. To the extent that the percentages differ among
1949 institutions, that fact shall be taken into account as the Governor deems appropriate in his
1950 [proposed biennial](#) budget bill and by the General Assembly as it deems appropriate in the
1951 [general](#) appropriation act.

1952 **Drafting note: Technical changes.**

1953 § ~~23-38.87:14~~ [23.1-304](#). Per student enrollment-based funding [at public institutions of](#)
1954 [higher education](#).

1955 A. ~~In order to~~ [To](#) incentivize Virginia undergraduate student enrollment growth at the
1956 Commonwealth's public institutions of higher education in furtherance of the increased degree
1957 conferral ~~objectives purpose~~ of this chapter, the Governor shall recommend and the General
1958 Assembly shall determine and appropriate to ~~the such~~ institutions a per student amount that ~~shall~~
1959 [follow follows](#) each Virginia undergraduate student to the [public institution of higher education](#)
1960 in which the student enrolls. Recommendations regarding ~~this such~~ Virginia undergraduate
1961 student enrollment growth incentive shall be developed and reviewed as provided in subdivision
1962 B 1 of § ~~23-38.87:20~~ [23.1-309](#).

1963 B. The Governor shall consider and [may](#) recommend ~~as he deems appropriate~~ and the
1964 General Assembly shall consider and [may](#) provide ~~as it deems appropriate~~ additional general
1965 fund appropriations to address the unfunded enrollment growth that occurred between the 2005-
1966 2006 fiscal year and ~~the enactment of this chapter~~ [July 1, 2011](#).

1967 C. ~~In order to~~ [To](#) assist the General Assembly in determining the per student amount
1968 provided for in subsection A and its relation to the per student amount provided to [nonprofit](#)
1969 private ~~nonprofit~~ institutions of higher education pursuant to the Tuition Assistance Grant Act (§

1970 ~~23-38.11~~ 23.1-617 et seq.), each nonprofit private ~~nonprofit~~ institution of higher education
1971 eligible to participate in the Tuition Assistance Grant Program shall submit to the Council its
1972 Virginia student enrollment projections for that fiscal year and its actual Virginia student
1973 enrollment for the prior fiscal year in a manner determined by the Council. The student
1974 admissions policies for ~~the such~~ private institutions and their specific programs shall remain the
1975 sole responsibility of the governing boards of ~~the such~~ individual institutions.

1976 **Drafting note: Technical changes.**

1977 ~~§ 23-38.87:15. Need-based financial aid.~~

1978 ~~Each institution shall include in its six-year plan required by § 23-38.87:17 an~~
1979 ~~institutional student financial aid commitment that, in conjunction with general funds~~
1980 ~~appropriated for that purpose, provides assistance to students from both low-income and middle-~~
1981 ~~income families. Each institution's six-year plan required by § 23-38.87:17 shall take into~~
1982 ~~account the information and recommendations resulting from the review of federal and state~~
1983 ~~financial aid programs and institutional practices conducted pursuant to subdivisions B 2 and C~~
1984 ~~1 of § 23-38.87:20. The definitions of "low-income family" and "middle-income family" shall~~
1985 ~~be developed and reviewed pursuant to subdivision B 2 of § 23-38.87:20.~~

1986 **Drafting note: The first and second sentences of existing § 23-38.87:15 are**
1987 **incorporated into proposed § 23.1-306. The third sentence is incorporated into proposed §**
1988 **23.1-309.**

1989 ~~§ 23-38.87:16~~ 23.1-305. ~~Targeted Public institutions of higher education; targeted~~
1990 economic and innovation incentives.

1991 A. The Governor shall consider and may recommend and the General Assembly shall
1992 consider and may fund targeted economic and innovation incentives to achieve the objective and
1993 purposes of this chapter. Such incentives may include, ~~but are not limited to~~ incentives based on
1994 the economic opportunity metrics developed pursuant to subdivision B 4 of § 23.1-309 and
1995 incentives for:

- 1996 1. Increased enrollment of Virginia students, in addition to the per student funding
 1997 provided by § ~~23-38.87:14~~ [23.1-304](#);
- 1998 2. Increased degree completion for Virginia residents who have partial credit completion
 1999 for a degree;
- 2000 3. Increased degree completion in a timely or expedited manner;
- 2001 4. Improved retention and graduation rates;
- 2002 5. Increased degree production in ~~the areas of science, technology, engineering, and~~
 2003 [mathematics and STEM](#) or other high-need areas such as the health care-related professions;
- 2004 6. Increased research, including regional and public-private collaboration;
- 2005 7. Optimal year-round utilization of resources and other efficiency reforms designed to
 2006 reduce total institutional cost;
- 2007 8. Technology-enhanced instruction, including course redesign, online instruction, and
 2008 resource sharing among institutions; [and](#)
- 2009 9. Enhanced [comprehensive](#) community college transfer programs and grants and other
 2010 enhanced degree path programs; ~~and~~
- 2011 ~~10. Other incentives based on the economic opportunity metrics developed pursuant to~~
 2012 ~~subdivision B 4 of § 23-38.87:20.~~
- 2013 [Maintenance B. The Governor and the General Assembly shall consider maintenance](#) of
 2014 effort initiatives ~~shall also be considered~~ for individual institutions with unique missions and
 2015 demonstrable performance in specific incentive areas [identified pursuant to subsection A.](#)
- 2016 ~~B. C.~~ The criteria for measuring whether the ~~incentives~~ [incentive areas](#) in subsection A
 2017 have been met, and the benefits or consequences for meeting or not meeting such ~~incentives~~
 2018 [incentive areas](#), shall be developed and reviewed as provided in subdivisions B 3 and ~~B~~ 4 of §
 2019 ~~23-38.87:20~~ [23.1-309](#).

2020 **Drafting note: The phrase "but not limited to" after "including" is stricken in**
 2021 **subdivision A per § 1-218, which states: "'Includes' means includes, but not limited to."**
 2022 **Technical changes are made.**

2023 § ~~23-38.87:17~~ 23.1-306. Institutional Public institutions of higher education; six-year
2024 plans.

2025 A. The governing board of each public institution of higher education shall (i) develop
2026 and adopt biennially and amend or affirm annually a six-year plan for the institution ~~and shall~~;
2027 (ii) submit ~~that such~~ plan to the Council, the Governor, and the ~~Chairs~~ Chairmen of the House
2028 Committee on Appropriations and the Senate Committee on Finance no later than July 1 of each
2029 odd-numbered year; ~~and shall~~ (iii) submit amendments to or an affirmation of that plan no later
2030 than July 1 of each even-numbered year or at any other time permitted by the Governor or
2031 General Assembly.

2032 B. The Secretary of Finance, the Secretary of Education, the Director of the Department
2033 of Planning and Budget, ~~Executive the~~ Director of the Council, the Staff Director of the House
2034 Committee on Appropriations, and the Staff Director of the Senate Committee on Finance, or
2035 their designees, shall review each institution's plan or amendments and provide comments to the
2036 institution on ~~that such~~ plan or amendments by September 1 of the relevant year. Each
2037 institution shall respond to any such comments by October 1 of that year.

2038 C. Each plan shall be structured in accordance with, and be consistent with, the objective
2039 and purposes of this chapter set forth in § ~~23-38.87:10~~ 23.1-301 and the criteria developed
2040 pursuant to § ~~23-38.87:20~~, 23.1-309 and shall be in a form and manner prescribed by the
2041 Council, in consultation with the Secretary of Finance, the Secretary of Education, the Director
2042 of the Department of Planning and Budget, ~~Executive the~~ Director of the Council, the Staff
2043 Director of the House Committee on Appropriations, and the Staff Director of the Senate
2044 Committee on Finance, or their designees.

2045 D. Each six-year plan shall (i) address the institution's academic, financial, and
2046 enrollment plans, ~~to include including~~ the number of Virginia and ~~out-of-state~~ non-Virginia
2047 students, for the six-year period; (ii) indicate the planned use of any projected increase in
2048 general fund, tuition, or other nongeneral fund revenues; (iii) be based upon any assumptions
2049 provided by the Council, following consultation with the Department of Planning and Budget

2050 and the staffs of the House Committee on Appropriations and the Senate Committee on Finance,
2051 for funding related to state general fund support pursuant to §§ 23.1-303, 23.1-304 and 23.1-
2052 305, and subdivision 9; (iv) be aligned with the institution's six-year enrollment projections; and
2053 shall (v) include:

2054 1. Financial planning reflecting the institution's anticipated level of general fund, tuition,
2055 and other nongeneral fund support for each year of the next biennium;

2056 2. The plan also shall include the institution's anticipated annual tuition and educational
2057 and general fee charges required by (i) degree level and (ii) domiciliary status, as provided in §
2058 23-38.87:18, and shall indicate the planned use of any projected increase in general fund,
2059 tuition, or other nongeneral fund revenues. The plan shall be based upon any assumptions
2060 provided by the Council, following consultation with the Department of Planning and Budget
2061 and the staffs of the House Committee on Appropriations and the Senate Committee on Finance,
2062 for funding related to state general fund support pursuant to §§ 23-38.87:13, 23-38.87:14, 23-
2063 38.87:15, and 23-38.87:16, and shall be aligned with the institution's six-year enrollment
2064 projections 23.1-307;

2065 2-3. Plans for providing financial aid to help mitigate the impact of tuition and fee
2066 increases on low-income and middle-income students and their families as described in § 23-
2067 38.87:15 subdivision 9, including the projected mix of grants and loans;

2068 3-4. Degree conferral targets for Virginia undergraduate students;

2069 4-5. Plans for optimal year-round use of the institution's facilities and instructional
2070 resources;

2071 5-6. Plans for the development of an instructional resource-sharing resource-sharing
2072 program with other public institutions of higher education in the Commonwealth and private
2073 institutions of higher education;

2074 6-7. Plans with regard to any other incentives set forth in § 23-38.87:16 23.1-305 or to
2075 any other matters the institution deems appropriate; and

2076 7-8. The identification of (i) new programs or initiatives including quality improvements
2077 and (ii) institution-specific funding based on particular state policies or institution-specific
2078 programs, or both, as provided in subsection C of § ~~23-38.87:18~~ 23.1-307; and

2079 9. An institutional student financial aid commitment that, in conjunction with general
2080 funds appropriated for that purpose, provides assistance to students from both low-income and
2081 middle-income families and takes into account the information and recommendations resulting
2082 from the review of federal and state financial aid programs and institutional practices conducted
2083 pursuant to subdivisions B 2 and C 1 of § 23.1-309.

2084 E. In developing such plans, each public institution of higher education shall ~~give~~
2085 ~~consideration to~~ consider potential future impacts of tuition increases on the Virginia College
2086 Savings Plan and ABLÉ Savings Trust Accounts (§ ~~23-38.75~~ 23.1-700 et seq.) and shall discuss
2087 such potential impacts with the Virginia College Savings Plan. The chief executive officer of the
2088 Virginia College Savings Plan shall provide to each institution the Plan's assumptions
2089 underlying the contract pricing of the program.

2090 **Drafting note: Proposed subdivision D 9 incorporates the first and second sentences**
2091 **of existing § 23-38.87:15. Technical changes are made.**

2092 § ~~23-38.87:18~~ 23.1-307. ~~Tuition~~ Public institutions of higher education; tuition and fees.

2093 A. The board of visitors of each ~~of the Commonwealth's~~ public ~~institutions~~ institution of
2094 higher education; or the Board, in the case of the ~~Virginia Community College~~ System ~~the State~~
2095 ~~Board for Community Colleges~~, shall continue to fix, revise ~~from time to time~~, charge, and
2096 collect tuition, fees, rates, rentals, and other charges for the services, goods, or facilities
2097 furnished by or on behalf of such institution and may adopt policies regarding any such service
2098 rendered or the use, occupancy, or operation of any such facility.

2099 B. Except to the extent included in the institution's six-year plan as provided in
2100 subsection C, if the total of an institution's tuition and educational and general fees for ~~a~~ any
2101 fiscal year for Virginia students exceeds the difference for ~~that~~ such fiscal year between (i) the
2102 institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B

2103 of § ~~23-38.87:13~~, 23.1-303 and (ii) the sum of the tuition and educational and general fees for
2104 non-Virginia students, the state general funds appropriated for its basic operations and
2105 instruction pursuant to subsection A of § ~~23-38.87:13~~ 23.1-303, and its per student funding
2106 provided pursuant to § ~~23-38.87:14~~ 23.1-304, the institution shall ~~forego~~ forgo new state
2107 funding at a level above the general funds received by the institution during the 2011-2012
2108 fiscal year, at the discretion of the General Assembly, and shall be obligated to provide
2109 increased financial aid to maintain affordability for students from low-income and middle-
2110 income families. This limitation shall not apply to any portion of tuition and educational and
2111 general fees for Virginia students allocated to student financial aid, ~~to~~ an institution's share of
2112 state-mandated salary or fringe benefit increases, ~~to~~ increases ~~with in~~ in funds other than state
2113 general funds for the improvement of faculty salary competitiveness above the level included in
2114 the calculation in clause (i) of subsection B of § ~~23-38.87:13~~ 23.1-303, ~~to~~ the institution's ~~share~~
2115 of progress towards achieving any ~~of the targeted~~ financial ~~incentives described in incentive~~
2116 pursuant to § ~~23-38.87:16~~ 23.1-305, ~~to~~ unavoidable cost increases such as operation and
2117 maintenance for new facilities and utility rate increases, or ~~to~~ other items directly attributable to
2118 an institution's unique mission and contributions.

2119 C. Nothing in subsection B shall prohibit an institution from including in its six-year
2120 plan required by § ~~23-38.87:17~~ 23.1-306 (i) new programs or initiatives including quality
2121 improvements or (ii) institution-specific funding based on particular state policies or institution-
2122 specific programs, or both, that will cause the total of the institution's tuition and educational
2123 and general fees for ~~a any~~ any fiscal year for Virginia students to exceed the difference for ~~that such~~ such
2124 fiscal year between (a) the institution's cost of education for all students, as calculated pursuant
2125 to clause (i) of subsection B of § ~~23-38.87:13~~ 23.1-303, and (b) the sum of the tuition and
2126 educational and general fees for the institution's non-Virginia students, the state general funds
2127 appropriated for its basic operations and instruction pursuant to subsection A of § ~~23-38.87:13~~
2128 23.1-303, and its per student funding provided pursuant to § ~~23-38.87:14~~ 23.1-304.

2129 **Drafting note: Technical changes are made, including striking the superfluous**
2130 **phrase "from time to time" in subsection A per Code Commission policy. The word**
2131 **"forego" is corrected to "forgo" in subsection B.**

2132 § ~~23-38.87-19~~ 23.1-308. ~~Creation of~~ STEM public-private partnership established; duties
2133 and responsibilities.

2134 ~~In order to~~ To (i) increase the number of students completing degrees in the high-
2135 demand, high-impact STEM fields ~~of science, technology, engineering, and mathematics~~
2136 ~~(STEM)~~, and other high-demand, anticipated-shortage fields such as the health care-related
2137 professions; and ~~to~~ (ii) help develop and guide the implementation of a comprehensive plan for
2138 higher degree attainment in these fields, the Secretaries of Education and Finance, in
2139 cooperation with the House Committees on Appropriations and Education and the Senate
2140 Committees on Finance and on Education and Health, shall ~~cause to be formed~~ form a public-
2141 private partnership comprised of private-sector leaders, distinguished representatives from the
2142 scientific community ~~(, including retired military personnel, government scientists, and~~
2143 ~~researchers)~~, educational experts, relevant state and local government officials, and ~~others such~~
2144 other individuals as they deem appropriate. The partnership shall advise on, and may collaborate
2145 with public and private entities to develop and implement strategies to address, such priority
2146 issues as (i) determining the need for additional high-demand degree enrollment, capacity, and
2147 resources at ~~the Commonwealth's~~ public institutions of higher education and private institutions
2148 of higher education; (ii) incentivizing greater coordination, innovation, and private collaboration
2149 in kindergarten through secondary school STEM and other high-demand degree initiatives; (iii)
2150 determining and refining best practices in STEM instruction and leveraging those best practices
2151 to promote STEM education in both the Commonwealth's ~~higher education~~ institutions of higher
2152 education and its elementary and secondary schools; (iv) enhancing teacher education and
2153 professional development in STEM disciplines; (v) strengthening mathematics readiness in
2154 secondary schools through earlier diagnosis and remediation of deficiencies; (vi) providing
2155 financial incentives to increase STEM enrollment and degree production at the Commonwealth's

2156 ~~public and private colleges and universities~~ institutions of higher education; (vii) providing
 2157 assistance to ~~the Commonwealth's~~ public institutions of higher education and private ~~colleges~~
 2158 ~~and universities~~ institutions of higher education in the acquisition and improvement of STEM-
 2159 related facilities and equipment; (viii) providing STEM incentives in early ~~college and~~
 2160 ~~university~~ pathway programs at institutions of higher education and in the comprehensive
 2161 community college transfer grant program; (ix) assessing degree programs using such economic
 2162 opportunity metrics as marketplace demand, earning potential, and employer satisfaction; and
 2163 other indicators of the historical and projected economic value and impact of degrees to provide
 2164 useful information on degrees to students as they make career choices and to state policy makers
 2165 and university decision makers as they decide how to allocate scarce resources; (x) aligning
 2166 state higher education efforts with marketplace demands; and (xi) determining such other issues
 2167 as the partnership deems relevant to increasing the number of students completing ~~college and~~
 2168 ~~university~~ degrees in STEM and other high-demand fields at institutions of higher education.

2169 **Drafting note: Technical changes are made, including striking "colleges and**
 2170 **universities" in favor of the title-wide definition, "institutions of higher education."**

2171 § ~~23-38.87:20~~ 23.1-309. ~~Creation of~~ Higher Education Advisory Committee established;
 2172 duties ~~and responsibilities~~.

2173 A. The Secretary of Education, in consultation with the ~~Chairs~~ Chairmen of the House
 2174 Committee on Appropriations and the Senate Committee on Finance, the Secretary of Finance,
 2175 and ~~the each~~ public ~~institutions~~ institution of higher education ~~in the Commonwealth~~, shall
 2176 convene a Higher Education Advisory Committee (Advisory Committee) to provide advice and
 2177 make recommendations on the matters set forth in subsections B, C, and D. The Advisory
 2178 Committee shall consist of ~~10~~ at least 11 members as follows: ~~a one~~ representative of the Office
 2179 of the Secretary of Education, ~~to be~~ appointed by the Secretary of Education, ~~and~~ who shall
 2180 serve as chair of the Advisory Committee; ~~a one~~ representative of the Office of the Secretary of
 2181 Finance, ~~to be~~ appointed by the Secretary of Finance; ~~a one~~ representative of the Council, ~~to be~~
 2182 appointed by the Chairman of the Council; the staff directors of the House Appropriations

2183 Committee and the Senate Finance Committee, or their designees; and the presidents or their
2184 designees of five public institutions of higher education, ~~including which shall include~~ two
2185 doctoral institutions, two comprehensive institutions, and one ~~from the Virginia Community~~
2186 ~~College System. The comprehensive community college, appointed by the~~ presidents of ~~all of~~
2187 the public institutions of higher education ~~shall select the institutions to be represented on the~~
2188 ~~Advisory Committee, subject to the parameters set forth in this section. The Governor shall also~~
2189 ~~appoint, and~~ a representative from a nonprofit private, ~~nonprofit~~ institution of higher education;
2190 ~~however, such representative appointed by the Governor who~~ shall not provide advice or make
2191 recommendations concerning policies that solely impact public institutions of higher education.
2192 Both the Governor and the Advisory Committee may designate other ~~persons~~ individuals to
2193 serve on the Advisory Committee, including ~~but not limited to~~ representatives of academic and
2194 instructional faculty or fiscal officers ~~from state of public~~ institutions of higher education.

2195 B. Consistent with the ~~objectives~~ objective and purposes of this chapter identified in §
2196 ~~23-38.87:10~~ 23.1-301, the Advisory Committee, ~~in consultation with and with assistance from~~
2197 ~~the staff of the Council and such other assistance it may need,~~ shall develop and subsequently
2198 review at least once every five years, in consultation with the staff of the Council and the
2199 respective Chairs Chairmen of the House Committees on Appropriations and Education and the
2200 Senate Committees on Finance and on Education and Health, or their designees, representatives
2201 of public institutions of higher education ~~in the Commonwealth~~, and such other state officials as
2202 may be designated by the Governor, and with assistance from the staff of the Council and such
2203 other assistance as it may require:

2204 1. The methodology established pursuant to subsection A of § ~~23-38.87:14~~ 23.1-304 for
2205 determining how a significant increment of state funding shall follow the student to the ~~two-year~~
2206 associate-degree-granting or ~~four-year~~ baccalaureate public institution of higher education in
2207 which the student enrolls, how the amount of such per student funding for ~~four-year~~
2208 baccalaureate public institutions of higher education will be made to correspond as nearly as
2209 practical to the per student allocation envisioned under the then-existing appropriation for the

2210 Tuition Assistance Grant Act (§ ~~23-38.11~~ 23.1-617 et seq.) for students attending nonprofit
2211 private ~~nonprofit higher education~~ institutions ~~in the Commonwealth of higher education~~, how
2212 and as of what date ~~an institution's~~ the student enrollment at each public institution of higher
2213 education shall be calculated, and how an increase or decrease in Virginia undergraduate student
2214 enrollment above or below the enrollment level used to calculate the institution's funding ~~under~~
2215 pursuant to § ~~23-38.87:13~~ 23.1-303 shall be reflected in the institution's appropriation pursuant
2216 to subsection A of § ~~23-38.87:14~~ 23.1-304, and the standards and process for determining
2217 whether an increase or decrease in Virginia undergraduate student enrollment qualifies for
2218 funding ~~under pursuant~~ § ~~23-38.87:14~~ 23.1-304;

2219 2. Criteria for determining which families qualify as "low-income" and "middle-income"
2220 for purposes of § ~~23-38.87:15~~ 23.1-306 and how they relate to federal, state, and institutional
2221 policies governing the provision of financial assistance to students of such families;

2222 3. Objective performance criteria for measuring the financial incentives set forth in § ~~23-~~
2223 ~~38.87:16,~~ 23.1-305 and the benefits ~~or consequences for of~~ meeting or consequences of not
2224 meeting the incentives included in an institution's six-year plan pursuant to § ~~23-38.87:17~~ 23.1-
2225 306;

2226 4. Economic opportunity metrics, such as marketplace demand, earning potential, and
2227 employer satisfaction, and other indicators of the historical and projected economic value of
2228 degrees that can be used to assess degree programs in order to provide useful information on the
2229 economic impact of degrees to students as they make career choices and ~~to~~ state policy makers
2230 and university decision makers as they decide how to allocate scarce resources;

2231 5. The additional authority that should be granted to all public institutions of higher
2232 education under the Restructured Higher Education Financial and Administrative Operations
2233 Act (§ ~~23-38.88~~ 23.1-1000 et seq.), state goals and objectives each public institution of higher
2234 education should be expected to achieve, objective criteria for measuring educational-related
2235 performance with regard to those goals and objectives, and the benefits ~~or consequences for of~~

2236 meeting or [consequences of](#) not meeting those goals and objectives, including those set forth in
2237 [subsection C of § ~~2.2-5005~~ 23.1-1002](#); and

2238 6. The role of nonpublic institutions [of higher education](#) in addressing the goals set forth
2239 in this chapter and ~~make~~ recommendations regarding such matters.

2240 The Advisory Committee shall submit its recommendations to the Council, which shall
2241 review the recommendations and report its recommendations to the Governor and the ~~Chairs~~
2242 [Chairmen](#) of the House Committees on Appropriations and Education and the Senate
2243 Committees on Finance and on Education and Health.

2244 C. Consistent with the [objective and](#) purposes of this chapter identified in § ~~23-38.87:10~~
2245 [23.1-301](#), the Advisory Committee, ~~in consultation with and with assistance from the staff of the~~
2246 ~~Council and such other assistance as it may need~~, shall review at least every five years, in
2247 consultation with [the staff of the Council](#), the respective ~~Chairs~~ [Chairmen](#) of the House
2248 Committees on Appropriations and Education and the Senate Committees on Finance and on
2249 Education and Health, or their designees, representatives of public institutions of higher
2250 education ~~in the Commonwealth~~, and such other state officials as may be designated by the
2251 Governor, [and with assistance from the staff of the Council and such other assistance as it may](#)
2252 [require](#):

2253 1. Federal and state financial aid programs and institutional practices to ensure that the
2254 appropriate level of financial assistance is being provided to both low-income and middle-
2255 income families, as required by § ~~23-38.87:15~~ [23.1-306](#), including loan forgiveness programs
2256 targeted by purpose in furtherance of the objective of this chapter; and

2257 2. The Restructured Higher Education Financial and Administrative Operations Act (§
2258 ~~23-38.88~~ [23.1-1000](#) et seq.) to identify additional ways to reduce costs and enhance efficiency
2259 by increasing managerial autonomy with accountability at the institutional level.

2260 The Advisory Committee shall submit its recommendations to the Council, which shall
2261 review the recommendations and report its recommendations to the Governor and the ~~Chairs~~

2262 [Chairmen](#) of the House Committees on Appropriations and Education and the Senate
2263 Committees on Finance and on Education and Health.

2264 D. The Advisory Committee shall periodically assess, based upon the institutions' six-
2265 year plans and other relevant factors, the degree to which the Commonwealth's system of higher
2266 education is meeting the statewide objectives of economic impact, reform, affordability, and
2267 access reflected in this chapter, as well as the strategic impact of new general fund investments
2268 on achieving those objectives. The Advisory Committee shall submit its assessment and
2269 recommendations to the Council, which shall review the assessment and recommendations and
2270 report its recommendations to the Governor and the ~~Chairs~~ [Chairmen](#) of the House Committees
2271 on Appropriations and Education and the Senate Committees on Finance and on Education and
2272 Health.

2273 E. In addition to providing advice and making recommendations on the matters set forth
2274 in subsections B, C and D, the Advisory Committee shall perform such other duties and
2275 undertake such other responsibilities as requested by the Governor or the General Assembly.

2276 **Drafting note: Proposed subdivision B 2 incorporates the provisions of the third**
2277 **sentence of existing § 23-38.87:15. Technical changes are made: the phrase "but not**
2278 **limited to" after "including" in subsection A is stricken pursuant to § 1-218, which states:**
2279 **"'Includes' means includes, but not limited to," and "persons" in subsection A is replaced**
2280 **with "individuals" pursuant to § 1-230, which is the Code-wide definition of "person."**

2281 § ~~23-38.87:21~~ [23.1-310. Certification Assessment and certification of institutions](#) by [the](#)
2282 Council.

2283 ~~Upon the completion of the development of the objective criteria for measuring goals~~
2284 ~~and objectives described in subdivision B 5 of § 23-38.87:20, and each year thereafter, the~~ [The](#)
2285 Council shall annually assess the degree to which each institution has satisfied any goals or
2286 criteria developed by the Higher Education Advisory Committee pursuant to § ~~23-38.87:20,~~
2287 [23.1-309](#) and ~~shall, by~~ no later than October 1 of each fiscal year, provide a certified written
2288 report of the results of such annual assessment to the Governor and the ~~Chairs~~ [Chairmen](#) of the

2289 House Committees on Appropriations and Education and the Senate Committees on Finance
 2290 and on Education and Health. In order to assist the Council in its assessment, each public
 2291 institution of higher education, and each nonprofit private ~~nonprofit~~ institution of higher
 2292 education eligible for and seeking to qualify for state general funds, shall furnish periodic
 2293 reports, including copies of institutional financial aid audit reports and audited financial
 2294 statements, and such other pertinent information, including student-level data, as may be
 2295 required by the Council. ~~The reports shall include, but not be limited to, copies of institutional~~
 2296 ~~financial aid audit reports and audited financial statements.~~

2297 **Drafting note: The phrase "but not limited to" after "including" is removed**
 2298 **pursuant to § 1-218, which states: "'Includes' means includes, but not limited to."**
 2299 **Technical changes are made.**

2300 ~~§ 23-9.2-3.03.~~

2301 **Drafting note: Repealed by Acts 2011, cc. 828 and 869, cl. 5.**

2302 SUBTITLE II.

2303 STUDENTS AND CAMPUS.

2304 CHAPTER 4.

2305 GENERAL PROVISIONS.

2306 **Drafting note: Provisions of existing Chapter 1 relating to students generally are**
 2307 **consolidated in proposed Chapter 4.**

2308 ~~§ 23-9.2-12~~ 23.1-400. Student organizations; rights and recognition.

2309 A. To the extent allowed by state and federal law:

2310 ~~1. A.~~ a religious or political student organization may determine that ordering the
 2311 organization's internal affairs, selecting the organization's leaders and members, defining the
 2312 organization's doctrines, and resolving the organization's disputes are in furtherance of the
 2313 organization's religious or political mission and that only persons committed to that mission
 2314 should conduct such activities; ~~and.~~

2315 2.B. No public institution of higher education that has granted recognition of and access
2316 to any student organization or group shall discriminate against any such student organization or
2317 group that exercises its rights pursuant to ~~subdivision 1~~ subsection A.

2318 **Drafting note: Technical changes.**

2319 § ~~23-9.2-13~~ 23.1-401. Restrictions on student speech; limitations.

2320 ~~Public institutions~~ No public institution of higher education shall ~~not~~ impose restrictions
2321 on the time, place, and manner of student speech that (i) occurs in the outdoor areas of the
2322 institution's campus and (ii) is protected by the First Amendment to the United States
2323 Constitution unless the restrictions (a) are reasonable, (b) are justified without reference to the
2324 content of the regulated speech, (c) are narrowly tailored to serve a significant governmental
2325 interest, and (d) leave open ample alternative channels for communication of the information.

2326 **Drafting note: Technical changes.**

2327 § ~~23-2-1~~ 23.1-402. Collection and dissemination of information concerning religious
2328 preferences and affiliations.

2329 Notwithstanding any provision of law to the contrary, any ~~state~~ public institution of
2330 higher ~~learning~~ education may collect and disseminate information concerning the religious
2331 preferences and affiliations of its students; ~~provided that no student may be required such~~
2332 institution shall (i) require any student to indicate his religious preference or affiliation ~~and that~~
2333 ~~no dissemination of the or (ii) disseminate such~~ information ~~shall be made except to categories~~
2334 ~~of persons as to whom without~~ the ~~student has given his student's~~ consent ~~that dissemination~~
2335 may be made.

2336 **Drafting note: Technical changes.**

2337 § ~~23-2-1-1~~ 23.1-403. Access to campus and student directory ~~for~~ provided to certain
2338 persons and groups.

2339 ~~If a~~ Any public institution of higher education that provides access to its campus and
2340 student directory to persons or groups for occupational, professional, or educational recruitment;

2341 ~~the institution~~ shall provide access on the same basis to official recruiting representatives of the
2342 military forces of the Commonwealth and the United States.

2343 **Drafting note: Technical changes.**

2344 § ~~23-2.1:2~~ 23.1-404. Retention of ~~certain documents;~~ student birth certificates
2345 authorized.

2346 ~~If any~~ Any public institution of higher education ~~in Virginia, as a condition of~~
2347 ~~enrollment, that~~ requests that ~~a student~~ an applicant who has been accepted for admission
2348 present a certified copy of his birth certificate, ~~a copy may be retained by the institution as a~~
2349 condition of enrollment may retain a copy of the birth certificate in the student's record.

2350 **Drafting note: Technical changes.**

2351 § ~~23-2.1:3~~ 23.1-405. Student records and personal information.

2352 A. Each public institution of higher education and private institution of higher education
2353 may require ~~that~~ any student who attends, or any applicant who has been accepted to and ~~who~~
2354 has committed to attend, ~~or is attending~~, such institution to provide, to the extent available, from
2355 the originating secondary school and, if applicable, any institution of higher education he has
2356 attended a complete student record, including any mental health records held by the previous
2357 school or institution. ~~These~~ Such records shall be kept confidential as required by state and
2358 federal law, including the Family Educational Rights and Privacy Act, (20 U.S.C. § 1232g).

2359 B. No public institution of higher education shall sell students' personal information,
2360 including names, addresses, phone numbers, and email addresses, to any person. This subsection
2361 shall not apply to transactions involving credit, debit, employment, finance, identity verification,
2362 risk assessment, fraud prevention, or other transactions initiated by the student.

2363 **Drafting note: Technical changes.**

2364 § ~~23-2.2~~ 23.1-406. Reporting of certain students issued student visas.

2365 A. Each associate-granting and baccalaureate (i) public institution of higher education
2366 and (ii) private ~~two and four year~~ institution of higher education ~~in the Commonwealth~~ and the
2367 governing board, president, or director of any ~~correspondence school, postsecondary school, or~~

2368 ~~proprietary career school, as defined in § 23-276.1, or~~ flight school in the Commonwealth shall
2369 ~~inform~~ notify the Attorney General ~~of the Commonwealth~~ whenever ~~a student~~ (i) an applicant
2370 who has been accepted for admission to such ~~an educational~~ institution pursuant to a student
2371 visa fails to enroll or (ii) a student who has been attending such ~~an educational~~ institution
2372 pursuant to a student visa ~~and~~ withdraws at from such institution or violates the terms of his
2373 visa. The Such notification shall contain all available information from ~~the~~ U.S. Citizenship and
2374 Immigration and Naturalization Service form Services Form I-20 and shall be submitted ~~not no~~
2375 later than ~~thirty~~ 30 days after ~~the~~ discovery of the ~~reportable~~ event for which notification is
2376 required.

2377 B. The Attorney General shall notify ~~the~~ U.S. Citizenship and Immigration and
2378 Naturalization Service Services and all other appropriate national, state, and local agencies of
2379 any such failure to enroll, withdrawal, or student visa ~~violations~~ violation.

2380 C. This section ~~shall be~~ is effective until ~~superseded~~ superseded by federal action.

2381 **Drafting note: References to correspondence schools and proprietary career**
2382 **schools in subsection A are stricken because such terms are neither used in proposed**
2383 **Article 2 (§ 23.1-213 et seq.) of Chapter 2 nor defined in § 23.1-213. Technical changes are**
2384 **made.**

2385 § ~~23-2.2:1~~ 23.1-407. Reporting of enrollment information to Sex Offender and Crimes
2386 Against Minors Registry.

2387 A. Each associate-granting and baccalaureate (i) public institution of higher education
2388 and (ii) private ~~two and four year~~ institution of higher education ~~physically located in the~~
2389 Commonwealth shall electronically transmit ~~enrollment data including~~ (i) the complete name,
2390 (ii) social security number or other identifying number, ~~(iii)~~ date of birth, and ~~(iv)~~ gender of
2391 each applicant accepted to attend the institution to the Department of State Police, in a format
2392 approved by the Department of State Police, for comparison with information contained in the
2393 Virginia Criminal Information Network and National Crime Information Center ~~Convicted~~
2394 Sexual Sex Offender Registry File, ~~for all applicants that are offered acceptance to attend the~~

2395 ~~institution. This~~ Such data shall be transmitted (i) before ~~such time that~~ an accepted applicant
2396 becomes a "student in attendance" pursuant to 20 U.S.C. § 1232g(a)(6) ~~at that institution.~~
2397 ~~However, or (ii) in the case of~~ institutions with a rolling or instantaneous admissions policy
2398 ~~shall report enrollment,~~ in accordance with guidelines developed by the Department of State
2399 Police in consultation with the ~~State Council of Higher Education and the Virginia Community~~
2400 ~~College System. Such guidelines shall be developed no later than January 1, 2007.~~

2401 B. Whenever it appears from the records of the Department of State Police that ~~a person~~
2402 an accepted applicant has failed to comply with the duty to register or reregister pursuant to
2403 Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the Department of State Police shall promptly
2404 investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or
2405 assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which
2406 the ~~person was enrolled with the educational~~ institution of higher education is located.

2407 **Drafting note: Technical changes.**

2408 ~~§ 23-2.3~~ 23.1-408. Annual reporting of the use of student fees.

2409 Each public ~~two and four year~~ institution of higher education ~~in the Commonwealth~~
2410 shall publish annually a descriptive report detailing (i) the ~~(i)~~ amount and distribution of student
2411 activity fees assessed each semester or during an academic year; and (ii) the name of each
2412 organization, ~~including the nature of the organization's activity,~~ that receives funding of \$100 or
2413 more from student activity fees and the nature of such organization's activity. Each such
2414 institution shall post ~~the such~~ annual descriptive report ~~of the use of student activity fees to on~~
2415 its website to facilitate its access by and availability ~~of the report~~ to enrolled students ~~enrolled at~~
2416 the institution and their parents.

2417 **Drafting note: Technical changes.**

2418 ~~§ 23-2.6~~ 23.1-409. Transparency in higher education information.

2419 Each ~~four year~~ baccalaureate public institution of higher education shall maintain and
2420 update annually no later than September 30 a tab or link on the home page of its website that
2421 shall include the following information:

- 2422 1. The institution's six-year undergraduate graduation rate for each of the past 10 years;
- 2423 2. The institution's freshman-to-sophomore retention rate for full-time undergraduate
- 2424 students for each of the past 10 years;
- 2425 3. The institution's average annual percentage increase in base undergraduate tuition for
- 2426 each of the past 10 years;
- 2427 4. The institution's average annual percentage increase in mandatory undergraduate
- 2428 comprehensive student fees for each of the past 10 years;
- 2429 5. A link to the annual report of the use of student fees as required by § ~~23-2.3~~ [23.1-408](#);
- 2430 6. A link to the postsecondary education and employment data referenced in [subsection](#)
- 2431 [B of § 23-2.4](#) [23.1-204](#); and
- 2432 7. A summary of the institution's budget, consistent with the institution's annual
- 2433 budgeting process, that includes (i) the major budget units (MBUs) in the institution and
- 2434 standard expenditure categories within each MBU for the current fiscal year and the previous
- 2435 fiscal year or (ii) a link to the annual reports required by [subdivision B 10 of § 23-1.01](#) [23.1-](#)
- 2436 [1303](#).

2437 **Drafting note: Technical changes.**

2438 § ~~23-4.3:2~~ [23.1-410](#). ~~Policies addressing student~~ [Student](#) loan vendors.

2439 A. No employee ~~at of~~ a ~~Virginia~~ public institution of higher education shall demand or

2440 receive any payment, loan, advance, deposit of money, services, or anything, present or

2441 promised, as an inducement for promoting any student loan vendor.

2442 B. No public institution of higher education shall enter into any agreement with any

2443 student loan vendor that states or implies an exclusive relationship between the ~~school~~

2444 [institution](#) and vendor regarding student loans.

2445 **Drafting note: Technical changes.**

2446 [CHAPTER 5.](#)

2447 [IN-STATE TUITION AND REDUCED RATE TUITION ELIGIBILITY.](#)

2448 **Drafting note: Provisions of existing Chapter 1 of Title 23 relating to in-state tuition**
2449 **eligibility are consolidated as proposed Chapter 5.**

2450 ~~§ 23-7.~~

2451 **Drafting note: Repealed by Acts 1984, c. 422.**

2452 ~~§§ 23-7.1, 23-7.1:01.~~

2453 **Drafting note: Repealed by Acts 1996, cc. 931 and 981.**

2454 ~~§§ 23-7.2 through 23-7.3.~~

2455 **Drafting note: Repealed by Acts 1996, cc. 931 and 981.**

2456 ~~§ 23-7.4 23.1-500. Eligibility for in-state tuition charges~~ Definitions.

2457 ~~A. For purposes of this section and §§ 23-7.4:1, 23-7.4:2, and 23-7.4:3, the following~~
2458 ~~definitions shall apply~~ As used in this chapter:

2459 "Date of the alleged entitlement" means the first official day of class within the term,
2460 semester, or quarter of the ~~student's~~ program of study in which a student is enrolled.

2461 "Dependent student" means ~~one a student~~ who is listed as a dependent on the federal or
2462 state income tax return of his parents or legal guardian or who receives substantial financial
2463 support from his spouse, ~~parents~~ parent, or legal guardian. ~~It shall be presumed that a student~~
2464 ~~under the age of 24 on the date of the alleged entitlement receives substantial financial support~~
2465 ~~from his parents or legal guardian, and therefore is dependent on his parents or legal guardian,~~
2466 ~~unless the student (i) is a veteran or an active duty member of the U.S. Armed Forces; (ii) is a~~
2467 ~~graduate or professional student; (iii) is married; (iv) is a ward of the court or was a ward of the~~
2468 ~~court until age 18; (v) has no adoptive or legal guardian when both parents are deceased; (vi)~~
2469 ~~has legal dependents other than a spouse; or (vii) is able to present clear and convincing~~
2470 ~~evidence that he is financially self-sufficient.~~ "Dependent student" includes unemancipated
2471 minors.

2472 "Domicile" means the present, fixed home of an individual to which he returns following
2473 temporary absences and at which he intends to stay indefinitely. No individual may have more
2474 than one domicile at a time. Domicile, once established, ~~shall is~~ not be affected by (i) mere

2475 transient or temporary physical presence ~~in another jurisdiction outside the Commonwealth~~ or
2476 (ii) the establishment and maintenance of a place of residence ~~in another jurisdiction outside the~~
2477 ~~Commonwealth~~ for the purpose of maintaining a joint household with an active duty United
2478 States military spouse.

2479 "Domiciliary intent" means present intent to remain indefinitely.

2480 "Emancipated minor" means a minor student ~~under the age of 18 on the date of the~~
2481 ~~alleged entitlement whose parents or guardians have surrendered the right to his care, custody~~
2482 ~~and earnings and who no longer claim him as a dependent for tax purposes who has been~~
2483 ~~emancipated pursuant to Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1 or the~~
2484 ~~applicable laws of any other jurisdiction.~~

2485 "~~Full-time employment~~Employed full time" means ~~employment employed in a position~~
2486 resulting in, at least, an annual earned income reported for tax purposes equivalent to 50 work
2487 weeks of 40 hours at minimum wage.

2488 "Independent student" means ~~one a student~~ whose parents have surrendered the right to
2489 his care, custody, and earnings; ~~do not claim him as a dependent on federal or state income tax~~
2490 ~~returns;~~ and have ceased to provide him with substantial financial support. "Independent
2491 student" includes emancipated minors.

2492 "~~Special arrangement contract~~" ~~means a contract between a Virginia employer or the~~
2493 ~~authorities controlling a federal installation or agency located in Virginia and a public institution~~
2494 ~~of higher education for reduced rate tuition charges as described in subsection F of § 23-7.4:2.~~

2495 "Substantial financial support" means ~~financial support in an any amount which equals~~
2496 ~~or exceeds that required to qualify the individual of financial support received by a student that~~
2497 qualifies him to be listed as a dependent on federal and state income tax returns.

2498 "Surviving spouse" means the spouse of a military service member who, while serving
2499 as an active duty member in the United States Armed Forces, United States Armed Forces
2500 Reserves, or Virginia National Guard, ~~or Virginia National Guard Reserve~~, during military
2501 operations against terrorism, on a peacekeeping mission, or as a result of a terrorist act, or in any

2502 armed conflict ~~subsequent to December 6, 1941~~, was killed in action, ~~is~~ became missing in
2503 action, or ~~is~~ became a prisoner of war.

2504 "Unemancipated minor" means a minor student ~~under the age of 18 on the date of the~~
2505 ~~alleged entitlement who is under the legal control of and is financially supported by either of his~~
2506 ~~parents, legal guardian or other person having legal custody who has not been emancipated~~
2507 ~~pursuant to Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1 or the applicable laws of~~
2508 ~~any other jurisdiction.~~

2509 "Veteran" means an individual who has served ~~in the~~ on active ~~military, naval or air~~
2510 ~~service~~ duty in the Armed Forces of the United States and who was discharged or released
2511 ~~therefrom~~ from such service under conditions other than dishonorable.

2512 "Virginia employer" means (i) any employing unit organized under the laws of ~~Virginia~~
2513 the Commonwealth or having income from ~~Virginia~~ sources in the Commonwealth regardless of
2514 its organizational structure, or (ii) any public or nonprofit organization authorized to operate in
2515 ~~Virginia~~ the Commonwealth.

2516 **Drafting note: Existing § 23-7.4 is divided into seven sections, proposed §§ 23.1-500**
2517 **through 23.1-505 and 23.1-509. Proposed § 23.1-500 updates definitions from subsection A**
2518 **of existing § 23-7.4. The definition of "dependent student" is updated to include**
2519 **unemancipated minors, a defined term. The definition of "independent student" is**
2520 **updated to include emancipated minors, a defined term. A portion of the definition of**
2521 **"dependent student" is stricken here and incorporated into proposed § 23.1-501. The**
2522 **definition of "special arrangement contract" is removed as unnecessary given the context**
2523 **of the term's use. Technical changes are made.**

2524 § 23.1-501. Presumption of dependency for certain students.

2525 It shall be presumed that a student under the age of 24 on the date of the alleged
2526 entitlement receives substantial financial support from his parent or legal guardian and is
2527 therefore the dependent of his parent or legal guardian unless the student (i) is a veteran or an
2528 active duty member of the Armed Forces of the United States, (ii) is a graduate or professional

2529 student, (iii) is married, (iv) is a ward of the court or was a ward of the court until age 18, (v)
2530 has no adoptive parent or legal guardian and each of the student's parents is deceased, (vi) has
2531 legal dependents other than a spouse, or (vii) is able to present clear and convincing evidence
2532 that he is financially self-sufficient.

2533 **Drafting note: Proposed § 23.1-501 incorporates the portion of the definition of**
2534 **"dependent student" in existing § 23-7.4 that relates to the presumption of dependency.**

2535 **Technical changes are made.**

2536 § 23.1-502. Eligibility for in-state tuition charges; domicile; domiciliary intent.

2537 B-A. To ~~become~~ be eligible for in-state tuition at public institutions of higher education,
2538 an independent student or, in the case of a dependent student, the individual through whom he
2539 claims eligibility, shall establish by clear and convincing evidence ~~that~~ (i) domicile in the
2540 Commonwealth for a period of at least one year immediately succeeding the establishment of
2541 domiciliary intent pursuant to subsection B and immediately prior to the date of the alleged
2542 entitlement, ~~he was domiciled in Virginia and had abandoned~~ and (ii) the abandonment of any
2543 previous domicile, if such existed. No institution of higher education shall give weight to any
2544 evidence that such student or individual presents in support of his claim for domicile or the
2545 abandonment of any previous domicile unless such evidence has existed for a period of at least
2546 one year immediately prior to the date of the alleged entitlement.

2547 To ~~become~~ eligible for in-state tuition, a dependent student or unemancipated minor
2548 shall establish by clear and convincing evidence that for a period of at least one year prior to the
2549 date of the alleged entitlement, the person through whom he claims eligibility was domiciled in
2550 Virginia and had abandoned any previous domicile, if such existed. If the person individual
2551 through whom ~~the~~ dependent student or unemancipated minor established such establishes
2552 domicile and eligibility for in-state tuition charges abandons his ~~Virginia~~ domicile in the
2553 Commonwealth, ~~the dependent such~~ student or unemancipated minor shall be is entitled to ~~such~~
2554 in-state tuition charges for one year from the date of such abandonment.

2555 B. To establish domicile, an independent student or, in the case of a dependent student,
2556 the individual through whom he claims eligibility, shall establish by clear and convincing
2557 evidence domiciliary intent. In determining domiciliary intent, ~~all of institutions of higher~~
2558 education shall consider the totality of the circumstances, including the following applicable
2559 factors ~~shall be considered~~: continuous residence for at least one year prior to the date of alleged
2560 entitlement, except in the event of the establishment and maintenance of a place of residence ~~in~~
2561 another jurisdiction outside the Commonwealth for the purpose of maintaining a joint household
2562 with an active duty United States military spouse; state to which income taxes are filed or paid;
2563 driver's license; motor vehicle registration; voter registration; employment; property ownership;
2564 sources of financial support; military records; a written offer and acceptance of employment
2565 following graduation; and any other social or economic relationships ~~with~~ within and outside the
2566 Commonwealth ~~and other jurisdictions~~.

2567 **Drafting note: Proposed § 23.1-502 incorporates the basic requirements for**
2568 **eligibility for in-state tuition charges in the first three paragraphs of subsection B of**
2569 **existing § 23-7.4. Technical changes are made.**

2570 § 23.1-503. Determination of domicile; rules; presumptions.

2571 ~~Domiciliary status~~ A. Students shall not ordinarily ~~be conferred~~ establish domicile by the
2572 performance of acts ~~which that~~ are auxiliary to fulfilling educational objectives or are required
2573 or routinely performed by temporary residents of the Commonwealth. ~~Mere~~ Students shall not
2574 establish domicile by mere physical presence or residence primarily for educational purposes
2575 ~~shall not confer domiciliary status. A matriculating student who has entered an institution and is~~
2576 ~~classified as an out-of-state student shall be required to rebut by clear and convincing evidence~~
2577 ~~the presumption that he is in the Commonwealth for the purpose of attending school and not as a~~
2578 ~~bona fide domiciliary.~~

2579 ~~Those factors presented in support of entitlement to in-state tuition shall have existed for~~
2580 ~~the one-year period prior to the date of the alleged entitlement. However, in determining the~~
2581 ~~domiciliary intent of active-duty military personnel residing in the Commonwealth, retired~~

2582 ~~military personnel residing in the Commonwealth at the time of their retirement, surviving~~
2583 ~~spouses, or veterans, or the domiciliary intent of their dependent spouse or children who claim~~
2584 ~~domicile through them, who voluntarily elect to establish Virginia as their permanent residence~~
2585 ~~for domiciliary purposes, the requirement of one year shall be waived.~~

2586 ~~C.~~B. A married ~~person~~ individual may establish domicile in the same manner as an
2587 unmarried ~~person~~ individual.

2588 ~~An emancipated minor may establish domicile in the same manner as any other~~
2589 ~~independent student.~~C. A nonmilitary student whose parent or spouse is a member of the ~~armed~~
2590 ~~forces~~ Armed Forces of the United States may establish domicile in the same manner as any
2591 other student.

2592 D. Any alien holding an immigration visa or classified as a political refugee ~~shall also~~
2593 ~~may~~ establish ~~eligibility for in-state tuition~~ domicile in the same manner as any other student.
2594 However, absent congressional intent to the contrary, any ~~person~~ individual holding a student
2595 visa or ~~other~~ another temporary visa ~~shall~~ does not have the capacity to intend to remain in
2596 Virginia the Commonwealth indefinitely and, is therefore, ~~shall be~~ ineligible ~~for Virginia to~~
2597 establish domicile and ~~for~~ receive in-state tuition charges.

2598 E. The domicile of a dependent student shall be rebuttably presumed to be the domicile
2599 of the parent or legal guardian (i) claiming him as an exemption on federal or state income tax
2600 returns currently and for the tax year prior to the date of the alleged entitlement or (ii) providing
2601 him with substantial financial support. The spouse of an active duty military service member, if
2602 such spouse has established domicile and claimed the dependent student on federal or state
2603 income tax returns, ~~shall is~~ is not ~~be~~ subject to minimum income tests or requirements.

2604 ~~For the purposes of this section, the~~ F. The domicile of an unemancipated minor or a
2605 dependent student 18 years of age or older may be ~~either~~ the domicile of either the parent with
2606 whom he resides, the parent who claims the student as a dependent for federal or Virginia
2607 income tax purposes for the tax year prior to the date of the alleged entitlement and is currently
2608 so claiming the student, or the parent who provides the student with substantial financial

2609 support. If there is no surviving parent or the whereabouts of the parents are unknown, then the
2610 domicile of an unemancipated minor shall be the domicile of the legal guardian of such
2611 unemancipated minor unless ~~there are~~ circumstances ~~indicating~~ indicate that such guardianship
2612 was created primarily for the purpose of ~~conferring a Virginia~~ establishing domicile ~~on the~~
2613 unemancipated minor.

2614 G. Continuously enrolled non-Virginia students shall be presumed to be in the
2615 Commonwealth for educational purposes unless they rebut such presumption with clear and
2616 convincing evidence of domicile.

2617 ~~D. It is incumbent on the student to apply for change in domiciliary status on becoming~~
2618 ~~eligible for such change. Changes in domiciliary status~~ H. A non-Virginia student is not eligible
2619 for reclassification as a Virginia student unless he applies for and is approved for such
2620 reclassification. Any such reclassification shall only be granted prospectively from the date such
2621 application is received.

2622 I. A student who knowingly provides erroneous information in an attempt to evade
2623 payment of out-of-state ~~fees~~ tuition charges shall be charged out-of-state tuition ~~fees~~ for each
2624 term, semester, or quarter attended and may be subject to dismissal from the institution. All
2625 disputes related to the veracity of information provided to establish ~~Virginia~~ domicile ~~shall be in~~
2626 the Commonwealth are appealable ~~through the due process procedure required by § 23-7.4:3 as~~
2627 set forth in § 23.1-510.

2628 **Drafting note: Proposed § 23.1-503 incorporates the special rules and presumptions**
2629 **related to domicile in the fourth paragraph of subsection B and all of subsections C and D**
2630 **of existing § 23-7.4. The second sentence of the fifth paragraph of subsection B of existing**
2631 **§ 23-7.4 related to the determination of domicile for certain active duty and retired**
2632 **military personnel is shown as stricken and relocated to proposed § 23.1-504.**

2633 § 23.1-504. Determination of domicile; exception; certain active duty and retired
2634 military personnel, etc.

2635 In determining the domicile of (i) active duty military personnel residing in the
2636 Commonwealth, retired military personnel residing in the Commonwealth at the time of their
2637 retirement, surviving spouses, or veterans who voluntarily elect to establish the Commonwealth
2638 as their permanent residence for the purpose of domicile or (ii) a dependent spouse or dependent
2639 child who claims domicile through an individual listed in clause (i), institutions of higher
2640 education shall waive the one-year requirement set forth in subsection B of § 23.1-502.

2641 **Drafting note: Proposed § 23.1-504 incorporates the second sentence of the fifth**
2642 **paragraph of subsection B of existing § 23-7.4 related to the determination of domicile for**
2643 **certain active duty and retired military personnel and others. Technical changes are made.**

2644 § 23.1-505. Determination of domicile; exception; dependents of certain active duty
2645 military personnel, etc.

2646 A. As used in and for the purposes of this section:

2647 "Date of alleged entitlement" means the date of admission or acceptance for dependents
2648 currently residing in the Commonwealth or the final add/drop date for dependents of members
2649 newly transferred to the Commonwealth.

2650 "Temporarily mobilized" means activated for service for 180 days or more.

2651 "Unaccompanied orders" means orders that assign active duty military personnel or
2652 activated or temporarily mobilized reserve or guard members an unaccompanied tour listed in
2653 Appendix Q of the Joint Federal Travel Regulations.

2654 ~~E.-B.~~ Notwithstanding § 23.1-502 or any other provision of law to the contrary, all
2655 dependents, as defined by 37 U.S.C. § 401, of active duty military personnel; or activated or
2656 temporarily mobilized reservists or guard members; (i) assigned to a permanent duty station or
2657 workplace ~~geographically located in Virginia in the Commonwealth, the District of Columbia,~~
2658 or ~~in~~ a state contiguous to ~~Virginia or the District of Columbia,~~ the Commonwealth who reside
2659 in ~~Virginia~~ the Commonwealth; (ii) assigned unaccompanied orders and immediately prior to
2660 receiving such unaccompanied orders were assigned to a permanent duty station or workplace
2661 ~~geographically located in Virginia the Commonwealth, or in the District of Columbia, or~~ a state

2662 contiguous to ~~Virginia or the District of Columbia,~~ the Commonwealth and resided in ~~Virginia~~
2663 the Commonwealth; or (iii) assigned unaccompanied orders with ~~Virginia~~ the Commonwealth
2664 listed as the designated place move shall be deemed to be domiciled in ~~Virginia for purposes of~~
2665 eligibility for in-state tuition the Commonwealth and ~~shall be~~ are eligible to receive in-state
2666 tuition ~~in Virginia in accordance with this section.~~

2667 C. All such dependents shall be afforded the same educational benefits as any other
2668 individual ~~receiving who is eligible for~~ in-state tuition pursuant to ~~this section~~ § 23.1-502. Such
2669 dependents are eligible for such benefits ~~and, including~~ in-state tuition status ~~shall continue so,~~
2670 for as long as they are continuously enrolled in ~~an a public institution of higher education or~~
2671 private institution of higher education ~~in Virginia or are transferring have transferred~~ between
2672 Virginia public institutions of higher education or private institutions of higher education or
2673 from an undergraduate degree program to a graduate degree program at a public institution of
2674 higher education or private institution of higher education, regardless of any change of duty
2675 station or residence of the military service member.

2676 ~~For the purpose of this subsection:~~

2677 ~~"Date of alleged entitlement" means the date of admission or acceptance for dependents~~
2678 ~~currently residing in Virginia or the final add/drop date for dependents of members newly~~
2679 ~~transferred to Virginia.~~

2680 ~~"Temporarily mobilized" means activated for service for six months or more.~~

2681 ~~"Unaccompanied orders" means orders that assign the active duty military personnel, or~~
2682 ~~activated or temporarily mobilized reservists or guard members, an unaccompanied tour listed in~~
2683 Appendix Q of the Joint Federal Travel Regulations.

2684 F. ~~After August 1, 2006, for students who enroll at a public, baccalaureate degree-~~
2685 ~~granting, institution of higher education in Virginia and who have established Virginia domicile~~
2686 ~~and eligibility for in-state tuition in compliance with this section, the entitlement to in-state~~
2687 ~~tuition shall be modified to require the assessment of a surcharge, as defined herein, for each~~
2688 ~~semester that the student continues to be enrolled after such student has completed 125 percent~~

2689 ~~of the credit hours needed to satisfy the degree requirements for a specified undergraduate~~
2690 ~~program, hereinafter referred to as the "credit hour threshold."~~

2691 ~~In calculating the 125 percent credit hour threshold, the following courses and credit~~
2692 ~~hours shall be excluded: (i) remedial courses; (ii) transfer credits from another college or~~
2693 ~~university that do not meet degree requirements for general education courses or the student's~~
2694 ~~chosen program of study; (iii) advanced placement or international baccalaureate credits that~~
2695 ~~were obtained while in high school or another secondary school program; and (iv) dual~~
2696 ~~enrollment, college level credits obtained by the student prior to receiving a high school~~
2697 ~~diploma.~~

2698 ~~The relevant public institution of higher education may waive the surcharge assessment~~
2699 ~~for students who exceed the 125 percent credit hour threshold in accordance with the guidelines~~
2700 ~~and criteria established by the State Council of Higher Education for Virginia. Waiver criteria~~
2701 ~~may include, but shall not be limited to, illness or disability and active service in the armed~~
2702 ~~forces of the United States.~~

2703 ~~For the purpose of this subsection, "surcharge" shall mean an amount calculated to equal~~
2704 ~~100 percent of the average cost of the student's education at the relevant institution less tuition~~
2705 ~~and mandatory educational and general fee charges assessed to a student meeting Virginia~~
2706 ~~domiciliary status who has not exceeded the 125 percent credit hour threshold.~~

2707 **Drafting note: Proposed § 23.1-505 incorporates the provisions of subsection E of**
2708 **existing § 23-7.4. Technical changes are made, including moving definitions to the**
2709 **beginning of the proposed section and removing the definition of "date of alleged**
2710 **entitlement" because such term is not used in this proposed section. Subsection F of**
2711 **existing § 23-7.4 is stricken here and relocated as proposed § 23.1-509.**

2712 ~~§ ~~23-7.4:2~~ 23.1-506. Eligibility for in-state ~~or reduced~~ tuition ~~for; exception; certain out-~~
2713 ~~of-state and high school~~ students ~~not domiciled in Virginia; tuition grants and in-state tuition for~~
2714 ~~members of the National Guard.~~~~

2715 A. ~~Students who live outside the Commonwealth and have~~ Notwithstanding § 23.1-502
2716 or any other provision of law to the contrary, the following students are eligible for in-state
2717 tuition charges regardless of domicile:

2718 1. Any non-Virginia student who resides outside the Commonwealth and has been
2719 employed full time ~~inside Virginia in the Commonwealth~~ for at least one year immediately prior
2720 to the date of the alleged entitlement ~~for in-state tuition shall be eligible for in-state tuition~~
2721 ~~charges~~ if such student has paid Virginia income taxes on all taxable income earned in the
2722 Commonwealth for the tax year prior to the date of the alleged entitlement. ~~Students~~ Such
2723 student shall continue to be eligible for in-state tuition charges for so long as the student is
2724 employed full time in the Commonwealth and the student pays Virginia income taxes on all
2725 taxable income earned in the Commonwealth.

2726 2. Any non-Virginia student who resides outside the Commonwealth and is claimed as
2727 dependents a dependent for federal and Virginia income tax purposes ~~who live outside the~~
2728 ~~Commonwealth shall become eligible for in-state tuition charges~~ if the nonresident ~~parents~~
2729 parent claiming ~~them~~ the student as ~~dependents have a dependent has~~ been employed full time
2730 ~~inside Virginia in the Commonwealth~~ for at least one year immediately prior to the date of the
2731 alleged entitlement and paid Virginia income taxes on all taxable income earned in the
2732 Commonwealth for the tax year prior to the date of the alleged entitlement. ~~Such students~~
2733 student shall continue to be eligible for in-state tuition charges for so long as ~~they or their his~~
2734 qualifying parent is employed full time in ~~Virginia the Commonwealth,~~ paying pays Virginia
2735 income taxes on all taxable income earned in the Commonwealth, and claims the student ~~is~~
2736 elaimed as a dependent for Virginia and federal income tax purposes.

2737 3. Any active duty member, activated guard or reserve member, or guard or reserve
2738 member mobilized or on temporary active orders for 180 days or more who resides in the
2739 Commonwealth.

2740 4. Any veteran who resides in the Commonwealth.

2741 5. Any surviving spouse who resides in the Commonwealth.

2742 6. Following completion of active duty service, any non-Virginia student who
2743 established domicile before being called to active duty in the National Guard of another state if
2744 during such active duty he maintained at least one of the following in the Commonwealth: a
2745 driver's license, motor vehicle registration, voter registration, employment, property ownership,
2746 or sources of financial support.

2747 Any ~~out-of-state students~~ non-Virginia student granted in-state tuition pursuant to this
2748 subsection shall be counted as ~~in-state students~~ a Virginia student for the purposes of
2749 determining college admissions, enrollment, and tuition and fee revenue policies.

2750 B. ~~Any person who (i) is a member of the National Guard of the Commonwealth of~~
2751 ~~Virginia and has a minimum remaining obligation of two years, (ii) has satisfactorily completed~~
2752 ~~required initial active duty service, (iii) is satisfactorily performing duty in accordance with~~
2753 ~~regulations of the National Guard, and (iv) is enrolled in any state institution of higher~~
2754 ~~education, any private, accredited, and nonprofit institution of higher education in the~~
2755 ~~Commonwealth whose primary purpose is to provide collegiate or graduate education and not to~~
2756 ~~provide religious training or theological education, any course or program offered by any such~~
2757 ~~institution or any public career and technical education school shall be eligible for a grant in the~~
2758 ~~amount of the difference between the full cost of tuition and any other educational benefits for~~
2759 ~~which he is eligible as a member of the National Guard. Application for a grant shall be made to~~
2760 ~~the Department of Military Affairs. Grants shall be awarded from funds available for the~~
2761 ~~purpose by such Department.~~

2762 ~~Notwithstanding the foregoing requirement that a member of the National Guard have a~~
2763 ~~minimum of two years remaining on his service obligation, if a member is activated or deployed~~
2764 ~~for federal military service, an additional day shall be added to the member's eligibility for the~~
2765 ~~grant for each day of active federal service up to 365 days. Additional credit, or credit for state~~
2766 ~~duty, may be given at the discretion of the Adjutant General.~~

2767 ~~In addition, any person who met the requirements for in-state tuition prior to being called~~
2768 ~~to active duty in the National Guard of another state shall be eligible for in-state tuition~~

2769 ~~following completion of active duty service if during active duty that person maintained one or~~
2770 ~~more of the following in Virginia rather than in another state or jurisdiction: a driver's license,~~
2771 ~~motor vehicle registration, voter registration, employment, property ownership, or sources of~~
2772 ~~financial support. Any out-of-state students granted in-state tuition pursuant to this subsection~~
2773 ~~shall be counted as in-state students for the purposes of determining college admissions,~~
2774 ~~enrollment, and tuition and fee revenue policies.~~

2775 ~~C.~~ Notwithstanding the provisions of § ~~23-7.4~~ 23.1-502 or any other provision of ~~the~~ law
2776 to the contrary, the governing board of any state public institution of higher education ~~or the~~
2777 ~~governing board of the Virginia Community College System~~ may charge the same in-state
2778 ~~tuition as is charged to any person domiciled in Virginia pursuant to the provisions of § 23-7.4~~
2779 ~~to the following students regardless of domicile:~~

2780 1. Any non-Virginia student enrolled in one of the institution's programs
2781 designated by the ~~State Council of Higher Education who is domiciled in and who (i)~~ is entitled
2782 to reduced tuition charges in at the institutions of higher education in any other state ~~which that~~
2783 is a party to the Southern Regional Education Compact ~~which and that~~ has similar reciprocal
2784 provisions for ~~persons domiciled in~~ Virginia students and (ii) is domiciled in such other state;

2785 2. Any non-Virginia student from a foreign country who is enrolled in a foreign
2786 exchange program approved by the ~~state~~ institution of higher education during the same period
2787 ~~that an exchange in which a Virginia~~ student from ~~the same state such~~ institution, ~~who is entitled~~
2788 ~~to in-state tuition pursuant to § 23-7.4,~~ is attending the such foreign institution as an exchange
2789 student; and

2790 3. Any high school or magnet school student, not otherwise qualified for in-state tuition,
2791 who is enrolled in courses specifically designed as part of the high school or magnet school
2792 curriculum in a comprehensive community college for which he may, upon successful
2793 completion, receive high school and ~~community~~ college credit pursuant to a dual enrollment
2794 agreement between the high school or magnet school and the comprehensive community
2795 college.

2796 Any ~~out-of-state students~~ non-Virginia student granted in-state tuition pursuant to this
2797 subsection shall be counted as ~~out-of-state students~~ a non-Virginia student for the purposes of
2798 determining college admissions, enrollment, and tuition and fee revenue policies.

2799 D. The ~~governing board of the Virginia Community College System~~ State Board shall
2800 charge in-state tuition to any ~~person~~ non-Virginia student enrolled ~~in one of the System's~~
2801 ~~institutions~~ at a comprehensive community college who ~~lives~~ resides in another state within a
2802 30-mile radius of a ~~Virginia public~~ institution, is domiciled in, of higher education in the
2803 Commonwealth, is domiciled in such other state, and is entitled to in-state tuition charges ~~in~~ at
2804 the institutions of higher ~~learning education~~ in any state ~~which that~~ is contiguous to ~~Virginia the~~
2805 Commonwealth and ~~which that~~ has similar reciprocal provisions for ~~persons domiciled in~~
2806 Virginia students.

2807 Any ~~out-of-state students~~ non-Virginia student granted in-state tuition pursuant to this
2808 subsection shall be counted as ~~in-state students~~ a Virginia student for the purposes of
2809 determining college admissions, enrollment, and tuition and fee revenue policies.

2810 **Drafting note: Proposed § 23.1-506 incorporates the provisions of existing § 23-**
2811 **7.4:2 relating to permissive and mandatory in-state tuition for certain out-of-state and**
2812 **high school students. Subdivisions A 3, 4, and 5 incorporate the provisions of subsections**
2813 **G, H, and I of existing § 23-7.4:2 with technical changes. Subdivision A 6 incorporates the**
2814 **provisions of the third paragraph of subsection B of existing § 23-7.4:2 with technical**
2815 **changes. The provisions of the first two paragraphs of subsection B of existing § 23-7.4:2**
2816 **are stricken and relocated as proposed § 23.1-609. Technical changes are made.**

2817 § 23.1-507. University of Virginia's College at Wise; reduced rate tuition charges for
2818 certain students.

2819 E. A. The ~~board of the University of Virginia's College at Wise and the~~ board of visitors
2820 of the University of Virginia may charge reduced rate tuition to any ~~person~~ student enrolled at
2821 the University of Virginia's College at Wise who ~~lives~~ resides in Kentucky within a 50-mile
2822 radius of the University of Virginia's College at Wise, is domiciled in Kentucky, and is entitled

2823 to in-state tuition charges ~~in at~~ the institutions of higher ~~learning education~~ in Kentucky; if
2824 Kentucky has similar reciprocal provisions for ~~persons domiciled in~~ Virginia students.

2825 ~~In addition, the board of the University of Virginia's College at Wise and the~~ B. The
2826 board of visitors of the University of Virginia may charge reduced rate tuition to any ~~person~~
2827 student enrolled at the University of Virginia's College at Wise who ~~lives resides in Tennessee~~
2828 within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in
2829 Tennessee, and is entitled to in-state tuition charges ~~in at~~ the institutions of higher ~~learning~~
2830 education in Tennessee; if Tennessee has similar reciprocal provisions for ~~persons domiciled in~~
2831 Virginia students.

2832 C. The board of visitors of the University of ~~Virginia's College at Wise and its partners~~
2833 ~~or associates offering programs jointly at a regional off-campus center~~ Virginia may ~~also~~ charge
2834 reduced rate tuition to any ~~person student~~ enrolled in ~~such joint~~ programs offered jointly by its
2835 partners or associates and the University of Virginia's College at Wise at a regional off-campus
2836 center who ~~lives resides in Tennessee~~ within a 50-mile radius of the University of Virginia's
2837 College at Wise, is domiciled in Tennessee, and is entitled to in-state tuition charges ~~in at~~ the
2838 institutions of higher ~~learning education~~ in Tennessee; if Tennessee has similar reciprocal
2839 provisions for ~~persons domiciled in~~ Virginia students. Any such respective partners or associates
2840 shall establish ~~and charge separately~~ tuition rates separate tuition charges for their independent
2841 classes or programs at such regional off-campus centers.

2842 D. Any ~~out-of-state students non-Virginia student~~ granted ~~in-state reduced rate~~ tuition
2843 pursuant to this ~~subsection section~~ shall be counted as ~~out-of-state students a non-Virginia~~
2844 student for the purposes of determining admissions, enrollment, and tuition and fee revenue
2845 policies.

2846 **Drafting note: Proposed § 23.1-507 incorporates the provisions of subsection E of**
2847 **existing § 23-7.4:2 relating to reduced tuition for certain non-Virginia at University of**
2848 **Virginia's College at Wise. Technical changes are made.**

2849 § 23.1-508. Special arrangement contracts; reduced rate tuition charges.

2850 ~~F. A.~~ Public institutions of higher education may enter into special arrangement
2851 contracts with ~~Virginia~~ employers in the Commonwealth or authorities controlling federal
2852 installations or agencies located in ~~Virginia. The special arrangement contracts shall be the~~
2853 Commonwealth for the purpose of providing reduced rate tuition charges for the employees of
2854 ~~the Virginia such~~ employers or ~~federal personnel~~ authorities who are non-Virginia students at
2855 such institutions when ~~the such~~ employers or ~~federal~~ authorities ~~are assuming~~ assume the
2856 liability for paying, to the extent permitted by federal law, the tuition charges for ~~the such~~
2857 employees ~~or personnel in question and the employees or personnel are classified by the~~
2858 requirements of this section as out of state.

2859 ~~Special B.~~ Such special arrangement contracts ~~with Virginia employers or federal~~
2860 ~~installations or agencies~~ may be (i) for group instruction in facilities provided by the employer
2861 or federal authority or in the institution's facilities or (ii) on a student-by-student basis for
2862 specific employment-related programs.

2863 C. Special arrangement contracts ~~shall be~~ are valid for a period not to exceed two years
2864 and shall be reviewed for legal sufficiency by the Office of the Attorney General prior to
2865 signing. All ~~rates~~ tuition charges agreed to by the public institutions shall be at least equal to in-
2866 state tuition and shall ~~only~~ be granted only by the institution with which the employer or the
2867 federal authorities have a valid contract for students for whom the employer or federal
2868 ~~authorities are~~ authority is paying the tuition charges.

2869 D. All special arrangement contracts with authorities controlling federal installations or
2870 agencies shall include a specific number of students to be ~~served at~~ charged reduced tuition
2871 rates.

2872 E. Nothing in this ~~subsection~~ section shall change the ~~domiciliary status~~ domicile of any
2873 student for the purposes of enrollment reporting or calculating the proportions of general funds
2874 and tuition and fees contributed to the cost of education.

2875 ~~G. Any active duty members, activated guard or reservist members, or guard or reservist~~
2876 ~~members mobilized or on temporary active orders for six months or more, who reside in~~

2877 ~~Virginia, shall be eligible for in-state tuition charges. Any out-of-state students granted in-state~~
2878 ~~tuition pursuant to this subsection shall be counted as in-state students for the purposes of~~
2879 ~~determining college admissions, enrollment, and tuition and fee revenue policies.~~

2880 ~~H. Notwithstanding any other provision of law, veterans residing within the~~
2881 ~~Commonwealth shall be eligible for in-state tuition charges. Any students granted in-state~~
2882 ~~tuition pursuant to this subsection shall be counted as in-state students for the purpose of~~
2883 ~~determining college admissions, enrollment, and tuition and fee revenue policies.~~

2884 ~~I. Notwithstanding any other provision of law, surviving spouses, as that term is defined~~
2885 ~~in § 23-7.4, residing within the Commonwealth shall be eligible for in-state tuition charges. Any~~
2886 ~~students granted in-state tuition pursuant to this subsection shall be counted as in-state students~~
2887 ~~for the purpose of determining college admissions, enrollment, and tuition and fee revenue~~
2888 ~~policies.~~

2889 **Drafting note: Proposed § 23.1-508 incorporates the provisions of subsection F of**
2890 **existing § 23-7.4:2 with technical changes. Subsections G, H, and I of existing § 23-7.4:2**
2891 **are stricken and relocated as subdivisions A 3, 4, and 5 of proposed § 23.1-506 with**
2892 **technical changes.**

2893 § 23.1-509. In-state tuition; surcharge.

2894 A. For the purpose of this section:

2895 "Credit hour threshold" means 125 percent of the credit hours needed to satisfy the
2896 degree requirements for a specified undergraduate program.

2897 "Surcharge" means an amount equal to 100 percent of the average cost of a student's
2898 education at the baccalaureate public institution of higher education that the student attends less
2899 tuition and mandatory educational and general fee assessed to a Virginia student who has not
2900 exceeded the credit hour threshold.

2901 B. Virginia students who enroll for the first time at baccalaureate public institutions of
2902 higher education after August 1, 2006 shall be assessed a surcharge for each semester beginning

2903 [in which the student continues to be enrolled after such student has reached the credit hour](#)
2904 [threshold.](#)

2905 [C. In calculating the credit hour threshold, the following courses and credit hours shall](#)
2906 [be excluded: \(i\) remedial courses; \(ii\) transfer credits from another institution of higher](#)
2907 [education that do not meet degree requirements for general education courses or the student's](#)
2908 [chosen program of study; \(iii\) advanced placement or international baccalaureate credits that](#)
2909 [were obtained while in high school or another secondary school program; and \(iv\) dual](#)
2910 [enrollment, college-level credits obtained by the student prior to receiving a high school](#)
2911 [diploma.](#)

2912 [D. The relevant baccalaureate public institution of higher education may waive the](#)
2913 [surcharge in accordance with guidelines and criteria established by the Council, which may](#)
2914 [include illness, disability, and active service in the Armed Forces of the United States.](#)

2915 **Drafting note: Proposed § 23.1-509 incorporates the provisions of subsection F of**
2916 **existing § 23-7.4. Technical changes are made.**

2917 [§ ~~23-7.4:3~~ 23.1-510.](#) Determinations of eligibility; appeals and guidelines.

2918 A. Each public institution of higher education shall establish an appeals process for those
2919 students who are aggrieved by decisions regarding eligibility for in-state or reduced-~~out-of-state~~
2920 [rate](#) tuition charges pursuant to ~~§§ 23-7.4 and 23-7.4:2~~ [this chapter](#). The Administrative Process
2921 Act (§ 2.2-4000 et seq.) shall not apply to these administrative reviews.

2922 ~~An initial determination shall be made.~~ B. Each appeals process shall include [an initial](#)
2923 [determination](#), an intermediate review of the initial determination, and a final administrative
2924 review. The final administrative decision shall be in writing. A copy of this decision shall be
2925 sent to the student. Either the intermediate review or the final administrative review shall be
2926 conducted by an appeals committee consisting of an odd number of members. No ~~person~~
2927 [individual](#) who serves at one level of this appeals process ~~shall be~~ [is](#) eligible to serve at any
2928 other level of this ~~review~~ [appeals process](#). All such due process procedures shall be in writing

2929 and shall include time limitations in order to provide for orderly and timely resolutions of all
2930 disputes.

2931 C. Any party aggrieved by a final administrative decision ~~shall have~~ has the right to
2932 review in the circuit court for the jurisdiction in which the relevant institution is located. A
2933 petition for review of the final administrative decision shall be filed within ~~thirty~~ 30 days of
2934 receiving the written decision. In any such action, the institution shall forward the record to the
2935 court, whose function ~~shall be~~ is only to determine whether the decision reached by the
2936 institution could reasonably be said, on the basis of the record, not to be arbitrary, capricious, or
2937 otherwise contrary to law.

2938 ~~B. D.~~ To ensure the application of uniform criteria in administering this section and
2939 determining eligibility for in-state tuition charges, the ~~State Council of Higher Education~~ shall
2940 issue and ~~from time to time~~ revise domicile guidelines, ~~including domiciliary status questions~~ to
2941 be incorporated by all ~~state~~ public institutions of higher education in their admissions
2942 applications. ~~These Such~~ guidelines ~~shall are~~ not ~~be~~ subject to the Administrative Process Act (§
2943 2.2-4000 et seq.). The Council shall consult with the Office of the Attorney General and provide
2944 opportunity for public comment prior to issuing any such guidelines.

2945 E. An advisory committee, composed of at least ~~ten~~ 10 representatives of public
2946 institutions of higher education and private institutions of higher education, shall be appointed
2947 by the Council each year to cooperate with the Council in developing the guidelines for
2948 determining eligibility or revisions ~~thereof of such guidelines.~~ ~~The Council shall consult with~~
2949 ~~the Office of the Attorney General and provide opportunity for public comment prior to issuing~~
2950 ~~any such guidelines.~~

2951 **Drafting note: Technical changes are made, including striking the superfluous**
2952 **phrase "from time to time" in subsection D per Code Commission policy.**

2953 § 23-7.4:4.

2954 **Drafting note: Repealed by Acts 2002, c. 84.**

2955 § 23-9.2:3.01.

2956 **Drafting note: Repealed by Acts 2002, c. 84.**

2957 CHAPTER 1.2.

2958 PARTICIPATION IN FEDERAL FINANCIAL ASSISTANCE PROGRAMS.

2959 §§ 23-9.15 through 23-9.21.

2960 **Drafting note: Repealed by Acts 1977, c. 676.**

2961 CHAPTER 2.

2962 AID TO PERSONS DENIED ADMISSION.

2963 §§ 23-10 through 23-13.

2964 **Drafting note: Repealed by Acts 1971, Ex. Sess., c. 102.**

2965 CHAPTER 6.

2966 FINANCIAL ASSISTANCE.

2967 **Drafting note: Provisions of Title 23 relating to financial assistance are consolidated**
 2968 **in proposed Chapter 6 of Title 23.1, and technical changes are made.**

2969 Article 1.

2970 General Provisions.

2971 **Drafting note: Provisions relating to financial assistance generally are consolidated**
 2972 **in proposed Article 1 of Chapter 6, and technical changes are made.**

2973 § ~~23-7.1:02~~ 23.1-600. Participation in ~~or~~ and eligibility for state-supported financial aid
 2974 programs.

2975 A. Participation in and eligibility for state-supported financial aid or other higher
 2976 education programs designed to promote greater racial diversity in ~~state-supported~~ public
 2977 institutions of higher education shall not be restricted on the basis of race or ethnic origin ~~and~~
 2978 ~~any person.~~ Any individual who is a member of any federally recognized minority ~~shall be is~~
 2979 eligible for and may participate in such programs; if such individual meets all other
 2980 qualifications for admission to the relevant institution and the specific program ~~are met.~~

2981 B. ~~Persons~~ Individuals who have completed a program of home school instruction in
 2982 accordance with § 22.1-254.1 and ~~persons~~ individuals who have been excused from school

2983 attendance pursuant to subsection B of § 22.1-254 shall be deemed to have met the high school
2984 graduation requirements for purposes of eligibility for any state-supported financial aid or other
2985 higher education programs. When a high school grade point average, class rank, or other
2986 academic criteria ~~is~~ are specified as a condition of participating in a program, the ~~State~~ Council
2987 ~~of Higher Education for Virginia~~ shall develop empirical alternative equivalent measures that
2988 may be required for such programs.

2989 § ~~23-7.4:5~~ 23.1-601. Grant Comprehensive community colleges; grants for tuition and
2990 fees for certain individuals.

2991 A. ~~The Each comprehensive community college shall provide a grant for the~~ payment of
2992 tuition or fees, except fees established for the purpose of paying for course materials, such as
2993 laboratory fees, ~~shall be provided for a person who is a bona fide domiciliary of Virginia, as~~
2994 ~~defined in § 23-7.4, and for any Virginia student~~ who:

2995 1. (i) Has received a high school diploma or has passed a high school equivalency
2996 examination approved by the Board of Education and was in foster care or in the custody of the
2997 Department of Social Services or is considered a special needs adoption at the time such
2998 diploma or certificate was awarded; or (ii) was in foster care when he turned 18 and
2999 subsequently received a high school diploma or passed a high school equivalency examination
3000 approved by the Board of Education;

3001 2. Is enrolled or has been accepted for enrollment as a full-time or part-time student,
3002 taking a minimum of six credit hours per semester, in a degree or certificate program of at least
3003 one academic year in length in a ~~public two-year institution of higher education in the~~
3004 Commonwealth comprehensive community college;

3005 3. Has not been enrolled in postsecondary education as a full-time student for more than
3006 five years ~~and/or~~ or does not have a ~~prior~~ bachelor's degree;

3007 4. Maintains the required grade point average established by the State Board ~~for~~
3008 Community Colleges;

3009 5. Has submitted applications for federal student financial aid programs for which he
3010 may be eligible; ~~and~~

3011 6. Demonstrates financial need; ~~and meets~~

3012 7. Meets any additional financial need requirements established by the State Board ~~for~~
3013 Community Colleges for the purposes of such grant.

3014 B. The State Board ~~for Community Colleges~~, in consultation with the ~~State Council of~~
3015 Higher Education and the Department of Social Services, shall establish regulations governing
3016 such grants. The regulations shall include, ~~but shall not be limited to~~, provisions addressing
3017 renewals of grants; ~~financial need~~; the calculation of grant amounts; after consideration of any
3018 additional financial resources or aid the student ~~may hold~~; holds, the minimum grade point
3019 average required to retain such grant; ~~and~~ procedures for the repayment of tuition and fees for
3020 failure to meet the requirements imposed by this section.

3021 **Drafting note: Technical changes are made, including the use of terms defined**
3022 **title-wide pursuant to § 23.1-100 such as "comprehensive community college," "Council,"**
3023 **"Virginia student," and "State Board."**

3024 ~~§ 23-7.4:6. Expired.~~

3025 **Drafting note: Expired pursuant to Acts 2009, c. 447, cl. 3, effective July 1, 2012.**

3026 ~~§ 23-9.2:1.~~

3027 **Drafting note: Repealed by Acts 1980, c. 229.**

3028 ~~§ 23-9.2:2.~~

3029 **Drafting note: Repealed by Acts 1972, c. 697.**

3030 ~~§ 23-9.2:4~~ 23.1-602. Payments to institutions of higher education for certain courses
3031 taken by law-enforcement officers.

3032 A. The ~~State~~ Department of Criminal Justice Services ~~is hereby authorized and directed~~
3033 ~~to shall~~ enter into contracts to make payments to public institutions of higher education and
3034 accredited private institutions of higher education ~~within this Commonwealth whose primary~~
3035 campus is within the Commonwealth for tuition, books, and mandatory fees for ~~law-~~

3036 ~~enforcement officers~~ any law-enforcement officer of the Commonwealth, or its political
3037 subdivisions, departments, or authorities; or ~~of any county, city or town thereof~~ locality of the
3038 Commonwealth who (i) is enrolled on a full-time or part-time basis in courses included in an
3039 undergraduate or graduate program ~~which that~~ leads to a degree or certificate in an area related
3040 to law enforcement or ~~an area~~ suitable for law-enforcement officers. ~~No payments shall be made~~
3041 ~~pursuant to this section to any institution of higher education operating within this~~
3042 ~~Commonwealth whose primary campus is outside this Commonwealth. Assistance under this~~
3043 ~~section may be granted only on behalf of an applicant who~~ and (ii) enters into an agreement to
3044 continue to serve as a law-enforcement officer in ~~Virginia~~ the Commonwealth upon completion
3045 of his course of study for a period at least as long as the length of the course of study undertaken
3046 and paid for under the provisions of this section, and, in the event that he does not complete
3047 such service ~~is not completed~~, to repay the full amount of such payments on the terms and in the
3048 manner that the ~~State~~ Department of Criminal Justice Services ~~may prescribe~~ prescribes.

3049 B. Any person receiving individual who receives the benefit of funds expended pursuant
3050 to this section shall ~~be required to make reimbursement of~~ reimburse such funds to the
3051 Department of Criminal Justice Services if he fails to satisfactorily complete the course ~~or~~
3052 courses for which the funds were expended.

3053 ~~Any reimbursement of money advanced under the provisions of this section shall be~~
3054 ~~returned to the State~~ The Department of Criminal Justice Services ~~and used~~ shall use such
3055 reimbursed funds in accordance with the purposes of this section.

3056 **Drafting note: Technical changes are made, including removing "State" in two**
3057 **instances in subsection A when used in conjunction with "Department of Criminal Justice**
3058 **Services" and changing a reference to "county, city or town" to "locality" pursuant to § 1-**
3059 **221, which states that throughout the Code "locality" means a county, city, or town.**

3060 § ~~23-31.1~~ 23.1-603. State cadets; Mary Baldwin College and Virginia Polytechnic
3061 Institute and State University; financial assistance awards.

3062 From funds appropriated by the Commonwealth to Mary Baldwin College for the
3063 Virginia Women's Institute for Leadership and to Virginia Polytechnic Institute and State
3064 University, ~~their respective boards of visitors~~ each such institution's governing board may, ~~in~~
3065 ~~their discretion~~, provide for financial assistance awards to students designated as state cadets, on
3066 terms and conditions comparable to the provisions of §§ ~~23-105 through 23-107~~ 23.1-2506.

3067 **Drafting note: Technical changes are made, including replacing a reference to**
3068 **"boards of visitors" with the more general "governing board"; Mary Baldwin College has**
3069 **an advisory board of visitors but refers to its governing board as a board of trustees.**

3070 § ~~23-32~~ 23.1-604. Investment of funds donated for scholarships.

3071 ~~Whenever~~ A. When any person ~~shall deposit deposits moneys~~ in ~~the state treasury, or~~
3072 ~~bequeath money bequeaths moneys~~ to be ~~so~~ deposited in, or ~~devise devises~~ or ~~bequeath~~
3073 ~~bequeaths~~ property to be sold and the proceeds to be ~~so~~ deposited, in the state treasury for the
3074 benefit of any ~~of the educational institutions in the Commonwealth, to~~ institution of higher
3075 education in such an amount that the interest ~~thereof will be~~ on such moneys is sufficient to
3076 ~~educate and maintain thereat one or more cadets or students~~ cover the costs of tuition,
3077 mandatory fees, and other necessary expenses for a cadet or student enrolled in such institution,
3078 the ~~fund~~ moneys shall be invested in securities that are legal investments under the laws of the
3079 Commonwealth for public funds in the name and for the benefit of ~~the~~ such institution.

3080 § ~~23-33. Donations irrevocable; right of nomination by donor.~~

3081 B. Such donation ~~shall be~~ is irrevocable, but the donor, ~~or~~ his heirs, or ~~their~~ the guardian,
3082 ~~if they be of any heir who is~~ under ~~twenty-one~~ 21 years of age, ~~shall have the right to may~~
3083 nominate and place in such institution ~~one or more cadets or students, according to the~~
3084 ~~regulations aforesaid~~ any cadet or student.

3085 § ~~23-34. Selection when donor fails to nominate.~~

3086 C. If such donor, ~~or his~~ heirs, or ~~such~~ guardian, ~~shall fail for~~ fails to nominate a cadet or
3087 student within one year ~~to nominate as aforesaid of such donation~~, the governing board ~~of~~
3088 ~~visitors, trustees, or corporate authorities of the institution~~ may appropriate ~~the income of such~~

3089 ~~fund to the education and maintenance of~~ such moneys to cover tuition, mandatory fees, and
 3090 other necessary expenses for indigent ~~cadets or~~ Virginia students, ~~to be selected by them from~~
 3091 ~~the Commonwealth at large or cadets.~~

3092 **Drafting note: The provisions of existing §§ 23-32, 23-33, and 23-34 are logically**
 3093 **combined as proposed subsections A, B, and C of § 23.1-604. Technical changes are made.**

3094 § ~~23-108~~ 23.1-605. Commissioned officers ~~may become students; waiver of tuition and~~
 3095 mandatory fees.

3096 Any commissioned officer of the ~~organized militia and Governor's military staff of the~~
 3097 Commonwealth Virginia National Guard of the Virginia Defense Force may become a student
 3098 at any ~~state~~ public institution of higher education for a period not exceeding 10 months; and
 3099 receive instruction in ~~any or all~~ the departments of military science, emergency management,
 3100 emergency services, public safety, and disaster management ~~taught therein~~ at such institution
 3101 without being required to pay ~~any fee or charge for~~ tuition and mandatory fees.

3102 **Drafting note: Technical changes are made.**

3103 § ~~23-38~~ 23.1-606. Service in ~~armed forces discharges obligation to render services to~~
 3104 ~~Commonwealth in consideration of scholarship~~ Armed Forces of the United States; discharge of
 3105 scholarship service obligations.

3106 Service Any length of service by any ~~person individual~~ in ~~any of the armed forces~~
 3107 Armed Forces of the United States as an officer, private, or nurse; or in any other capacity;
 3108 ~~regardless of length of service;~~ in time of war or other declared national emergency; is a
 3109 complete and final discharge of any obligation of such ~~person individual~~ to serve the
 3110 Commonwealth as a teacher in the public schools, or in any other capacity, including any such
 3111 obligation ~~which that~~ has been reduced or computed into terms of a monetary obligation in lieu
 3112 of such service, arising by virtue of any statute or of any contract entered into between such
 3113 ~~person individual~~ and any ~~state-owned or state-supported~~ public institution of higher ~~learning;~~
 3114 education in consideration of any state scholarship awarded to or received by such ~~person~~
 3115 individual as a student in such institution; provided, that such service is terminated by an

3116 honorable or medical discharge; ~~provided, further, that and~~ such ~~person shall have~~ individual
3117 entered such service ~~with the armed forces~~ within four years after leaving such ~~state-owned or~~
3118 ~~state-operated~~ institution.

3119 **Drafting note: Technical changes.**

3120 § ~~23-8.2-1~~ 23.1-607. Compensation of cooperating teachers.

3121 A. As used in this section, "cooperating teacher" means an individual licensed by the
3122 Board of Education who meets the criteria established by the relevant institution of higher
3123 education and is engaged in supervising and evaluating one or more student teachers.

3124 B. In addition to the provisions of § 22.1-290.1 relating to compensation of certain
3125 licensed teachers while engaged in supervising and evaluating student teachers, any institution
3126 of higher education engaged in educating students to be teachers may, from such funds as may
3127 be available for such purpose, develop and implement a program to compensate ~~public school~~
3128 public school or ~~private school~~ private school teachers who agree to be cooperating teachers ~~as~~
3129 ~~defined in this section~~. Such compensation programs may provide for payment in the form of
3130 money or ~~in the form of~~ authorization to enroll, without charge, for a designated number of
3131 credit hours in the school, department, or other unit of the ~~relevant~~ institution of higher
3132 education ~~in at~~ which the student teacher being supervised is enrolled.

3133 ~~For the purposes of this section, "cooperating teacher" means an individual licensed by~~
3134 ~~the Board of Education who meets the criteria established by the relevant institution of higher~~
3135 ~~education and is engaged in supervising and evaluating one or more student teachers.~~

3136 **Drafting note: Technical changes are made, including moving a definition to the**
3137 **beginning of the proposed section.**

3138 § ~~23-7.4-1~~ 23.1-608. ~~Waiver of tuition and certain charges and fees for eligible children~~
3139 ~~and spouses of certain military service members, eligible children and spouses of certain public~~
3140 ~~safety personnel, and certain foreign students~~ Virginia Military Survivors and Dependents
3141 Education Program and Fund; tuition and fee waivers.

3142 A. As used in this section, unless the context requires a different meaning:

3143 "Domicile" has the same meaning as provided in § 23.1-500.
3144 "Qualified survivors and dependents" means the spouse or a child between the ages of 16
3145 and 29 of a military service member who, while serving as an active duty member in the United
3146 States Armed Forces, United States Armed Forces Reserves, or Virginia National Guard, during
3147 military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or
3148 in any armed conflict, was killed, became missing in action, or became a prisoner of war, or of a
3149 veteran who, as a direct result of such service, has been rated by the U.S. Department of
3150 Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled
3151 and has been discharged or released under conditions other than dishonorable. However, the
3152 Commissioner of the Department of Veterans Services may certify dependents above the age of
3153 29 in those cases in which extenuating circumstances prevented the dependent child from using
3154 his benefits before the age of 30.

3155 ~~There is hereby established the B. The~~ Virginia Military Survivors and Dependents
3156 Education Program. ~~Qualified~~ (the Program) is established for the purpose of waiving tuition
3157 and mandatory fees at a public institution of higher education or Eastern Virginia Medical
3158 School for qualified survivors and dependents ~~of military service members~~, who have been
3159 admitted to ~~any public such~~ institution ~~of higher education or other public accredited~~
3160 ~~postsecondary institution granting a degree, diploma, or certificate in the Commonwealth of~~
3161 ~~Virginia, upon certification to~~ and meet the requirements of subsection B, as certified by the
3162 Commissioner of the Department of Veterans Services ~~of eligibility under this subsection, shall~~
3163 ~~be admitted free of tuition and all required fees.~~

3164 ~~The Virginia Military Survivors and Dependents Education Program shall be~~
3165 ~~implemented pursuant to the following:~~

3166 ~~1. For the purposes of this subsection, "qualified survivors and dependents" means the~~
3167 ~~spouse or a child between the ages of 16 and 29 of a military service member who, while~~
3168 ~~servng as an active duty member in the United States Armed Forces, United States Armed~~
3169 ~~Forces Reserves, the Virginia National Guard, or Virginia National Guard Reserve, during~~

3170 ~~military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or~~
3171 ~~in any armed conflict subsequent to December 6, 1941, was killed or is missing in action or is a~~
3172 ~~prisoner of war, or of a veteran who, due to such service, has been rated by the United States~~
3173 ~~Department of Veterans Affairs as totally and permanently disabled or at least 90% disabled,~~
3174 ~~and has been discharged or released under conditions other than dishonorable. However, the~~
3175 ~~Commissioner of the Department of Veterans Services may certify dependents above the age of~~
3176 ~~29 in those cases in which extenuating circumstances prevented the dependent child from using~~
3177 ~~his benefits before the age of 30.~~

3178 ~~2. Such qualified~~ C. Admitted qualified survivors and dependents ~~shall be~~ are eligible for
3179 ~~the benefits conferred by this subsection~~ a waiver of tuition and mandatory fees pursuant to this
3180 section if the military service member who was killed, ~~is~~ became missing in action, ~~is~~ became a
3181 prisoner of war, or is disabled (i) ~~was a bona fide domiciliary of Virginia established domicile~~
3182 (a) at the time of entering such active military service or called to active duty as a member of the
3183 Armed Forces Reserves or Virginia National Guard ~~Reserve~~; ~~(ii) is and has been a bona fide~~
3184 ~~domiciliary of Virginia (b) for~~ at least five years immediately prior to, or ~~has~~ had a physical
3185 presence in ~~Virginia~~ the Commonwealth for at least five years immediately prior to, the date on
3186 which the admission application was submitted by or on behalf of such qualified survivor or
3187 dependent for admission to such institution of higher education ~~or other public accredited~~
3188 ~~postsecondary institution~~; ~~(iii) if deceased, was a bona fide domiciliary of Virginia or Eastern~~
3189 Virginia Medical School or (c) on the date of his death and ~~had been a bona fide domiciliary of~~
3190 Virginia for at least five years immediately prior to his death or had a physical presence in
3191 Virginia the Commonwealth on the date of his death and ~~has~~ had a physical presence in ~~Virginia~~
3192 the Commonwealth for at least five years immediately prior to his death; ~~(iv)~~ (ii) in the case of a
3193 qualified child, is deceased and the surviving parent ~~had been~~, at some time previous to
3194 marrying the deceased parent, ~~a bona fide domiciliary of Virginia established domicile~~ for at
3195 least five years ~~or is and has been a bona fide domiciliary of Virginia, or established domicile or~~
3196 had a physical presence in the Commonwealth for at least five years immediately prior ~~to or has~~

3197 ~~had a physical presence in Virginia for at least five years immediately prior~~ to the date on which
3198 the admission application was submitted by or on behalf of such child; or ~~(v)~~ (iii) in the case of
3199 a qualified spouse, is deceased and the surviving spouse ~~had been~~, at some time previous to
3200 marrying the deceased spouse, ~~a bona fide domiciliary of Virginia for established domicile~~ at
3201 least five years or ~~is and has been a bona fide domiciliary of Virginia for at least five years or~~
3202 ~~has had a physical presence in Virginia~~ had a physical presence in the Commonwealth for at
3203 least five years prior to the date on which the admission application was submitted by such
3204 qualified spouse.

3205 3-C. From such funds as may be appropriated and from such gifts, bequests, and any
3206 gifts, grants, or donations from public or private sources, ~~there is hereby established~~ the Virginia
3207 Military Survivors and Dependents Education Fund (the Fund) is established for the sole
3208 purpose of providing financial assistance; in an amount (i) up to \$2,000 or (ii) as provided in the
3209 appropriation act, for board and room charges, books and supplies, and other expenses at any
3210 public institution of higher education or ~~other public accredited postsecondary institution~~
3211 ~~granting a degree, diploma, or certificate in the Commonwealth of Virginia~~ Eastern Virginia
3212 Medical School for the use and benefit of qualified survivors and dependents, provided that the
3213 maximum amount to be expended for each such survivor or dependent pursuant to this
3214 subsection shall not exceed, when combined with any other form of scholarship, grant, or
3215 waiver, the actual costs related to the survivor's or dependent's educational expenses allowed
3216 under this subsection.

3217 D. Each year, from the funds available in the ~~Virginia Military Survivors and~~
3218 ~~Dependents Education~~ Fund, the ~~State~~ Council of Higher Education for Virginia and ~~its member~~
3219 ~~institutions~~ each public institution of higher education shall determine the amount and the
3220 manner in which financial assistance shall be made available to beneficiaries and shall make
3221 that information available to the Commissioner of the Department of Veterans Services for
3222 distribution.

3223 ~~E. The State Council of Higher Education for Virginia shall be responsible for~~
3224 ~~disbursing disburse to the institutions each public institution of higher education~~ the funds
3225 appropriated or otherwise made available by the Commonwealth of Virginia to support the
3226 ~~Virginia Military Survivors and Dependents Education~~ Fund and shall report to the
3227 Commissioner of the Department of Veterans Services the beneficiaries' completion rate.

3228 ~~The maximum amount to be expended for each such survivor or dependent pursuant to~~
3229 ~~this subsection shall not exceed, when combined with any other form of scholarship, grant, or~~
3230 ~~waiver, the actual costs related to the survivor's or dependent's educational expenses allowed~~
3231 ~~under this subsection.~~

3232 ~~4.F. The Commissioner of the~~ Department of Veterans Services shall ~~designate a senior-~~
3233 ~~level official who shall be responsible for developing and implementing the agency's strategy~~
3234 ~~for disseminating disseminate~~ information about the ~~Military Survivors and Dependents~~
3235 ~~Education Program and Fund~~ to those spouses and dependents who may qualify. The
3236 Department of Veterans Services shall coordinate with the ~~United States U.S.~~ Department of
3237 Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner
3238 of the Department of Veterans Services shall ~~report annually include in the annual report~~
3239 ~~submitted~~ to the Governor and the General Assembly ~~as to pursuant to § 2.2-2004 an overview~~
3240 ~~of~~ the agency's policies and strategies relating to dissemination of information about the
3241 Program ~~and Fund. The report shall also include the number of current beneficiaries, the~~
3242 ~~educational institutions attended by beneficiaries, and the completion rate of the beneficiaries.~~

3243 ~~G. Each public institution of higher education and Eastern Virginia Medical School shall~~
3244 ~~include in its catalog or equivalent publication a statement describing the benefits available~~
3245 ~~pursuant to this section.~~

3246 **Drafting note: Proposed § 23.1-608 incorporates subsection A of existing § 23-7.4:1.**
3247 **Reporting requirements contained in proposed subsection F are recommended for repeal**
3248 **as duplicative of reports made by the Council. Proposed subsection G incorporates the**
3249 **provisions of part of subsection E of existing § 23-7.4:1. Technical changes are made,**

3250 including moving an existing definition to the beginning of the section and cross-
3251 referencing the definition of "domicile" from the definitions section in proposed Chapter 5
3252 (§ 23.1-500 et seq.).

3253 [§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee](#)
3254 [waivers.](#)

3255 ~~B. A. (Effective until July 1, 2018)~~ The surviving spouse and any child between the ages
3256 of 16 and 25 ~~whose parent or whose spouse has been of an individual who was~~ killed in the line
3257 of duty while employed or serving as a (i) law-enforcement officer, including as a campus
3258 police officer appointed under ~~Chapter 17 Article 3~~ (~~§ 23-232 23.1-809~~ et seq.) [of Chapter 8](#),
3259 sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135,
3260 member of a rescue squad, special agent of the Department of Alcoholic Beverage Control, state
3261 correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or
3262 deputy sheriff; (ii) member of the Virginia National Guard while serving on official state duty
3263 or federal duty under Title 32 of the United States Code; or (iii) member of the Virginia
3264 Defense Force while serving on official state duty, and any ~~person~~ [individual](#) whose spouse was
3265 killed in the line of duty while employed or serving in any of such occupations, ~~shall be is~~
3266 entitled to [free a waiver of](#) undergraduate tuition and ~~the payment of required mandatory~~ fees at
3267 any public institution of higher education ~~or other public accredited postsecondary institution~~
3268 [granting a degree, diploma, or certificate in Virginia](#) under the following conditions:

3269 ~~B. A. (Effective July 1, 2018)~~ The surviving spouse and any child between the ages of
3270 16 and 25 ~~whose parent or whose spouse has been of an individual who was~~ killed in the line of
3271 duty while employed or serving as a (i) law-enforcement officer, including as a campus police
3272 officer appointed under ~~Chapter 17 Article 3~~ (~~§ 23-232 23.1-809~~ et seq.) [of Chapter 8](#), sworn
3273 law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, member of a
3274 rescue squad, special agent of the Virginia Alcoholic Beverage Control Authority, state
3275 correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or
3276 deputy sheriff; (ii) member of the Virginia National Guard while serving on official state duty

3277 or federal duty under Title 32 of the United States Code; or (iii) member of the Virginia
3278 Defense Force while serving on official state duty, and any ~~person~~ individual whose spouse was
3279 killed in the line of duty while employed or serving in any of such occupations, ~~shall be is~~
3280 entitled to ~~free a waiver of~~ undergraduate tuition and ~~the payment of required~~ mandatory fees at
3281 any public institution of higher education ~~or other public accredited postsecondary institution~~
3282 granting a degree, diploma, or certificate in Virginia under the following conditions:

3283 1. (Effective until July 1, 2018) The chief executive officer of the ~~Alcoholic Beverage~~
3284 ~~Control Board, emergency medical services agency, law enforcement agency, or other~~
3285 ~~appropriate agency or the Superintendent of State Police~~ deceased individual's employer
3286 certifies that ~~the deceased parent or spouse~~ such individual was so employed ~~or serving as a~~
3287 ~~law enforcement officer, sworn law enforcement officer, firefighter, special forest warden~~
3288 ~~pursuant to § 10.1-1135, or member of a rescue squad or in any other capacity as specified in~~
3289 ~~this section~~ and was killed in the line of duty while serving or living in the Commonwealth; and

3290 1. (Effective July 1, 2018) The ~~Chief Executive Officer~~ chief executive officer of the
3291 ~~Virginia Alcoholic Beverage Control Authority, emergency medical services agency, law~~
3292 ~~enforcement agency, or other appropriate agency or the Superintendent of State Police~~ deceased
3293 individual's employer certifies that ~~the deceased parent or spouse~~ such individual was so
3294 employed ~~or serving as a law enforcement officer, sworn law enforcement officer, firefighter,~~
3295 ~~special forest warden pursuant to § 10.1-1135, or member of a rescue squad or in any other~~
3296 ~~capacity as specified in this section~~ and was killed in the line of duty while serving or living in
3297 the Commonwealth; and

3298 2. The surviving spouse or child ~~or spouse shall have been offered admission to such~~
3299 ~~public institution of higher education or other public accredited postsecondary institution. Any~~
3300 ~~child or spouse who believes he is eligible shall apply to the public institution of higher~~
3301 ~~education or other accredited postsecondary institution to which he has been admitted for the~~
3302 ~~benefits provided by this subsection. The institution shall determine the eligibility of the~~
3303 ~~applicant for these benefits and shall also ascertain that the recipients are in attendance and are~~

3304 ~~making is admitted to, enrolls at, and is in attendance at such institution and applies to such~~
3305 ~~institution for the waiver. Waiver recipients who make~~ satisfactory ~~academic progress are~~
3306 ~~eligible for renewal of such waiver.~~

3307 ~~The B. Institutions that grant such waivers shall waive the~~ amounts payable for tuition,
3308 institutional charges and ~~required mandatory educational and auxiliary~~ fees, and books and
3309 supplies ~~for the applicants shall be waived by the institution accepting the students.~~

3310 ~~C. For the purposes of subsection B, but shall not waive~~ user fees, such as room and
3311 board charges, ~~shall not be included in this authorization to waive tuition and fees. However, all~~
3312 ~~required educational and auxiliary fees shall be waived along with tuition.~~

3313 ~~D. Tuition and required fees may be waived for a student from a foreign country~~
3314 ~~enrolled in a public institution of higher education through a student exchange program~~
3315 ~~approved by such institution, provided the number of foreign students does not exceed the~~
3316 ~~number of students paying full tuition and required fees to the institution under the provisions of~~
3317 ~~the exchange program for a given three year period.~~

3318 ~~E. C.~~ Each public institution of higher education ~~and other public accredited~~
3319 ~~postsecondary institution granting a degree, diploma, or certificate in Virginia~~ shall include in
3320 its ~~catalogue~~ catalog or equivalent publication a statement describing the benefits ~~provided by~~
3321 ~~subsections A and B available pursuant to this section.~~

3322 **Drafting note: Proposed § 23-609 incorporates the provisions of subsections B and**
3323 **C and part of subsection E of existing § 23-7.4:1. The stricken language in existing**
3324 **subsection E is relocated as subsection G of proposed § 23.1-608. Existing subsection D is**
3325 **stricken and relocated as proposed § 23.1-611.**

3326 Existing subsection B and subdivision B 1 are set out twice to reflect 2015
3327 amendments by Chapters 38 and 730, effective July 1, 2018, which are identical and
3328 substituted "Virginia Alcoholic Beverage Control Authority" for "Department of
3329 Alcoholic Beverage Control" in subsection B; and substituted "Chief Executive Officer of

3330 the Virginia Alcoholic Beverage Control Authority" for "chief administrative officer of
3331 the Alcoholic Beverage Control Board" in subdivision B 1.

3332 **Technical changes are made.**

3333 § 23.1-610. Members of the National Guard; grants.

3334 A. Any individual who (i) is a member of the Virginia National Guard and has a
3335 minimum remaining obligation of two years, (ii) has satisfactorily completed required initial
3336 active duty service, (iii) is satisfactorily performing duty in accordance with regulations of the
3337 National Guard, and (iv) is enrolled in any course or program at any public institution of higher
3338 education or accredited nonprofit private institution of higher education whose primary purpose
3339 is to provide collegiate or graduate education and not to provide religious training or theological
3340 education is eligible for a grant in the amount of the difference between the full cost of tuition
3341 and any other educational benefits for which he is eligible as a member of the National Guard.
3342 Application for a grant shall be made to the Department of Military Affairs. Grants shall be
3343 awarded from funds made available for the purpose by the Department of Military Affairs.

3344 B. Notwithstanding the requirement in subsection A that a member of the Virginia
3345 National Guard have a minimum of two years remaining on his service obligation, if a member
3346 is activated or deployed for federal military service, an additional day shall be added to the
3347 member's eligibility for the grant for each day of active federal service, up to 365 days.
3348 Additional credit or credit for state duty may be given at the discretion of the Adjutant General.

3349 **Drafting note: Proposed § 23.1-610 incorporates the provisions of the first two**
3350 **paragraphs of subsection B of existing § 23-7.4:2. Technical changes are made.**

3351 § 23.1-611. Students from foreign countries; student exchange programs; tuition and fee
3352 waivers.

3353 ~~D.~~ Tuition and ~~required mandatory~~ fees may be waived for a student from a foreign
3354 country enrolled in a public institution of higher education through a student exchange program
3355 approved by such institution, provided that the number of ~~foreign~~ students from a foreign
3356 country for whom tuition and mandatory fees has been waived does not exceed during any

3357 three-year period the number of students ~~paying from a foreign country who are enrolled~~
3358 through such student exchange program and who pay full tuition and ~~required mandatory~~ fees to
3359 the institution ~~under the provisions of the exchange program for a given three-year period.~~

3360 **Drafting note: Proposed § 23.1-611 incorporates the provisions of subsection D of**
3361 **existing § 23-7.4:1. Technical changes are made.**

3362 CHAPTER 4.

3363 COLLEGE AND UNIVERSITY SCHOLARSHIPS.

3364 Article 2.

3365 Scholarships.

3366 **Drafting note: Provisions of Title 23 relating to scholarships are consolidated in**
3367 **proposed Article 2 of Chapter 6, and technical changes are made.**

3368 ~~§ 23-34~~ 23.1-612. Unfunded scholarships.

3369 A. ~~The corporate authorities of the University of Virginia, the University of Virginia's~~
3370 ~~College at Wise, Virginia Military Institute, Virginia Polytechnic Institute and State University,~~
3371 ~~The College of William and Mary, Christopher Newport University, George Mason University,~~
3372 ~~Longwood University, the University of Mary Washington, James Madison University, Virginia~~
3373 ~~Commonwealth University, Radford University, Old Dominion University, the Virginia~~
3374 ~~Community College System, Virginia State University, Norfolk State University, and Richard~~
3375 ~~Bland College may establish scholarships, hereafter to be designated as unfunded scholarships,~~
3376 ~~in their respective institutions under such regulations and conditions as they may prescribe, but~~
3377 governing board of each public institution of higher education may establish unfunded
3378 scholarships that are subject to such regulations and conditions as the governing board
3379 establishes and the following limitations and restrictions:

3380 1. All such scholarships shall be applied exclusively to the remission, in whole or in part,
3381 of tuition and ~~required mandatory~~ fees.

3382 2. The ~~respective corporate authorities governing board~~ shall determine the number of
3383 such scholarships annually awarded to undergraduate Virginia students and non-Virginia
3384 students.

3385 3. The total value of all such scholarships annually awarded ~~by an institution~~ to
3386 undergraduate Virginia students shall not exceed ~~in any year~~ the amount ~~arrived at by~~
3387 multiplying of the applicable ~~figure for sum of~~ undergraduate tuition and ~~required mandatory~~
3388 fees multiplied by 20 percent of the enrollment of undergraduate Virginia students ~~in~~
3389 undergraduate studies in the institution during the preceding academic year.

3390 4. The total value of all such scholarships annually awarded by an institution to
3391 undergraduate non-Virginia ~~undergraduate~~ students shall not exceed ~~in any year~~ the amount of
3392 the applicable, per capita out-of-state tuition differential paid by undergraduate non-Virginia
3393 undergraduate students for tuition and ~~required mandatory~~ fees multiplied by 20 percent of the
3394 enrollment of undergraduate non-Virginia students ~~in undergraduate studies in the institution~~
3395 during the preceding academic year.

3396 5. All such scholarships awarded to undergraduate students shall be awarded only to
3397 undergraduate students in the first four years of undergraduate work and shall be awarded and
3398 renewed on a selective basis to students of character and ability who are in need of financial
3399 assistance. For purposes of determining need under this section, each governing board shall use
3400 a nationally recognized needs-analysis system approved by the ~~State~~ Council ~~of Higher~~
3401 Education shall be used.

3402 ~~3-6.~~ The ~~respective corporate authorities governing board of each public institution of~~
3403 higher education shall determine the number of such scholarships annually awarded to graduate
3404 students or teachers serving as clinical faculty pursuant to § 22.1-290.1. The total value of all
3405 such scholarships annually awarded to such graduate students and clinical faculty shall not
3406 exceed ~~in any year~~ the amount ~~arrived at by multiplying of~~ the ~~applicable figure for sum of~~
3407 graduate tuition and ~~required mandatory~~ fees multiplied by the number of teachers serving as
3408 clinical faculty pursuant to § 22.1-290.1 and graduate students who are employed as teaching

3409 assistants, graduate assistants, or research assistants with significant academic or academic
3410 support responsibilities and who are paid a stipend of at least \$2,000 in the particular academic
3411 year ~~and such clinical faculty~~. All ~~graduate unfunded~~ scholarships awarded to graduate students
3412 or teachers serving as clinical faculty shall be awarded and renewed on a selective basis to such
3413 graduate students and clinical faculty of character and ability.

3414 ~~4. A scholarship awarded under this program~~ 7. An unfunded scholarship shall entitle the
3415 holder to the following award, as appropriate:

3416 a. ~~A Virginia An~~ undergraduate Virginia student may receive an annual remission of an
3417 amount not to exceed the cost of tuition and mandatory fees ~~required to be paid by the student~~;

3418 b. ~~A non-Virginia An~~ undergraduate non-Virginia student may receive an annual
3419 remission not to exceed the amount of the out-of-state tuition differential required to be paid by
3420 the student for tuition and mandatory fees;

3421 c. A qualified graduate student may receive an annual remission of an amount not to
3422 exceed the cost of tuition and mandatory fees ~~required to be paid by the student~~; and

3423 d. A teacher serving as clinical faculty ~~member~~ may receive an award as determined by
3424 the governing body board of the institution.

3425 ~~5-8.~~ Notwithstanding the limitations on the awards of unfunded scholarships to
3426 undergraduate students pursuant to subdivision A ~~4 of this section~~ 7, an institution may award
3427 additional unfunded scholarships to visiting foreign exchange students; ~~however, as long as~~ the
3428 number of such awards in any fiscal year ~~shall~~ does not exceed one quarter of one percent of the
3429 total institutional headcount enrollment.

3430 B. No public institution ~~named herein of higher education~~ shall remit any tuition or
3431 required mandatory fees ~~or any special fees or charges~~ to any student at such institution except
3432 as authorized in this section. Each such institution ~~named herein~~ shall make a report to the ~~State~~
3433 ~~Council of Higher Education~~, upon request, showing the number and value of scholarships
3434 awarded under this section according to each student classification.

3435 C. Nothing in this section shall be construed to prevent or limit in any way the admission
3436 of ~~certain students, known as~~ state cadets, at ~~the~~ Virginia Military Institute or to affect the
3437 remission of tuition ~~or required,~~ mandatory fees, or other charges to such state cadets as
3438 permitted under existing law.

3439 D. Nothing in this section shall be construed to affect or limit in any way the control of
3440 the governing ~~bodies~~ boards of the respective institutions over (i) any other scholarships; ~~or~~
3441 ~~over,~~ (ii) any gifts or donations made to such institutions for scholarships or other special
3442 purposes; ~~or over,~~ (iii) any funds provided by the federal government or otherwise for the
3443 purpose of career and technical education or vocational rehabilitation in ~~this the~~
3444 Commonwealth; ~~or over~~ (iv) any funds derived from endowment or appropriations from the
3445 federal government for instruction in agriculture and mechanic arts ~~in land grant colleges at~~
3446 land-grant universities.

3447 E. Nothing in this section shall be construed to prevent the governing ~~bodies of the~~
3448 respective institutions board of any public institution of higher education from fixing a
3449 ~~reasonably lower~~ tuition charge for Virginia students reasonably lower than that for non-
3450 Virginia students.

3451 F. Nothing in this section or any other provision of law shall prohibit the awarding of 10
3452 full tuition unfunded scholarships each year by Old Dominion University under the terms and
3453 conditions provided for in a deed conveying certain property in Norfolk known as the Old
3454 Larchmont School made July 5, 1930, between the City of Norfolk and The College of William
3455 and Mary in Virginia.

3456 G. Nothing in this section shall be construed to limit other financial aid programs
3457 provided pursuant to state law.

3458 **Drafting note: Technical changes.**

3459 § ~~23-35~~ 23.1-613. Alumni scholarships.

3460 The ~~society of~~ alumni association of any public institution ~~aforsaid of higher education~~
3461 may provide for and maintain a scholarship ~~therein, fund~~ by annual contributions, under such
3462 regulations criteria as may be prescribed ~~as aforesaid~~.

3463 **Drafting note: Technical changes are made, including replacing "society of alumni"**
3464 **with preferred "alumni association."**

3465 § 23.35.1 through 23-35.8.

3466 **Drafting note: Repealed by Acts 1994, c. 867.**

3467 § 23-35.9 23.1-614. Nursing scholarships; ~~Advisory Committee.~~

3468 A. As used in this section:

3469 "Graduate nursing program" means a program at a school of nursing that leads to a
3470 master's degree or doctorate in nursing or a field related to nursing activities.

3471 "Undergraduate nursing program" means a program at a school of nursing that leads to
3472 an associate degree, diploma, or baccalaureate degree in nursing.

3473 B. Annual nursing scholarships are ~~hereby~~ established for part-time and full-time
3474 Virginia students enrolled in undergraduate and graduate nursing programs or first-year Virginia
3475 students at the beginning of their first academic year who present to the advisory committee
3476 established pursuant to subsection D a notice of intention to pursue an undergraduate nursing
3477 program. ~~For the purposes of §§ 23-35.9 through 23-35.13, undergraduate nursing programs are~~
3478 ~~defined as programs leading to an associate degree, diploma, or baccalaureate degree in nursing;~~
3479 ~~graduate nursing programs are herein defined as those programs offering masters and doctoral~~
3480 ~~degrees in nursing or related to nursing activities.~~

3481 C. Undergraduate nursing scholarships shall not exceed \$2,000 annually. Graduate
3482 nursing scholarships shall not exceed \$4,000 annually. No scholarship shall be less than \$150
3483 annually. Scholarship funds shall be paid directly to the recipient.

3484 ~~These awards~~ D. Each nursing scholarship shall be made by ~~the Advisory Committee to~~
3485 ~~the State Board of Health and the recipients shall be required to attend a school of professional~~
3486 ~~nursing in this Commonwealth if such schools are available and the student can receive~~

3487 ~~admission thereto. This section shall not be construed to prohibit such scholarship from being~~
3488 ~~available to any first-year college student at the beginning of the first college year who presents~~
3489 ~~to the Advisory Committee a notice of intention to pursue an undergraduate nursing program as~~
3490 ~~defined for the purposes of this section.~~

3491 ~~The Advisory Committee shall be an advisory committee~~ appointed by the State Board
3492 of Health. ~~The Committee shall consist~~ that consists of eight members; two of whom shall be
3493 deans or directors of schools of nursing or their designees; two of whom shall be past recipients
3494 of nursing scholarships awarded pursuant to this ~~title; and section~~, two of whom shall have
3495 experience in the administration of student financial aid programs, and at least two of whom
3496 shall not have served as members of the advisory committee during the previous two years.
3497 Appointments shall be for two-year terms. No member of the ~~Committee shall be advisory~~
3498 committee is eligible to serve more than two ~~successive consecutive two-year~~ terms ~~in addition~~
3499 ~~to the portion of immediately succeeding~~ any unexpired term for which such member was
3500 appointed. ~~Following initial appointments, the State Board of Health shall schedule~~
3501 ~~appointments to the Advisory Committee in such a manner that at least two persons who have~~
3502 ~~not served during the previous two years are appointed to the Committee.~~

3503 ~~§ 23-35.10. Nursing scholarships; recipients to be bona fide residents; basis of awards.~~

3504 ~~Each applicant for such scholarship must be a bona fide resident of the Commonwealth~~
3505 ~~pursuant to § 23-7.4 when such scholarship is awarded. E.~~ Awards shall be made upon such
3506 basis, competitive or otherwise, as determined by the ~~Advisory Committee~~ advisory committee,
3507 with due regard for scholastic attainments, character, need, and adaptability of the applicant for
3508 the service contemplated in such award. No award shall be made if the applicant fails to possess
3509 the requisite qualifications. With due consideration of the number of applications and the
3510 qualifications of all such applicants, the ~~Advisory Committee will~~ advisory committee shall, ~~so~~
3511 ~~far as practical to the extent that it is practicable~~, award an equal number of scholarships among
3512 the various congressional districts within the Commonwealth.

3513 ~~§ 23-35.11. Nursing scholarships; contract to be signed before award.~~

3514 F. Before any such scholarship is awarded, the applicant ~~must sign~~ shall agree in a
3515 signed written contract, ~~under the terms of which the applicant agrees to pursue a nursing~~
3516 ~~program until completion and thereupon to complete a nursing program and, upon completion,~~
3517 to promptly begin and ~~thereafter~~ continuously engage ~~continuously~~ in nursing work in the
3518 Commonwealth in a region with a critical shortage of nurses for one month for each \$100 of
3519 scholarship awarded ~~pursuant to § 23-35.9~~. The requirement for continuous engagement in
3520 nursing work may be waived by the ~~Committee~~ advisory committee if the scholarship recipient
3521 requests leave to pursue an undergraduate or graduate degree in nursing or related to nursing
3522 activities. The contract shall contain such other provisions as ~~are~~ the State Board of Health
3523 determines to be necessary, ~~in the opinion of the State Board of Health,~~ to accomplish the
3524 purposes of the scholarship.

3525 ~~§ 23-35.12. Nursing scholarships; scholarship may be from year to year.~~

3526 G. Each ~~said~~ scholarship shall be awarded for a single award year, ~~but the same student~~
3527 ~~may, after making satisfactory progress toward the completion of his training in the school,~~
3528 ~~receive such award for any succeeding year or years; however, no student shall receive any such~~
3529 ~~scholarship for more than a total of five years and may be renewed annually for up to four~~
3530 additional award years upon a showing of satisfactory progress toward completion of the
3531 relevant nursing program.

3532 ~~§ 23-35.13. Nursing scholarships; how payments made.~~

3533 ~~The funds making up each scholarship shall be paid to the recipient. No recipient shall~~
3534 ~~receive for any such scholarship less than \$150.~~

3535 **Drafting note:** The provisions of existing §§ 23-35.9 through 23-35.13 on nursing
3536 scholarships are logically combined into this single proposed section. Technical changes
3537 are made, including moving definitions to the beginning of the section.

3538 ~~§ 23.36, 23-36.1.~~

3539 **Drafting note:** Repealed by Acts 1950, p. 1292.

3540 ~~§ 23-36.2. Nursing scholarships at the Medical College of Virginia and the University of~~
3541 ~~Virginia.~~

3542 ~~The governing board of the Medical College of Virginia may establish thirteen annual~~
3543 ~~nursing scholarships which thirteen scholarships hereby authorized shall be of the annual value~~
3544 ~~of \$150 each, and the governing board of the University of Virginia may establish fifteen annual~~
3545 ~~nursing scholarships, which fifteen scholarships hereby authorized shall be of the annual value~~
3546 ~~of \$100 each, and shall be awarded and paid subject to the conditions and restrictions set out in~~
3547 ~~the following subsections:~~

3548 ~~(1) Each applicant for any such scholarship must be a bona fide resident of the~~
3549 ~~Commonwealth of Virginia when such scholarship is awarded. The awards shall be made upon~~
3550 ~~such basis, competitive or otherwise, as may be determined by the president or other proper~~
3551 ~~officer of the school with due regard to the scholastic attainments, character, and adaptability of~~
3552 ~~the applicant for the service contemplated in such award; provided, that no award shall be made~~
3553 ~~if the applicant fails to possess the requisite qualifications.~~

3554 ~~(2) Before any such scholarship is awarded the applicant shall sign written contract~~
3555 ~~under the terms of which he agrees to pursue the nursing course of the school awarding the~~
3556 ~~scholarship until completion and thereupon to promptly begin and thereafter engage~~
3557 ~~continuously in nursing work in the Commonwealth of Virginia, for a period of years equal in~~
3558 ~~number to the years that he has been or shall be a beneficiary of any such scholarship or~~
3559 ~~scholarships. The contract shall provide that if the applicant shall fail to comply with the~~
3560 ~~provisions thereof or any of them he shall repay to the school all amounts received by him as a~~
3561 ~~beneficiary of such awards, such repayment to be upon such terms and conditions as may be~~
3562 ~~determined by the school. Such contract shall contain such other provisions as may be~~
3563 ~~necessary, in the opinion of the president or other proper officer of the school, to accomplish the~~
3564 ~~purposes of the scholarships.~~

3565 ~~(3) As further evidence of the promise of such recipient to make such repayment, as to~~
3566 ~~each scholarship awarded him in the event he shall fail or refuse to fulfill the conditions and~~

~~3567 requirements herein specified as to such scholarships, he shall, when such scholarship is
3568 awarded, be required to execute and deliver to the school awarding the scholarship a note in a
3569 principal sum equal to the amount of such scholarship with interest at not less than two nor more
3570 than four per centum, which note shall be accepted by the school upon the condition that such
3571 note, and any other similar notes so given, shall be cancelled by the school upon the basis of one
3572 note for each year in which he shall continuously engage in nursing work in the Commonwealth
3573 of Virginia; provided, however, that no recipient of any such scholarship shall be permitted to
3574 plead the statute of limitations or interpose a plea of infancy in the event of an action being
3575 brought against him on any such note.~~

~~3576 (4) All money repaid by any such recipient shall be placed in a special fund which shall
3577 be used for nursing scholarships in accordance with the provisions of this section.~~

~~3578 (5) Each such scholarship shall be awarded for a single year, but the same student shall,
3579 after making satisfactory progress towards completion of his training in the school, receive such
3580 award for any succeeding year or years, provided no student shall receive any such scholarship
3581 for more than a total of three years.~~

~~3582 (6) The funds making up each such scholarship shall be paid to the recipient thereof, or
3583 applied to the payment of his expenses, at such medical school, in such amounts and at such
3584 times during such school year as may be determined by the president or other proper officer of
3585 the school; provided, however, that no recipient shall receive for any such scholarship less than
3586 \$100.~~

3587 Drafting note: Repeal of obsolete existing § 23-36.2 is recommended.

~~3588 § 23-37.~~

3589 Drafting note: Repealed by Acts 1979, c. 730.

~~3590 § 23-37.1. Scholarships for dental hygienists; established.~~

~~3591 There are established twelve annual scholarships of \$500 each. These awards shall be
3592 made by the State Board of Health and the recipients shall be allowed to attend any accredited
3593 school of dental hygiene in this Commonwealth.~~

3594 **Drafting note: Repeal of obsolete existing § 23-37.1 is recommended.**

3595 ~~§ 23-37.2. Scholarships for dental hygienists; qualifications of applicants; how awarded.~~
3596 ~~Each applicant for such scholarship must be a bona fide resident of the Commonwealth~~
3597 ~~of Virginia when such scholarship is awarded. Awards shall be made upon such basis,~~
3598 ~~competitive or otherwise, as determined by the State Board of Health, with due regard for~~
3599 ~~scholastic attainments, character and adaptability of the applicant for the service contemplated~~
3600 ~~in such award; provided no award shall be made if the applicant fails to possess the requisite~~
3601 ~~qualifications.~~

3602 **Drafting note: Repeal of obsolete existing § 23-37.2 is recommended.**

3603 ~~§ 23-37.3. Scholarships for dental hygienists; contracts to be signed by applicants.~~
3604 ~~Before any such scholarship is awarded, the applicant must sign a written contract, under~~
3605 ~~the terms of which the applicant agrees to pursue the dental hygiene course of the school~~
3606 ~~awarding the scholarship until completion, and thereupon to promptly begin and thereafter~~
3607 ~~engage continuously in dental hygiene work in the Commonwealth of Virginia for a period of~~
3608 ~~years equal in number to the years the applicant has been a beneficiary of such scholarship or~~
3609 ~~scholarships. The contract shall contain such other provisions as are necessary, in the opinion of~~
3610 ~~the State Board of Health, to accomplish the purposes of the scholarship.~~

3611 **Drafting note: Repeal of obsolete existing § 23-37.3 is recommended.**

3612 ~~§ 23-37.4. Scholarships for dental hygienists; duration.~~
3613 ~~Each said scholarship shall be awarded for a single year, but the same student shall, after~~
3614 ~~making satisfactory progress toward the completion of the student's training in the school,~~
3615 ~~receive such award for any succeeding year or years, providing no student shall receive any~~
3616 ~~such scholarship for more than a total of three years.~~

3617 **Drafting note: Repeal of obsolete existing § 23-37.4 is recommended.**

3618 ~~§ 23-37.5. Scholarships for dental hygienists; how payments made.~~
3619 ~~The funds making up such scholarship shall be paid to the recipient thereof or applied~~
3620 ~~toward the payment of the student's expenses at the school in such a manner and at such a time~~

3621 ~~during the school year as determined by the director or other proper officer of the school of~~
3622 ~~dental hygiene attended, provided no recipient shall receive for any such scholarship less than~~
3623 ~~\$500.~~

3624 **Drafting note: Repeal of obsolete existing § 23-37.5 is recommended.**

3625 ~~§ 23-38.1.~~

3626 **Drafting note: Repealed by Acts 1964, Ex. Sess., c. 8.**

3627 ~~§ 23-38.2. Virginia Behavioral Health and Developmental Services Scholarship Fund.~~

3628 ~~(a) There is hereby established a fund, to be known as the Virginia Behavioral Health~~
3629 ~~and Developmental Services Scholarship Fund, which shall consist of funds appropriated to it~~
3630 ~~from time to time by the General Assembly and which shall be administered by the Department~~
3631 ~~of Behavioral Health and Developmental Services, for the purpose of providing scholarships for~~
3632 ~~study in various professions and skills that deal with the treatment, training and care of~~
3633 ~~individuals with mental illness and intellectual disability.~~

3634 ~~(b) The State Board of Behavioral Health and Developmental Services shall adopt the~~
3635 ~~necessary rules and regulations, not inconsistent with other laws, for the implementation of this~~
3636 ~~section. Such rules and regulations shall provide:~~

3637 ~~(1) That scholarships be awarded for a period no longer than one year, but that certain~~
3638 ~~scholarships may be reawarded not more than two times;~~

3639 ~~(2) That persons who receive such scholarships agree to serve in state employment upon~~
3640 ~~completion of training for a period at least as long as the length of training provided by the~~
3641 ~~scholarship, and that if they do not fulfill this agreement they shall repay to the Commonwealth~~
3642 ~~the amount of the scholarship with interest;~~

3643 ~~(3) That priorities be given for training in professions and skills where shortages exist~~
3644 ~~and are anticipated in state hospitals and training centers; and~~

3645 ~~(4) That priorities be given to citizens of the Commonwealth.~~

3646 ~~(e) The Commissioner of Behavioral Health and Developmental Services is hereby~~
3647 ~~authorized to receive gifts, donations, bequests, and federal grants to the Virginia Behavioral~~
3648 ~~Health and Developmental Services Scholarship Fund.~~

3649 **Drafting note: Repeal of obsolete existing § 23-38.2 is recommended.**

3650 ~~§ 23-38.3 23.1-615. Soil scientist scholarships; governing body of Virginia Polytechnic~~
3651 ~~Institute and State University authorized to establish.~~

3652 ~~A. The governing board of Virginia Polytechnic Institute and State University is~~
3653 ~~authorized to Board of Visitors may establish twenty up to 20 annual soil scientist scholarships~~
3654 ~~to be awarded from the Commonwealth at large, each of the value of the University fee of for~~
3655 ~~Virginia students in an amount equal to tuition and mandatory fees at Virginia Polytechnic~~
3656 ~~Institute and State University. The awarding and payment of such scholarships shall be subject~~
3657 ~~to the conditions and restrictions hereinafter set out in §§ 23-38.4 to 23-38.10.~~

3658 ~~§ 23-38.4. Soil scientist scholarships; recipients to be bona fide residents; basis of~~
3659 ~~awards.~~

3660 ~~Each applicant for a scholarship must be a bona fide resident of the Commonwealth of~~
3661 ~~Virginia before such scholarship may be awarded to him. The B. Each scholarship~~ award shall
3662 be made upon such basis, competitive or otherwise, as is determined by the president or other
3663 proper officer of the institution of higher education ~~which (institution) that~~ the applicant plans to
3664 attend, ~~hereinafter referred to as "school,"~~ with due regard to ~~the~~ scholastic ~~attainments~~
3665 ~~achievements~~, character, and adaptability of the applicant to the service contemplated under
3666 such award; ~~provided, that no.~~ No award shall be made unless the applicant possesses the
3667 requisite qualifications.

3668 ~~§ 23-38.6. Soil scientist scholarships; scholarship may be from year to year.~~

3669 ~~C. Each such scholarship shall be awarded for a single award year, but the same student~~
3670 ~~shall, after making satisfactory progress toward completion of his training in the school, receive~~
3671 ~~such award for any succeeding year or years, provided no student shall receive any such~~

3672 ~~scholarship for more than a total of four years and may be renewed annually for up to three~~
3673 ~~additional award years upon a showing of satisfactory progress.~~

3674 ~~§ 23-38.5. Soil scientist scholarships; contract to be signed before award.~~

3675 ~~D.~~ Before any such scholarship is awarded, the applicant shall sign agree in a signed
3676 written contract, ~~under the terms of which the applicant agrees~~ to pursue ~~the agronomy course~~
3677 soil science at the ~~school~~ institution at which the scholarship is awarded, until his graduation,
3678 and ~~that~~, upon graduating he will, to promptly begin and ~~thereafter~~ engage continuously as a soil
3679 scientist as an employee of the Commonwealth ~~of Virginia~~ for ~~a period of~~ as many years ~~equal~~
3680 ~~in number to the years which he has been as he was~~ a beneficiary of such scholarship; ~~provided,~~
3681 ~~unless~~ no such suitable vacancy exists as an employee of the Commonwealth ~~of Virginia then,~~
3682 ~~in which case~~ the obligation of such contract ~~may~~ shall be discharged by being continuously
3683 engaged ~~continuously~~ in ~~Virginia~~ the Commonwealth as a soil scientist as an employee of a
3684 local, ~~Virginia state,~~ or federal government agency for ~~a period of~~ as many years, ~~equal in~~
3685 ~~number to the years which he has been as he was~~ a beneficiary of such scholarship. The contract
3686 shall contain such other provisions as ~~are~~ Virginia Polytechnic Institute and State University
3687 deems necessary ~~in the opinion of Virginia Polytechnic Institute and State University~~ to
3688 accomplish the purposes of the scholarship. In the event that the holder of any awarded soil
3689 scientist scholarship ~~awarded~~ dies while receiving instruction under such a scholarship, any
3690 balance unpaid and agreed to be repaid by the holder ~~thereof~~ of such scholarship shall be
3691 deemed paid, and no liability shall be attached to his estate.

3692 ~~§ 23-38.9. Soil scientist scholarships; relief from obligation of contract.~~

3693 ~~The E.~~ Such contract shall ~~have~~ contain a clause under which the ~~holder may~~ applicant
3694 shall be relieved of his obligation to serve the Commonwealth as a soil scientist, for a period
3695 equal to that during which he was a beneficiary of such scholarship, at any time ~~the holder that~~
3696 he (i) fails to maintain a scholastic standard at least equal to the standard required of the general
3697 student body ~~in at~~ such ~~school,~~ institution or ~~if the holder, at any time,~~ (ii) becomes permanently
3698 disabled ~~so as and is not to be~~ able to engage in the profession of soil scientist. ~~In such case, the~~

3699 ~~contract shall provide that,~~ upon ~~certificate of~~ certification by a faculty committee, ~~the holder~~
3700 ~~shall be relieved of his obligation to serve the Commonwealth as a soil scientist for a period~~
3701 ~~equal to that during which he has been a beneficiary of such scholarship.~~ Any applicant, ~~upon~~
3702 ~~being~~ so relieved ~~from the obligations imposed by such contract,~~ shall arrange to reimburse the
3703 Commonwealth for the amount ~~he has~~ received on account of such scholarship plus interest on
3704 such amount computed at the prevailing rate charged on student loans at the ~~school~~ institution
3705 attended by the applicant. ~~Provided, however, if such applicant, or any~~ Any applicant who ~~for~~
3706 ~~any reason repays all or any part of the amount received of such scholarships, after reimbursing~~
3707 ~~such amount plus interest to the Commonwealth, later~~ so reimburses the Commonwealth and
3708 subsequently fulfills the terms of his contract by completing his studies and serving the
3709 Commonwealth as a soil scientist for a period equal to that during which he received such
3710 scholarship, ~~such applicant~~ shall ~~have be~~ reimbursed to him, from the general fund of the state
3711 treasury; the amount of the scholarship and interest previously repaid to the Commonwealth.
3712 This reimbursement shall be made on any contract made under the provisions of this ~~section~~
3713 subsection.

3714 ~~§ 23-38.10. Soil scientist scholarships; disposition of funds repaid.~~

3715 F. All funds repaid by any applicant ~~in pursuance of the provisions of § 23-38.9, or~~
3716 ~~otherwise, pursuant to subsection E~~ shall be paid into the state treasury and shall become a part
3717 of the general fund. The governing board of the ~~school~~ institution attended by the applicant shall
3718 collect such payments and shall pay all moneys so received into the state treasury promptly. If
3719 any applicant fails to abide by the terms of such contract, such fact shall be communicated to the
3720 Attorney General by the proper officer of the ~~school~~ institution or by the employing state
3721 agency, ~~respectively.~~ The Attorney General shall take such action ~~thereon~~ as he deems proper.

3722 ~~§ 23-38.7. Soil scientist scholarships; how payments made.~~

3723 G. The funds making up each scholarship shall be paid to the recipient ~~thereof~~ or applied
3724 toward the payment of his expenses at the ~~school~~ relevant institution in such a manner and at

3725 such a time during the ~~school~~ academic year as ~~determined by~~ the president or other proper
3726 officer ~~of the school attended~~ determines.

3727 H. There is ~~hereby~~ appropriated to Virginia Polytechnic Institute and State University
3728 from the general fund of the state treasury the sum of \$8,000 each year of the biennium for
3729 carrying out the purpose of ~~§§ 23-38.3 to 23-38.10~~ this section.

3730 **Drafting note: The provisions of existing §§ 23-38.3 through 23-38.10, exclusive of**
3731 **relating to soil scientist scholarships are logically combined in this single proposed section.**

3732 **Technical changes are made.**

3733 ~~§ 23-38.8. Soil scientist scholarships; military service.~~

3734 ~~The contract shall provide that the applicant will not obligate himself for more than the~~
3735 ~~minimum military service required by virtue of either being drafted into such service or~~
3736 ~~voluntarily enlisting therein in lieu of being drafted. It shall further provide that on termination~~
3737 ~~of the minimum period of obligatory military service, he shall promptly begin the discharge of~~
3738 ~~his obligation by compliance with the conditions set forth in § 23-38.5.~~

3739 **Drafting note: Existing § 23-38.8 is recommended for repeal at the request of the**
3740 **Office of the Attorney General on behalf of the Virginia Department of Veterans Services.**
3741 **Such provision presents a potential conflict with the Uniformed Services Employment and**
3742 **Reemployment Rights Act (38 U.S.C. § 4301 et seq.).**

3743 ~~§ 23-38.10:1.~~

3744 **Drafting note: Repealed by Acts 2014, c. 484, cl. 2.**

3745 ~~CHAPTER 4.4:3.~~

3746 ~~STEPHEN J. WRIGHT SCHOLARS PROGRAM.~~

3747 **Drafting note: Existing Chapter 4.4:3 (§ 23-38.53:11) is incorporated into proposed**
3748 **Article 2 of Chapter 6.**

3749 ~~§ 23-38.53:11~~ 23.1-616. Stephen J. Wright Scholars Program established.

3750 The Graduate Student Recruitment Program and the Southern Regional Education Board
3751 Minority Doctoral Program, ~~currently~~ established ~~only~~ in the general appropriation act, are

3752 ~~hereby~~ renamed and established as the Stephen J. Wright Scholars Program for the purpose of
3753 fostering scholarship among the Commonwealth's graduate students, and retaining ~~Virginia's the~~
3754 ~~Commonwealth's~~ outstanding and promising young adults through awards based on scholarship
3755 and achievement.

3756 **Drafting note: Technical changes.**

3757 ~~CHAPTER 4.01.~~

3758 ~~STUDENT LOAN FUNDS.~~

3759 ~~Article 3.~~

3760 ~~Student Loan Funds.~~

3761 **Drafting note: Chapter 4.01 (§ 23-38.10:2 et seq.) is reorganized as Article 3 of**
3762 **proposed Chapter 6.**

3763 § ~~23-38.10:2~~ 23.1-617. Definitions.

3764 As used in this ~~chapter~~ article:

3765 1. ~~"Council" means the State Council of Higher Education for Virginia.~~

3766 ~~2.~~ "Fund" means a student loan fund.

3767 ~~3.2.~~ "Institution" means a ~~state public~~ institution of higher education ~~which that~~ has
3768 established a student loan fund from appropriations from the general fund of the state treasury
3769 for fellowships, scholarships, and loans.

3770 ~~4.3.~~ "Student" means a medical student, dental student, intern, resident, or undergraduate
3771 student who is entitled to reduced rate tuition charges pursuant to ~~the provisions of § 23-7.4~~
3772 Chapter 5 (§ 23.1-500 et seq.).

3773 **Drafting note: "Council" is defined title-wide and as such, the definition in this**
3774 **proposed section is removed. Technical changes are made.**

3775 § ~~23-38.10:3~~ 23.1-618. Loans to students.

3776 A. Any institution may make loans from its ~~student loan~~ fund only to needy students
3777 who might be unable to attend such institution without such loans and who are duly admitted

3778 into degree or certificate programs at the institution. Such loans shall be made upon such terms
3779 and according to such rules as may be prescribed by the governing board of the institution.

3780 B. In any one academic year, no student ~~may shall~~ receive a loan ~~or loans~~ from the fund
3781 of an institution ~~which that~~ would result in ~~that such~~ student owing a net outstanding amount at
3782 the end of that year in excess of the tuition and ~~required mandatory~~ fees charged by the
3783 institution.

3784 C. The rate of interest charged on loans to students from a fund ~~shall be is~~ three ~~per~~
3785 ~~centum per annum~~ percent annually.

3786 **Drafting note: Technical changes.**

3787 § ~~23-38.10:4~~ 23.1-619. Collection of loans.

3788 ~~An~~Each institution shall make every effort to collect each loan made from its ~~student~~
3789 ~~loan~~ fund. ~~Institutions shall follow the provisions of and comply with~~ the Virginia Debt
3790 Collection Act (§ 2.2-4801 et seq.) with regard to the collection of ~~student such~~ loans.

3791 **Drafting note: Technical changes.**

3792 § ~~23-38.10:5~~.

3793 **Drafting note: Repealed by Acts 1991, c. 590.**

3794 § ~~23-38.10:6~~ 23.1-620. Biennial audits.

3795 The Auditor of Public Accounts shall at least biennially audit and exhibit the account of
3796 ~~student loan funds at the fund of~~ each institution.

3797 **Drafting note: Technical changes.**

3798 § ~~23-38.10:7~~ 23.1-621. Additional student loan funds.

3799 A. Whenever ~~the student loan an institution's~~ fund ~~at an institution~~ is inadequate to carry
3800 out fully the purpose for which the fund was established, the governing board and president of
3801 such institution, with the prior written consent and approval of the Governor ~~first obtained~~, are
3802 authorized, for the purpose of providing an additional ~~student loan~~ fund, to borrow from such
3803 sources and on such terms as may be approved by the Governor an amount not to exceed
3804 \$25,000; and ~~to~~ provide for such extensions or renewals of such loans as may be necessary.

3805 Such additional ~~student loan~~ fund shall be used only in making loans to students as provided in
3806 this ~~chapter article~~ and for no other purpose ~~whatsoever~~.

3807 B. The repayments and interest accretions to the additional ~~student loan~~ fund shall be
3808 used insofar as may be necessary to repay the indebtedness of the institution created by the
3809 governing board and president in establishing ~~the such~~ additional ~~student loan~~ fund.

3810 C. Such additional amounts may be borrowed as may be deemed necessary by the
3811 governing board and president of the institution, with the Governor's approval, but in no event
3812 ~~may shall~~ the amount of the additional ~~student loan~~ fund, including cash, notes receivable, and
3813 all amounts ~~heretofore~~ borrowed and not repaid exceed \$50,000.

3814 D. Accounts shall be kept and reports rendered for each such additional ~~student loan~~
3815 fund in all respects as required by this ~~chapter article~~ for ~~student loan fund funds~~ created by
3816 appropriations from the general fund of the state treasury, and the Auditor of Public Accounts
3817 shall biennially exhibit in his report the amount of the additional ~~student loan~~ fund at each
3818 institution.

3819 **Drafting note: Technical changes.**

3820 ~~CHAPTER 4.02.~~

3821 ~~TWO-YEAR COLLEGE TRANSFER GRANT PROGRAM.~~

3822 ~~Article 4.~~

3823 ~~Two-Year College Transfer Grant Program.~~

3824 **Drafting note: Existing Chapter 4.02 is reorganized as Article 3 of proposed**
3825 **Chapter 6.**

3826 § ~~23-38.10:8~~ 23.1-622. Definitions.

3827 As used in this ~~chapter article~~:

3828 ~~"Accredited institution" means any institution approved to confer degrees pursuant to~~
3829 ~~Chapter 21.1 (§ 23-276.1 et seq.) of this title.~~

3830 ~~"Council" means the State Council of Higher Education for Virginia.~~

3831 "Eligible institution" means a baccalaureate public institution of higher education or
3832 nonprofit private institution of higher education whose primary purpose is to provide
3833 undergraduate collegiate education and not to provide religious training or theological
3834 education.

3835 "Grant" means the amount of financial assistance awarded under this ~~chapter article~~
3836 whether disbursed by warrant directly to an eligible ~~institution of higher education~~ or directly to
3837 a Virginia student.

3838 ~~"Institution of higher education" means a four-year public or private nonprofit~~
3839 ~~educational institution within the Commonwealth whose primary purpose is to provide~~
3840 ~~undergraduate collegiate education and not to provide religious training or theological~~
3841 ~~education.~~

3842 ~~"Student" means an undergraduate student who is entitled to in-state tuition charges~~
3843 ~~pursuant to the provisions of § 23-7.4.~~

3844 "Program" means the Two Year College Transfer Grant Program.

3845 **Drafting note: The definition of "accredited institution" is stricken because that**
3846 **term is not used in this proposed article and the definition of "Council" is stricken because**
3847 **that term is defined title-wide in § 23.1-100. The term "institution of higher education" is**
3848 **replaced with "eligible institution" and the definition of "Program" is created for the sake**
3849 **of clarity.**

3850 ~~§ 23-38.10:9 23.1-623.~~ Two-Year College Transfer Grant Program ~~created;~~ ~~State~~
3851 ~~Council of Higher Education for Virginia to promulgate~~ regulations.

3852 ~~There is hereby created the A.~~ The Two-Year College Transfer Grant Program is created
3853 to provide financial assistance to eligible students, beginning with the first-time entering
3854 freshman class of the fall 2007 academic year, for the costs of attending ~~a public or private an~~
3855 eligible ~~institution of higher education in Virginia.~~ Funds may be paid to any ~~institutions of~~
3856 higher education eligible institution on behalf of students who have been awarded financial
3857 assistance pursuant to ~~§ 23-38.10:10 23.1-624.~~

3858 B. The Council shall ~~promulgate~~ adopt regulations for the implementation of the
3859 provisions of this ~~chapter~~ article and the disbursement of funds consistent ~~therewith and~~ with the
3860 provisions of this article that are appropriate to the administration of the ~~program~~ Program.

3861 **Drafting note: Technical changes.**

3862 § ~~23-38.10:10~~ 23.1-624. Eligibility criteria.

3863 A. ~~Under this program, grants shall~~ Grants shall be made under the Program to or on
3864 behalf of ~~eligible~~ Virginia ~~domiciles~~ students who (i) maintained a cumulative grade point
3865 average of at least 3.0 on a scale of 4.0 or its equivalent while enrolled in an associate degree
3866 program at an associate-degree-granting public institution of higher education, (ii) have received
3867 an associate degree at ~~a Virginia two-year~~ an associate-degree-granting public institution of
3868 higher education, ~~(ii)~~ (iii) have enrolled in ~~a Virginia four-year public or private~~ an eligible
3869 ~~institution of higher education~~ by the fall or spring following the award of ~~the~~ such associate
3870 degree, ~~(iii)~~ (iv) have applied for financial aid, and ~~(iv)~~ (v) have demonstrated financial need,
3871 defined by as an Expected Family Contribution (EFC) of no more than \$8,000 as calculated by
3872 the federal government using the family's financial information reported on the Free Application
3873 for Federal Student Aid (FAFSA) form. ~~Only students who maintained a cumulative grade point~~
3874 ~~average of at least 3.0 on a scale of 4.0 or its equivalent while enrolled in an associate degree~~
3875 ~~program at a Virginia two-year public institution of higher education shall be eligible to receive~~
3876 ~~a grant under this chapter.~~

3877 B. Eligibility for a ~~higher education~~ grant under ~~this program shall be~~ the Program is
3878 limited to three academic years ~~or 70 credit hours and~~. Grants under the Program shall be used
3879 only for undergraduate ~~collegiate work~~ coursework in educational programs other than those
3880 providing religious training or theological education.

3881 C. To remain eligible for a grant under ~~this program~~ the Program, a student ~~must~~ shall
3882 continue to demonstrate financial need, as defined in ~~this section~~ subsection A, maintain a
3883 cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent, and make
3884 satisfactory academic progress ~~towards~~ toward a degree.

3885 ~~C. D.~~ Individuals who have failed to meet the federal requirement to register for the
3886 Selective Service ~~shall are~~ not ~~be~~ eligible to receive grants pursuant to this ~~chapter article~~.
3887 However, ~~a person an individual~~ who has failed to register for the Selective Service shall not be
3888 denied a right, privilege, or benefit under this section if (i) the requirement to so register has
3889 terminated or become inapplicable to the ~~person individual~~ and (ii) the ~~person individual~~ shows
3890 by a preponderance of the evidence that the failure to register was not a knowing and willful
3891 failure to register.

3892 **Drafting note: Technical changes.**

3893 § ~~23-38.10:11~~ 23.1-625. Amount of award.

3894 The amount of the grant for an eligible student shall be provided in accordance with the
3895 general appropriation act and shall be fixed at \$1,000 per academic year. An additional \$1,000
3896 per academic year shall be provided to ~~those eligible~~ students pursuing undergraduate ~~collegiate~~
3897 work coursework in engineering, mathematics, nursing, teaching, or science.

3898 **Drafting note: Technical changes.**

3899 § ~~23-38.10:12~~ 23.1-626. Determination of domicile.

3900 For the purposes of determining ~~the a student's~~ eligibility ~~of a student for a two-year~~
3901 college transfer for a grant, ~~domicile shall be determined by~~ the enrolling institution, shall
3902 determine domicile as provided in § ~~23-7.4, 23.1-502~~ and the ~~State Council of Higher~~
3903 Education's Council's domicile guidelines ~~for domiciliary status determinations~~.

3904 **Drafting note: Technical changes.**

3905 § ~~23-38.10:13~~ 23.1-627. State financial aid eligibility.

3906 ~~The institutions of higher education~~ A. Eligible institutions shall reduce a student's state
3907 financial aid eligibility by the amount of the grant awarded pursuant to this ~~chapter article~~.

3908 ~~Tuition assistance received by a student under this program~~ B. Grants shall not be
3909 reduced by ~~the virtue of an eligible student's~~ receipt of any other financial aid from any other
3910 source ~~by such student. However, a student shall not receive a grant pursuant to this chapter~~
3911 ~~that, when added to~~ except when the total of the grant and such other financial aid ~~received by~~

3912 ~~that student,~~ would enable the student to receive total financial assistance in excess of the
3913 estimated cost to the student of attending the institution in which he is enrolled.

3914 **Drafting note: Technical changes.**

3915 CHAPTER 4.1.

3916 TUITION ASSISTANCE GRANT ACT.

3917 Article 1.

3918 General Provisions.

3919 Article 5.

3920 Tuition Assistance Grant Act.

3921 **Drafting note: Existing Chapter 4.1 is reorganized as proposed Article 4 of Chapter**
3922 **6.**

3923 § 23-38.11. Short title.

3924 This chapter may be cited as the "Tuition Assistance Grant Act."

3925 **Drafting note: Existing § 23-38.11 is recommended for repeal because of the Code-**
3926 **wide application of § 1-244, which states that the caption of a subtitle, chapter, or article**
3927 **serves as a short title citation.**

3928 § 23-38.12 23.1-628. Program of tuition assistance established Tuition Assistance Grant
3929 Program.

3930 There is hereby established, from funds provided by law, a program of tuition assistance
3931 in the form of grants, as hereinafter provided;A. As used in this section:

3932 "Eligible institution" means a nonprofit private institution of higher education whose
3933 primary purpose is to provide collegiate, graduate, or professional education and not to provide
3934 religious training or theological education.

3935 "Grant" means a Tuition Assistance Grant.

3936 "Principal place of business" means the single state in which the natural persons who
3937 establish policy for the direction, control, and coordination of the operations of the institution as
3938 a whole primarily exercise that function, considering the following factors: (i) the state in which

3939 the primary executive and administrative offices of the institution are located; (ii) the state in
3940 which the principal office of the chief executive officer of the institution is located; (iii) the state
3941 in which the board of trustees or similar governing board of the institution conducts a majority
3942 of its meetings; and (iv) the state from which the overall operations of the institution are
3943 directed.

3944 "Program" means the Tuition Assistance Grant Program.

3945 B. From such funds as may be provided for such purpose, the Tuition Assistance Grant
3946 Program is established to provide Tuition Assistance Grants to or on behalf of bona fide
3947 residents of Virginia students who attend private nonprofit institutions of collegiate education in
3948 the Commonwealth whose primary purpose is to provide collegiate, graduate, or professional
3949 education and not to provide religious training or theological education eligible institutions.

3950 C. Eligible institutions not admitted to this program before on or after January 1, 2011,
3951 shall also (i) be formed, chartered, established, or incorporated within the Commonwealth; (ii)
3952 have their principal place of business within the Commonwealth; (iii) conduct their primary
3953 educational activity within the Commonwealth; and (iv) be accredited by a nationally
3954 recognized regional accrediting agency. Individuals who have failed to meet the federal
3955 requirement to register for the Selective Service shall not be eligible to receive these grants.
3956 However, a person who has failed to register for the Selective Service shall not be denied a
3957 right, privilege, or benefit under this section if: (a) the requirement to so register has terminated
3958 or become inapplicable to the person and (b) the person shows by a preponderance of the
3959 evidence that the failure to register was not a knowing and willful failure to register. The State
3960 Council of Higher Education shall be assisted in enforcing this provision by the private
3961 institutions of higher education whose students benefit from this program.

3962 For the purposes of this section, the "principal place of business" of a nonprofit
3963 institution of collegiate education means the single state in which the natural persons who
3964 establish policy for the direction, control, and coordination of the operations of the institution as
3965 a whole primarily exercise that function, considering the following factors: (1) the state in which

3966 ~~the primary executive and administrative offices of the institution are located; (2) the state in~~
 3967 ~~which the principal office of the chief executive officer of the institution is located; (3) the state~~
 3968 ~~in which the board of trustees, or similar governing person or persons, of the institution~~
 3969 ~~conducts a majority of its meetings; and (4) the state from which the overall operations of the~~
 3970 ~~institution are directed.~~

3971 **Drafting note: The provisions of proposed subsection C relating to Selective Service**
 3972 **registration are stricken and logically relocated to proposed § 23.1-632. Technical changes**
 3973 **are made, including moving the defined term "principal place of business" to the**
 3974 **beginning of the proposed section and providing article-wide references for "eligible**
 3975 **institutions," "grants," and "Program."**

3976 § ~~23-38.13~~ 23.1-629. ~~State Council of Higher Education~~ designated as administering
 3977 agency; ~~power to define certain terms.~~

3978 The ~~State Council of Higher Education~~ is hereby designated as the administering agency
 3979 for the ~~program established by this chapter, Program~~ and ~~authorized to promulgate~~ may adopt
 3980 regulations consistent ~~therewith~~ with this article and appropriate to the administration of the
 3981 ~~program Program~~. The ~~administering agency shall have the power to~~ Council may define by
 3982 regulation such terms used in this article as, ~~but not limited to,~~ "full-time," "undergraduate,"
 3983 "graduate," "professional," ~~"successful academic year,"~~ and "financial aid;" ~~"meritorious~~
 3984 ~~extenuating circumstances," and "incapacity" as used in this chapter.~~

3985 **Drafting note: Technical changes are made, including removing the Council's**
 3986 **power to define "successful academic year," "meritorious extenuating circumstances,"**
 3987 **and "incapacity" because those terms are not used in proposed Article 4. The phrase "but**
 3988 **not limited to" after "including" is stricken per § 1-218, which states: "'Includes' means**
 3989 **includes, but not limited to."**

3990 § ~~23-38.14~~ 23.1-630. Maximum amount of tuition assistance per student.

3991 The annual amount of tuition assistance; in the form of a grant ~~pursuant to this chapter,~~
 3992 ~~which shall be available annually to a bona fide resident of Virginia for a Virginia student~~

3993 attending ~~a qualified private~~ an eligible institution, ~~as described in § 23-38.12,~~ shall not exceed
3994 ~~in amount~~ the annual average appropriation per full-time equivalent student for the previous
3995 year from the general fund of the state treasury for operating costs at ~~two and four year~~ public
3996 institutions of ~~collegiate~~ higher education ~~in Virginia.~~

3997 **Drafting note: Technical changes are made, including using the defined term**
3998 **"public institution[s] of higher education," as appropriate.**

3999 ~~§ 23-38.15~~ 23.1-631. To whom grants made Eligibility; duration.

4000 ~~Under this program, grants shall be made to or on behalf of eligible Virginia residents~~
4001 ~~for the academic year for which they enroll and~~ A. Virginia students who are obligated to pay
4002 tuition as full-time undergraduate, graduate, or professional students at ~~a qualified private~~
4003 ~~institution, as described in § 23-38.12~~ an eligible institution are eligible to receive a grant for the
4004 academic year for which they enroll.

4005 ~~§ 23-38.16. Duration of eligibility; grants to be used only for undergraduate, graduate, or~~
4006 ~~professional work.~~

4007 B. Eligibility for ~~tuition assistance grants~~ under this program shall be the Program is
4008 limited to a total of four academic years for undergraduate students, pharmacy students, and
4009 medical students, and a total of three academic years for graduate students and other
4010 professional school students, ~~which years.~~ The academic years for which grants are awarded
4011 need not be in succession.

4012 ~~Tuition grants~~ C. Grants ~~under this program~~ the Program shall be used only for
4013 undergraduate, graduate, or professional collegiate work in educational programs other than
4014 those providing religious training or theological education ~~of an indoctrinating nature.~~

4015 **Drafting note: The provisions of existing §§ 23-38.15 and 23-38.16 are logically**
4016 **combined in this proposed section. Technical changes are made.**

4017 § 23.1-632. Eligibility; Selective Service registration.

4018 Individuals who have failed to meet the federal requirement to register for the Selective
4019 Service are not eligible to receive grants. However, an individual who has failed to register for

4020 the Selective Service shall not be denied a right, privilege, or benefit under this section if (i) the
4021 requirement to so register has terminated or become inapplicable to the person and (ii) the
4022 individual shows by a preponderance of the evidence that the failure to register was not a
4023 knowing and willful failure to register. The Council shall be assisted in enforcing this provision
4024 by the eligible institutions whose students benefit from the Program.

4025 **Drafting note: Proposed § 23.1-630 incorporates the provisions of existing § 23-**
4026 **38.12 relating to Selective Service registration. Technical changes are made.**

4027 § ~~23-38.17~~ 23.1-633. Receipt ~~by student~~ of other financial aid by students.

4028 ~~Tuition assistance received by a student under this program~~ Grants shall not be reduced
4029 by ~~the virtue of the student's~~ receipt ~~by such student~~ of any other financial aid from any other
4030 source, ~~provided, however, that in no case shall a student receive a grant pursuant to this chapter~~
4031 ~~which~~ except when ~~added to said~~ the total of the grant and such other financial aid, would
4032 enable the student to receive total financial assistance in excess of the estimated cost to the
4033 student of attending the institution in which he is enrolled.

4034 **Drafting note: Technical changes.**

4035 § ~~23-38.17-1~~ 23.1-634. Prompt crediting and expeditious refunding of funds.

4036 ~~Institutions~~ Each eligible institution acting as ~~agents~~ an agent for students receiving
4037 awards under ~~this program~~ the Program shall promptly credit disbursed funds to student
4038 accounts following the institution's verification of student eligibility ~~by the relevant institution~~.
4039 ~~These institutions shall also~~ and expeditiously distribute any refunds due recipients.

4040 **Drafting note: Technical changes.**

4041 § ~~23-38.18~~ 23.1-635. Determination of ~~bona fide residence~~ domicile; Council oversight
4042 and reports.

4043 A. For the purposes of determining ~~the a student's~~ eligibility of a student for a ~~tuition~~
4044 ~~assistance~~ grant, ~~domicile shall be determined by~~ the enrolling institution; shall determine
4045 domicile as provided in § ~~23-7.4~~, 23.1-502 and the ~~State Council of Higher Education's~~
4046 Council's domicile guidelines ~~for domiciliary status determinations~~.

4047 B. In ~~addition, in~~ order to ensure consistency and fairness, the ~~State Council of Higher~~
4048 ~~Education~~ shall (i) require all participating eligible institutions to file ~~student-specific student-~~
4049 ~~specific~~ data, ~~shall~~ (ii) monitor the ~~domiciliary status~~ decisions of ~~these such~~ institutions
4050 regarding domicile, and ~~shall~~ (iii) make final decisions on any disputes between ~~the such~~
4051 institutions and ~~the~~ grant recipients applicants.

4052 C. The Council shall report to the Governor and the General Assembly, as the Council
4053 deems necessary, on issues related to ~~domiciliary status~~ determinations of domicile for students
4054 receiving tuition assistance applying for grants.

4055 **Drafting note: Technical changes.**

4056 ~~§ 23-38.19.~~

4057 **Drafting note: Repealed by Acts 2015, c. 709, cl. 2.**

4058 ~~Article 2.~~

4059 ~~Virginia Graduate and Undergraduate Assistance Program.~~

4060 ~~§ 23-38.19:1, § 23-38.19:2.~~

4061 **Drafting note: Repealed by Acts 2014, c. 484, cl. 2.**

4062 ~~Article 3.~~

4063 ~~Virginia Undergraduate Career and Technical Incentive Scholarship Program.~~

4064 ~~§§ 23-38.19:3 through 23-38.19:5.~~

4065 **Drafting note: Repealed by Acts 2004 c. 872, cl. 8, effective May 4, 2005.**

4066 ~~CHAPTER 4.2.~~

4067 ~~VIRGINIA GRANT AND LOAN COMMISSION.~~

4068 ~~§§ 23-38.20 through 23-38.29.~~

4069 **Drafting note: Repealed by Acts 1973, cc. 24, 106.**

4070 ~~CHAPTER 4.3.~~

4071 ~~VIRGINIA STUDENT ASSISTANCE AUTHORITIES.~~

4072 ~~§§ 23-28.30 through 23-38.44:4.~~

4073 **Drafting note: Repealed by Acts 1998, cc. 39 and 784.**

4074 CHAPTER 4.4.

4075 COLLEGE SCHOLARSHIP ASSISTANCE ACT.

4076 §§ 23-38.45 through 23-38.53.

4077 **Drafting note: Repealed by Acts 2014, c. 484, cl. 2.**

4078 CHAPTER 4.4:1.

4079 VIRGINIA SCHOLARS PROGRAM.

4080 §§ 23-38.53:1 through 23-38.53:3.

4081 **Drafting note: Repealed by Acts 2006, c. 50.**

4082 CHAPTER 4.4:2.

4083 VIRGINIA GUARANTEED ASSISTANCE PROGRAM AND FUND.

4084 Article 6.

4085 Virginia Guaranteed Assistance Program and Fund.

4086 **Drafting note: Existing Chapter 4.4:2 is reorganized as proposed Article 5 of**
 4087 **Chapter 6.**

4088 § 23-38.53:4 23.1-636. State Virginia Guaranteed Assistance Program; Council of
 4089 Higher Education to administer; promulgation of adopt regulations.

4090 There is hereby created the A. The Virginia Guaranteed Assistance Program is created to
 4091 provide financial assistance in the form of grants to eligible students for the costs of attending a
 4092 public institution of higher education in Virginia. Funds may be paid to any public institution of
 4093 higher education on behalf of students who have been awarded financial assistance grants
 4094 pursuant to § 23-38.53:6 23.1-638.

4095 B. The Council shall promulgate adopt regulations for the implementation of the
 4096 provisions of this chapter article.

4097 **Drafting note: Technical changes.**

4098 § 23-38.53:5 23.1-637. Virginia Guaranteed Assistance Fund created.

4099 A. There is hereby created in the Department of the Treasury state treasury a special
 4100 nonreverting fund which shall to be known as the Virginia Guaranteed Assistance Fund (the

4101 Fund). The ~~Virginia Guaranteed Assistance~~ Fund shall be established on the books of the
4102 Comptroller, ~~and any funds. All moneys as may be appropriated by the General Assembly and~~
4103 ~~any gifts, donations, grants, bequests, or other moneys as may be received for the purposes of~~
4104 ~~the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys~~
4105 ~~in the Fund shall remain in the Fund and be credited to it. Any moneys~~ remaining in ~~such the~~
4106 Fund, including interest thereon, at the end of each fiscal year shall not revert to the general
4107 fund but shall remain in the Fund. ~~Interest earned on such funds shall remain in the Fund and be~~
4108 ~~credited to it. Funds may~~ Moneys in the Fund shall be paid to any public institution of higher
4109 education on behalf of students who have been awarded ~~financial assistance~~ grants pursuant to
4110 the provisions of § ~~23-38.53:6~~ 23.1-638. ~~On and after July 1, 1995, any funds~~ Any moneys
4111 remaining in the Fund shall be credited to the account of the ~~State Council of Higher Education~~.
4112 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants
4113 issued by the Comptroller upon written request signed by the director of the Council.

4114 ~~B. The Department of the Treasury shall administer and manage the Virginia Guaranteed~~
4115 ~~Assistance Fund, subject to the authority of the State Council of Higher Education to provide for~~
4116 ~~its disbursement, from such funds as are appropriated for this purpose and from such gifts,~~
4117 ~~donations, grants, bequests, and other funds as may be received on its behalf. The Fund shall be~~
4118 ~~disbursed for the purpose of making grants to be determined by the use of a needs analysis~~
4119 ~~methodology approved by the Council. The first such awards shall be made after July 1, 1994.~~
4120 ~~The Council shall award such grants to students who are enrolled in or accepted for enrollment~~
4121 ~~in any public institution of higher education in Virginia.~~

4122 **Drafting note: Obsolete references to 1994 and 1995 are recommended for repeal.**
4123 **The final sentence of existing § 23-38.53:5 is stricken as duplicative of the provisions of**
4124 **proposed § 23.1-638. Technical changes are made, including rearranging sentence order**
4125 **and otherwise conforming language to text recommended by the Department of the**
4126 **Treasury for special nonreverting funds.**

4127 ~~§ 23-38.53:6 23.1-638. Eligible students Eligibility; criteria for awarding amount of~~
4128 grants; renewals.

4129 A. Only ~~students who (i) are accepted for enrollment as dependent students at a public~~
4130 ~~institution of higher education; (ii) are not receiving a Virginia Commonwealth Award; (iii)~~
4131 ~~demonstrate financial need as determined by the Council according to the congressional~~
4132 ~~methodology for determining financial need and eligibility for financial aid; and (iv) are either~~
4133 ~~(a) Virginia students who (i) are domiciled residents of Virginia as defined by § 23-7.4 and who~~
4134 ~~are graduates of graduated from~~ a high school in the Commonwealth with a cumulative
4135 ~~secondary school~~ grade point average of at least 2.5 on a scale of 4.0 or its equivalent, or ~~(ii) (b)~~
4136 are dependent children of active duty military personnel residing outside the Commonwealth
4137 pursuant to military orders ~~and~~, claiming Virginia on their State of Legal Residence Certificate,
4138 and satisfying the domicile requirements for such active duty military personnel pursuant to
4139 ~~subsection B of § 23-7.4, 23.1-504 and who are graduates of graduated from~~ a high school
4140 ~~inside within~~ or outside the Commonwealth with a cumulative ~~secondary school~~ grade point
4141 average of at least 2.5 on a scale of 4.0 or its equivalent, ~~and who (iii) are accepted for~~
4142 ~~enrollment as dependent students in any public institution of higher education in Virginia, and~~
4143 ~~(iv) are not receiving state discretionary aid and demonstrate financial need as defined by the~~
4144 ~~State Council of Higher Education shall be are~~ eligible to receive such awards.

4145 B. ~~The amount of the Guaranteed Assistance Program grant awarded students shall be~~
4146 ~~determined annually by the State Council of Higher Education. Eligibility for such awards shall~~
4147 ~~be determined according to the Congressional methodology for determining financial need and~~
4148 ~~eligibility for financial aid.~~

4149 C. All grants shall be awarded for one award year, ~~but and~~ may be renewed annually for
4150 no more than three subsequent award years ~~of study~~ if the recipient:

4151 1. Maintains ~~at least~~ a 2.0 cumulative grade point average of at least 2.0 on a scale of 4.0
4152 or its equivalent;

4153 2. Demonstrates continued financial need;

4154 3. Makes satisfactory academic progress toward a degree, earning not less than the
4155 minimum number of hours of credit required for full-time standing in each academic period
4156 during enrollment at a public institution of higher education ~~in Virginia~~; and

4157 4. Maintains continuous enrollment for not less than two semesters or three quarters in
4158 each successive ~~academic award~~ year, unless ~~granted the Council grants the recipient~~ an
4159 exception for cause ~~by the State Council of Higher Education~~.

4160 **Drafting note: Subsection B is stricken as obsolete. Technical changes are made.**

4161 ~~§ 23-38.53:7.~~

4162 **Drafting note: Repealed by Acts 1994, c. 789.**

4163 ~~§ 23-38.53:8.~~

4164 **Drafting note: Repealed by Acts 2004, c. 872, cl. 10, effective May 4, 2005.**

4165 ~~§ 23-38.53:9.~~

4166 **Drafting note: Repealed by Acts 2004, c. 872, cl. 2, effective July 1, 2004.**

4167 ~~§ 23-38.53:10.~~

4168 **Drafting note: Repealed by Acts 2004, c. 872, cl. 10, effective May 4, 2005.**

4169 ~~CHAPTER 4.4:4.~~

4170 ~~ADVANTAGE VIRGINIA INCENTIVE PROGRAM.~~

4171 ~~§§ 23-38.53:12 through 23-38.53:20.~~

4172 **Drafting note: Repealed by Acts 2014, c. 815, cl. 2.**

4173 ~~CHAPTER 4.4:5.~~

4174 ~~BROWN V. BOARD OF EDUCATION SCHOLARSHIP PROGRAM AND FUND.~~

4175 ~~§§ 23-38.53:21 through 23-38.53:24.~~

4176 **Drafting note: Repealed by Acts 2005, cc. 753 and 834, effective March 26, 2005.**

4177 ~~CHAPTER 4.5.~~

4178 ~~SENIOR CITIZENS HIGHER EDUCATION.~~

4179 ~~Article 7.~~

4180 ~~Senior Citizens Higher Education.~~

4181 **Drafting note: Existing Chapter 4.5 is reorganized as proposed Article 6 of Chapter**
4182 **6.**

4183 ~~§ 23-38.54. Title of chapter.~~

4184 ~~This chapter may be cited as the "Senior Citizens Higher Education Act of 1974."~~

4185 **Drafting note: Existing § 23-38.54 is recommended for repeal because of the Code-**
4186 **wide application of § 1-244, which states that the caption of a subtitle, chapter, or article**
4187 **serves as a short title citation.**

4188 ~~§ 23-38.55~~ 23.1-639. Definitions.

4189 ~~For the purposes of A. As used in this chapter, the following words shall have the~~
4190 ~~meanings ascribed to them by this section: article,~~

4191 ~~"Course" means any course of study offered in any state institution of higher education~~
4192 ~~including the regular curriculum of any department, or school, or subdivision of any such~~
4193 ~~institution or any special course given for any purpose, including, but not limited to, adult~~
4194 ~~education.~~

4195 ~~Senior~~ "senior citizen" means any ~~person~~ individual who, before the beginning of any
4196 academic term, semester, or quarter in which ~~such person~~ he claims entitlement to the benefits
4197 of this ~~chapter article~~, ~~(i)~~ has reached the age of 60 years of age, and ~~(ii)~~ has ~~had his legal~~
4198 domicile been legally domiciled in ~~this the~~ Commonwealth for at least one year.

4199 B. Nothing in this section shall be construed to exclude any other rules and requirements
4200 ~~now or hereafter~~ made applicable by any public institution of higher education for all other
4201 persons students besides senior citizens with respect to ~~residency domicile~~ in ~~this the~~
4202 Commonwealth ~~by a state institution of higher learning~~.

4203 **Drafting note: The definition of "course" is stricken as inconsistent with the usage**
4204 **of the defined term throughout the proposed article. Technical changes are made.**

4205 ~~§ 23-38.56~~ 23.1-640. ~~Attendance at state institutions; conditions~~ Senior citizens;
4206 registration and enrollment in courses.

4207 A. ~~Any~~ senior citizen ~~shall be permitted~~ may, under subject to any regulations ~~as may be~~
4208 prescribed by the ~~State Council of Higher Education~~:

4209 (i) ~~To register~~ 1. Register for and enroll in courses for academic credit as a full-time or
4210 part-time student ~~for academic credit~~ if ~~such senior citizen~~ he had a taxable individual income
4211 not exceeding \$23,850 for Virginia income tax purposes for the year preceding ~~the award~~ year
4212 ~~in which enrollment is sought~~;

4213 (ii) ~~To register~~ 2. Register for and audit up to three courses offered for academic credit in
4214 any one academic term, quarter, or semester for an unlimited number of academic terms,
4215 quarters, or semesters; and

4216 (iii) ~~To register~~ 3. Register for and enroll in up to three courses not offered for academic
4217 credit in any ~~state institution of higher education in this Commonwealth~~ one academic term,
4218 quarter, or semester for an unlimited number of academic terms, quarters, or semesters.

4219 ~~Such~~ B. No senior citizen who enrolls in or audits courses pursuant to subsection A shall
4220 pay ~~no~~ tuition or fees except fees established for the purpose of paying for course materials,
4221 such as laboratory fees, ~~but,~~

4222 ~~shall be~~ C. Senior citizens are subject to the admission requirements of the institution
4223 and a determination by the institution of its ability to offer the course ~~or courses~~
4224 senior citizen registers.

4225 D. The ~~State Council of Higher Education~~ shall establish procedures to ensure that
4226 tuition-paying students are accommodated in courses before senior citizens ~~participating in this~~
4227 ~~program are enrolled~~ enroll in or audit courses pursuant to subsection A. However, ~~the state~~
4228 public institutions of higher education may make individual exceptions to these procedures
4229 ~~when the~~ for any senior citizen who has completed ~~seventy-five~~ 75 percent of the requirements
4230 for a degree.

4231 **Drafting note: Proposed subdivisions A 2 and 3 incorporate the provisions of**
4232 **existing § 23-38.58. Technical changes are made.**

4233 § 23-38.57.

4234 **Drafting note: Repealed by Acts 1977, c. 281.**

4235 ~~§ 23-38.58. Courses; terms; number and limitations.~~

4236 ~~There shall be no limit to the number of terms, quarters or semesters in which a senior~~
4237 ~~citizen who is not enrolled for academic credit may register for courses but he may register for~~
4238 ~~no more than three courses in any one term, quarter or semester.~~

4239 **Drafting note: Language in existing § 23-38.58 is relocated to subdivisions A 2 and**
4240 **3 of proposed § 23.1-640.**

4241 ~~§ 23-38.59~~ 23.1-641. Catalogue Catalog to include statement of benefits.

4242 Each ~~state public~~ public institution of higher ~~learning education~~ shall prominently include in its
4243 catalogue course catalog a statement of the benefits provided by this ~~chapter article~~ for senior
4244 citizens.

4245 **Drafting note: Technical changes.**

4246 ~~§ 23-38.60~~ 23.1-642. Determination of senior citizen status; forms.

4247 The registrar or other admissions officer of ~~an each public~~ each public institution of higher ~~learning~~
4248 education shall determine whether ~~a person an individual~~ an individual is a senior citizen pursuant to the
4249 provisions of this ~~chapter. Upon determination that a person qualifies as a senior citizen, the~~
4250 ~~registrar or other admissions officer article and~~ article and may require ~~such person senior citizens~~
4251 to execute appropriate forms to request the benefits provided by this ~~chapter article~~.

4252 **Drafting note: Technical changes.**

4253 ~~CHAPTER 4.6.~~

4254 ~~STATE EDUCATION ASSISTANCE AUTHORITY.~~

4255 ~~§§ 23-38.61 through 23-38.69:3.~~

4256 **Drafting note: Repealed by Acts 1992, c. 630.**

4257 ~~CHAPTER 4.7.~~

4258 ~~VIRGINIA WORK STUDY PROGRAM.~~

4259 ~~§§ 23-38.70, 23-38.71.~~

4260 **Drafting note: Repealed by Acts 2006, c. 51.**

4261

~~CHAPTER 4.8.~~

4262

~~VIRGINIA COLLEGE SAVINGS PROGRAM.~~

4263

~~§§ 23-38.72 through 23-38.74.~~

4264

Drafting note: Repealed by Acts 2014, c. 484, cl. 2.

4265

~~CHAPTER 1.2.~~

4266

~~PARTICIPATION IN FEDERAL FINANCIAL ASSISTANCE PROGRAMS.~~

4267

~~§§ 23-9.15 through 23-9.21.~~

4268

Drafting note: Repealed by Acts 1977, c. 676.

4269

~~CHAPTER 2.~~

4270

~~AID TO PERSONS DENIED ADMISSION.~~

4271

~~§§ 23-10 through 23-13.~~

4272

Drafting note: Repealed by Acts 1971, Ex. Sess., c. 102.

4273

CHAPTER ~~4.9~~ 7.

4274

VIRGINIA COLLEGE SAVINGS PLAN AND ABLE SAVINGS TRUST ACCOUNTS.

4275

Drafting note: Existing Chapter 4.9, the Virginia College Savings Plan and ABLE

4276

Savings Trust Accounts, is reorganized as proposed Chapter 7.

4277

§ ~~23-38.75~~ 23.1-700. Definitions.

4278

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

4279

"ABLE savings trust account" means an account established pursuant to this chapter to

4280

assist individuals and families to save private funds to support individuals with disabilities to

4281

maintain health, independence, and quality of life, with such account used to apply distributions

4282

for qualified disability expenses for an eligible individual, ~~both~~ as both such terms are defined in

4283

§ 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

4284

"Board" means the Board governing board of the ~~Virginia College Savings~~ Plan.

4285

"College savings trust account" means an account established pursuant to this chapter to

4286

assist individuals and families to enhance the accessibility and affordability of higher education,

4287

with such account used to apply distributions from the account toward qualified higher

4288 education expenses at eligible educational institutions, ~~both~~ as both such terms are defined in §
4289 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

4290 "Contributor" means a person who contributes money to a savings trust account
4291 established pursuant to this chapter on behalf of a qualified beneficiary and who is listed as the
4292 owner of the savings trust account.

4293 "Non-Virginia public and accredited nonprofit independent or private institutions of
4294 higher education" means public and accredited nonprofit independent or private institutions of
4295 higher education that are located outside the Commonwealth.

4296 "Plan" means the Virginia College Savings Plan.

4297 "Prepaid tuition contract" means the contract entered into by the ~~Board~~ board and a
4298 purchaser pursuant to this chapter for the advance payment of tuition at a fixed, guaranteed level
4299 ~~by the purchaser~~ for a qualified beneficiary to attend any ~~two-year or four-year~~ public institution
4300 of higher education ~~in the Commonwealth~~ to which the qualified beneficiary is admitted.

4301 "Public institution of higher education" has the same meaning as provided in § 23.1-100.

4302 "Purchaser" means a person who makes or is obligated to make advance payments in
4303 accordance with a prepaid tuition contract and who is listed as the owner of the prepaid tuition
4304 contract.

4305 "Qualified beneficiary" or "beneficiary" means (i) a resident of the Commonwealth, as
4306 determined by the ~~Board~~ board, who is the beneficiary of a prepaid tuition contract and who
4307 may apply advance tuition payments to tuition as set forth in this chapter; (ii) a beneficiary of a
4308 prepaid tuition contract purchased by a resident of the Commonwealth, as determined by the
4309 Board board, who may apply advance tuition payments to tuition as set forth in this chapter; or
4310 (iii) a beneficiary of a savings trust account established pursuant to this chapter.

4311 "Savings trust account" means an ABLE savings trust account or a college savings trust
4312 account.

4313 "Savings trust agreement" means the agreement entered into by the ~~Board~~ board and a
4314 contributor ~~establishing that establishes~~ a savings trust account.

4315 "Tuition" means the quarter, semester, or term charges imposed for undergraduate
4316 tuition by any ~~two-year or four-year~~ public institution of higher education ~~in the Commonwealth~~
4317 and all mandatory fees required as a condition of enrollment of all students. ~~A. At the discretion~~
4318 ~~of the board, a~~ beneficiary may apply benefits under a prepaid tuition contract and distributions
4319 from a savings trust account toward graduate-level tuition and toward tuition costs at such
4320 eligible educational institutions, as that term is defined in 26 U.S.C. § 529 or any other
4321 applicable section of the Internal Revenue Code of 1986, as amended, ~~as determined by the~~
4322 ~~Board in its sole discretion.~~

4323 **Drafting note: Technical changes.**

4324 § ~~23-38.76~~ 23.1-701. ~~Virginia College Savings~~ Plan established; moneys; governing
4325 board; ~~terms~~.

4326 A. To enhance the accessibility and affordability of higher education for all citizens of
4327 the Commonwealth, ~~there is hereby and assist families and individuals to save for qualified~~
4328 disability expenses, the Virginia College Savings Plan is established as a body politic and
4329 corporate and an independent agency of the Commonwealth, ~~the Virginia College Savings Plan~~
4330 ~~(the Plan)~~.

4331 ~~Certain moneys~~ B. Moneys of the Plan that are contributions to savings trust accounts
4332 made pursuant to this chapter, except as otherwise authorized or provided in this chapter, shall
4333 be deposited as soon as practicable in a separate account or separate accounts in banks or trust
4334 companies organized under the laws of the Commonwealth, national banking associations,
4335 federal home loan banks, or, ~~to the extent then~~ permitted by law, savings institutions organized
4336 under the laws of the Commonwealth or the United States. The savings program moneys in such
4337 accounts shall be paid out on checks, drafts payable on demand, electronic wire transfers, or
4338 other means authorized by officers or employees of the Plan.

4339 C. All other moneys of the Plan, including payments received pursuant to prepaid tuition
4340 contracts, bequests, endowments, grants from the United States government or its agencies or
4341 instrumentalities, and any other available public or private sources of funds, ~~public or private,~~

4342 shall be first deposited in the state treasury in a special nonreverting fund (the Fund). Such
4343 moneys ~~then~~ shall then be deposited as soon as practicable in a separate account or separate
4344 accounts in banks or trust companies organized under the laws of the Commonwealth, national
4345 banking associations, federal home loan banks, or, to the extent ~~then~~ permitted by law, savings
4346 institutions organized under the laws of the Commonwealth or the United States. Benefits
4347 related to prepaid tuition contracts and Plan operating expenses shall be paid from the Fund.
4348 Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund
4349 but shall remain in the Fund. Interest and income earned from the investment of such funds shall
4350 remain in the Fund and be credited to it.

4351 B-D. The Plan shall be administered by an 11-member ~~Board, as follows:~~ board that
4352 consists of (i) the ~~Director~~ director of the ~~State~~ Council ~~of Higher Education for Virginia~~ or his
4353 designee; the Chancellor of the ~~Virginia Community College~~ System or his designee; the State
4354 Treasurer or his designee; and the State Comptroller or his designee; all of whom shall serve
4355 ex officio with voting privileges, and (ii) seven nonlegislative citizen members, four ~~to~~ of whom
4356 shall be appointed by the Governor, one ~~to~~ of whom shall be appointed by the Senate
4357 Committee on Rules ~~and,~~ two ~~to~~ of whom shall be appointed by the Speaker of the House of
4358 Delegates, ~~with~~ and all of whom shall have significant experience in finance, accounting, law,
4359 or investment management.

4360 Appointments E. Members appointed to the board shall ~~be for~~ serve terms of four years;
4361 ~~except that appointments to fill vacancies. Vacancies occurring other than by expiration of a~~
4362 term shall be filled for the unexpired ~~terms~~ term. No ~~person shall be member~~ appointed to the
4363 board shall serve ~~for or during~~ more than two ~~successive consecutive~~ four-year terms; ~~but after~~
4364 ~~the expiration of a term of three years or less, or after the expiration of the remainder of a term~~
4365 ~~to which appointed to fill a vacancy, two additional terms may be served by such member if~~
4366 ~~appointed thereto; however, a member appointed to serve an unexpired term is eligible to serve~~
4367 two consecutive four-year terms immediately succeeding such unexpired term.

4368 F. Ex officio members of the ~~Board~~ board shall serve terms coincident with their terms
4369 of office.

4370 ~~C.~~ G. Members of the ~~Board~~ board shall receive no compensation but shall be
4371 reimbursed for actual expenses incurred in the performance of their duties.

4372 H. The ~~Board~~ board shall elect from its membership a chairman and a vice-chairman
4373 annually.

4374 I. A majority of the members of the ~~Board~~ board shall constitute a quorum.

4375 **Drafting note: Technical changes.**

4376 § ~~23-38.79:1~~ 23.1-702. Advisory committees to the ~~Board~~ board; membership; terms;
4377 qualifications; duties.

4378 A. To ~~further~~ assist the ~~Board~~ board in fulfilling its fiduciary duty as trustee of the funds
4379 of the Plan and to assist the chief executive officer in directing, managing, and administering the
4380 Plan's assets, the ~~Board~~ board shall appoint an Investment Advisory Committee to provide
4381 sophisticated, objective, and prudent investment advice and direction.

4382 1. Members of the Investment Advisory Committee shall demonstrate extensive
4383 experience in any one or more of the following areas: domestic or international equity or fixed-
4384 income securities, cash management, alternative investments, institutional real estate
4385 investments, or managed futures.

4386 2. The Investment Advisory Committee shall (i) review, evaluate, and monitor
4387 investments and investment opportunities; (ii) make appropriate recommendations to the ~~Board~~
4388 board about such investments and investment opportunities; (iii) make appropriate
4389 recommendations to the ~~Board~~ board about overall asset allocation; and (iv) perform such other
4390 duties as the ~~Board~~ board may delegate to the Investment Advisory Committee.

4391 B. To ~~further~~ assist the ~~Board~~ board in fulfilling its responsibilities relating to the
4392 integrity of the Plan's financial statements, financial reporting process, and systems of internal
4393 accounting and financial controls, the ~~Board~~ board shall appoint an Audit and Actuarial
4394 Committee.

4395 1. Members of the Audit and Actuarial Committee shall demonstrate an understanding of
4396 generally accepted accounting principles, generally accepted auditing standards, enterprise risk
4397 management principles, and financial statements, and evidence an ability to assess the general
4398 application of such principles to the Plan's activities. The members should have experience in
4399 preparing, auditing, analyzing, or evaluating financial statements of the same complexity as
4400 those of the Plan, and an understanding of internal controls and procedures for financial
4401 reporting.

4402 2. In order to establish and maintain its effectiveness and independence, the following
4403 persons individuals shall not be members of the Audit and Actuarial Committee: (i) current Plan
4404 employees; (ii) individuals who have been employees of the Plan in any of the prior three fiscal
4405 years; and (iii) immediate family members of an individual currently employed as an officer of
4406 the Plan or who has been employed in such a capacity within the past three fiscal years.

4407 3. The Audit and Actuarial Committee shall (i) review, examine, and monitor the Plan's
4408 accounting and financial reporting processes and systems of internal controls; (ii) review and
4409 examine financial statements and financial disclosures and discuss any findings with the Plan's
4410 senior management; (iii) make appropriate recommendations and reports to the Board board;
4411 and (iv) ~~perform such other duties as the Board may delegate to the Committee.~~

4412 4. ~~The Audit and Actuarial Committee shall also~~ monitor the Plan's external audit
4413 function by ~~(i) (a)~~ participating in the retention, review, and discharge of independent auditors;
4414 ~~(ii) (b)~~ discussing the Plan's financial statements and accounting policies with independent
4415 auditors; and ~~(iii) (c)~~ reviewing the independence of independent auditors; and (v) perform such
4416 other duties as the board may delegate to the Audit and Actuarial Committee.

4417 C. ~~In addition, the Board~~ The board may appoint such other advisory committees as it
4418 deems necessary and shall set the qualifications for members of any ~~other such~~ advisory
4419 committee ~~shall be set by the Board~~ by resolution.

4420 D. Advisory committee members shall serve at the pleasure of the Board board and may
4421 be removed by a majority vote of the Board board.

4422 E. Members of advisory committees shall receive no compensation but shall be
4423 reimbursed for actual expenses incurred in the performance of their duties.

4424 F. The disclosure requirements of subsection B of § 2.2-3114 ~~of the State and Local~~
4425 ~~Government Conflict of Interests Act~~ shall apply to any each member of any advisory
4426 committee established pursuant to this section who is not also a ~~Board~~ board member.

4427 G. The recommendations of an advisory committee are not binding upon the ~~Board~~
4428 board or the designee appointed by the ~~Board~~ board to make investment decisions pursuant to
4429 subsections A and B of § ~~23-38.80~~ 23.1-706.

4430 **Drafting note: Technical changes.**

4431 § ~~23-38.79~~ 23.1-703. Chief executive officer; ~~qualifications; duties of the Plan.~~

4432 A. The ~~Board~~ board shall employ a chief executive officer to direct, manage, and
4433 administer the Plan, ~~and who shall be authorized to.~~ The chief executive officer may employ
4434 such staff as are necessary to accomplish the Plan's stated objectives.

4435 B. The chief executive officer shall demonstrate (i) extensive experience in some or all
4436 of the following areas: management, finance, law, regulatory affairs ~~and/or,~~ and investments;
4437 and (ii) such other qualifications as the ~~Board~~ board may set.

4438 C. The chief executive officer shall, in addition to such other duties as the ~~Board~~ board
4439 may establish, (i) oversee the development, structure, evaluation, and implementation of the
4440 Plan's strategic goals and objectives; (ii) facilitate communication among and between the
4441 ~~Board~~ board, advisory committees, employees, account owners, beneficiaries, and outside
4442 entities interested in the Plan; (iii) enhance the ~~Board's~~ board's ability to make effective and
4443 prompt decisions in all matters related to the administration of the Plan; (iv) with the assistance
4444 of the Investment Advisory Committee appointed by the ~~Board~~ board and investment
4445 consultants, direct, manage, and administer the Plan's assets and programs; and (v) report to the
4446 board periodically and as requested ~~to by~~ the ~~Board~~ board.

4447 **Drafting note: Technical changes.**

4448 § ~~23-38.77~~ 23.1-704. Powers and duties of ~~Board~~ the board.

4449 The ~~Board~~ board shall ~~administer~~;

4450 1. Administer the Plan established by this chapter ~~and shall develop~~;

4451 2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as

4452 defined in § ~~23-38.75~~ 23.1-700, at a fixed, guaranteed level for application at a ~~two-year or four-~~

4453 ~~year~~ public institution of higher education ~~in the Commonwealth~~; (ii) contributions to college

4454 savings trust accounts established pursuant to this chapter on behalf of a qualified beneficiary in

4455 order to apply distributions from the account toward qualified higher education expenses at

4456 eligible educational institutions, ~~both~~ as both such terms are defined in § 529 of the Internal

4457 Revenue Code of 1986, as amended, or other applicable federal law; and (iii) contributions to

4458 ABLE savings trust accounts established pursuant to this chapter on behalf of a qualified

4459 beneficiary in order to apply distributions from the account toward qualified disability expenses

4460 for an eligible individual, ~~both~~ as both such terms are defined in § 529A of the Internal Revenue

4461 Code of 1986, as amended, or other applicable federal law. ~~In addition, the Board shall have the~~

4462 ~~power and duty to~~;

4463 1-3. Invest moneys in the Plan in any instruments, obligations, securities, or property

4464 deemed appropriate by the ~~Board~~ board;

4465 2-4. Develop requirements, procedures, and guidelines regarding prepaid tuition

4466 contracts and savings trust accounts, including, ~~but not limited to~~, residency and other eligibility

4467 requirements; the number of participants in the Plan; the termination, withdrawal, or transfer of

4468 payments under a prepaid tuition contract or savings trust account; time limitations for the use

4469 of tuition benefits or savings trust account distributions; and payment schedules;

4470 3-5. Enter into contractual agreements, including contracts for legal, actuarial, financial,

4471 and consulting services and contracts with other states to provide savings trust accounts for

4472 residents of contracting states;

4473 4-6. Procure insurance as determined appropriate by the board (i) against any loss in

4474 connection with the Plan's property, assets, or activities and (ii) indemnifying ~~Board~~ board

4475 members from personal loss or accountability from liability arising from any action or inaction
4476 as a ~~Board~~ board member;

4477 ~~5.-7.~~ Make arrangements with ~~two-year and four-year~~ public institutions ~~in the~~
4478 Commonwealth of higher education to fulfill obligations under prepaid tuition contracts and ~~to~~
4479 apply college savings trust account distributions, including, ~~but not limited to,~~ (i) payment from
4480 the Plan of the then actual in-state undergraduate tuition cost on behalf of a qualified beneficiary
4481 of a prepaid tuition contract to the institution ~~in to~~ which the beneficiary is admitted and at
4482 which the beneficiary is enrolled and (ii) application of such benefits towards graduate-level
4483 tuition and ~~towards toward~~ tuition costs at such eligible educational institutions, as that term is
4484 defined in 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of
4485 1986, as amended, as determined by the Board in its sole discretion;

4486 ~~6.-8.~~ Develop and implement scholarship ~~and/or or~~ matching grant programs, or both, as
4487 the ~~Board~~ board may deem appropriate, to further its goal of making higher education more
4488 affordable and accessible to all citizens of the Commonwealth;

4489 ~~7.-9.~~ Apply for, accept, and expend gifts, grants, or donations from public or private
4490 sources to enable it to carry out its objectives;

4491 ~~8. Promulgate~~ 10. Adopt regulations and procedures and ~~to~~ perform any act or function
4492 consistent with the purposes of this chapter; and

4493 ~~9.-11.~~ Reimburse, at its option, all or part of the cost of employing legal counsel and
4494 such other costs as are demonstrated to have been reasonably necessary for the defense of any
4495 ~~Board~~ board member, officer, or employee of the Plan upon the acquittal, dismissal of charges,
4496 nolle prosequi, or any other final disposition concluding the innocence of such member, officer,
4497 or employee who is brought before any regulatory body, summoned before any grand jury,
4498 investigated by any law-enforcement agency, arrested, indicted, or otherwise prosecuted on any
4499 criminal charge arising out of any act committed in the discharge of his official duties ~~which~~
4500 that alleges a violation of state or federal securities laws. The ~~Board~~ board shall provide for the

4501 payment of such legal fees and expenses out of funds appropriated or otherwise available to the
4502 ~~Board~~ board.

4503 **Drafting note: Technical changes are made, including removing "but not limited**
4504 **to" when used in conjunction with "including" in subdivisions 4 and 7 on the basis of § 1-**
4505 **218, which states "'Includes' means includes, but not limited to."**

4506 § ~~23-38.78~~ 23.1-705. Board actions not a debt of Commonwealth.

4507 A. As used in this section, "current obligations of the Plan" means amounts required for
4508 the payment of contract benefits or other obligations of the Plan, the maintenance of the Plan,
4509 and operating expenses for the current biennium.

4510 B. No act or undertaking of the ~~Board shall be deemed to constitute~~ board is a debt ~~of the~~
4511 ~~Commonwealth or any political subdivision thereof,~~ or a pledge of the full faith and credit of the
4512 Commonwealth or ~~of any political subdivision,~~ but shall be of the Commonwealth, and all such
4513 acts and undertakings are payable solely from the Plan.

4514 B.-C. Notwithstanding the provisions of subsection ~~A B~~, in order to ensure that the Plan
4515 is able to meet its current obligations, the Governor shall include in the budget bills submitted
4516 pursuant to § 2.2-1509 a sum sufficient appropriation for the purpose of ensuring that the Plan
4517 can meet the current obligations of the Plan. Any sums appropriated by the General Assembly
4518 for such purpose shall be deposited into the Fund. All amounts paid into the Fund pursuant to
4519 this subsection shall constitute and be accounted for as advances by the Commonwealth to the
4520 Plan and, subject to the rights of the Plan's contract holders, shall be repaid to the
4521 Commonwealth without interest from available operating revenue of the Plan in excess of
4522 amounts required for the payment of current obligations of the Plan. ~~As used in this section,~~
4523 ~~"current obligations of the Plan" means amounts required for the payment of contract benefits or~~
4524 ~~other obligations of the Plan, the maintenance of the Plan, and operating expenses for the~~
4525 ~~current biennium.~~

4526 **Drafting note: Technical changes are made, including moving a definition to the**
4527 **beginning of the proposed section.**

4528 § ~~23-38.80~~ 23.1-706. Standard of care; investment and administration of the Plan.

4529 A. In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing
4530 property for the benefit of the Plan, the ~~Board~~ board, and any person, investment manager, or
4531 committee to whom the ~~Board~~ board delegates any of its investment authority, shall act as
4532 trustee and shall exercise the judgment of care under the circumstances then prevailing, ~~which~~
4533 that persons of prudence, discretion, and intelligence exercise in the management of their own
4534 affairs, not in regard to speculation but to the permanent disposition of funds, considering the
4535 probable income as well as the probable safety of their capital.

4536 If the annual accounting and audit required by § ~~23-38.85~~ 23.1-710 reveal that there are
4537 insufficient funds to ensure the actuarial soundness of the Plan, the ~~Board shall be authorized to~~
4538 board may adjust the terms of subsequent prepaid tuition contracts, arrange refunds for current
4539 purchasers to ensure actuarial soundness, or take such other action the ~~Board~~ board deems
4540 appropriate.

4541 B. The assets of the Plan shall be preserved, invested, and expended solely pursuant to
4542 and for the purposes of this chapter and shall not be loaned or otherwise transferred or used by
4543 the Commonwealth for any other purpose. Within the standard ~~prescribed of care set forth~~ in
4544 subsection A, the ~~Board,~~ board and any person, investment manager, or committee to whom the
4545 Board board delegates any of its investment authority, ~~is authorized to~~ may acquire and retain
4546 every any kind of property and ~~every any~~ kind of investment, ~~specifically~~ including ~~but not~~
4547 ~~limited to~~ (i) debentures and other corporate obligations of foreign or domestic corporations; (ii)
4548 common or preferred stocks traded on foreign or domestic stock exchanges; (iii) not less than all
4549 of the stock or 100 percent ownership of a corporation or other entity organized by the ~~Board~~
4550 board under the laws of the Commonwealth for the purposes of acquiring and retaining real
4551 property that the ~~Board~~ board is authorized under this chapter to acquire and retain; and (iv)
4552 securities of any open-end or closed-end management type investment company or investment
4553 trust registered under the federal Investment Company Act of 1940, as amended, including ~~such~~
4554 investment companies or investment trusts ~~which that~~, in turn, invest in the securities of such

4555 investment companies or investment trusts, ~~which that~~ persons of prudence, discretion, and
4556 intelligence acquire or retain for their own account. ~~Within the limitations of the foregoing~~
4557 ~~standard, the Board~~ The board may retain property properly acquired, without time limitation
4558 and without regard to its suitability for original purchase. ~~This section shall not be construed to~~
4559 ~~prohibit the investment of the Plan, by purchase or otherwise, in bonds, notes, or other~~
4560 ~~obligations of the Commonwealth or its agencies and instrumentalities.~~

4561 All provisions of this subsection shall apply to the portion of the Plan assets attributable
4562 to savings trust account contributions and the earnings ~~thereon~~ on such contributions.

4563 C. The selection of services related to the operation and administration of the Plan,
4564 including, ~~but not limited to,~~ contracts or agreements for the management, purchase, or sale of
4565 authorized investments or actuarial, recordkeeping, or consulting services, ~~shall be~~ are governed
4566 by the ~~foregoing~~ standard of care set forth in subsection A and ~~shall are~~ not be subject to the
4567 provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

4568 D. No ~~Board~~ board member ~~nor any or~~ person, investment manager, or committee to
4569 whom the ~~Board~~ board delegates any of its investment authority who acts ~~within~~ in accordance
4570 with the standard of care set forth in subsection A shall be held personally liable for losses
4571 suffered by the Plan on investments made pursuant to this chapter.

4572 E. To the extent necessary to lawfully administer the Plan and in order to comply with
4573 federal, state, and local tax reporting requirements, the Plan may obtain all necessary social
4574 security account or tax identification numbers and such other data as the Plan deems necessary
4575 for such purposes, whether from a contributor ~~or, a~~ purchaser, or ~~from~~ another state agency.

4576 F. This section shall not be construed to prohibit the Plan's investment, by purchase or
4577 otherwise, in bonds, notes, or other obligations of the Commonwealth or its agencies and
4578 instrumentalities.

4579 **Drafting note: Technical changes are made, including removing "but not limited**
4580 **to" when used in conjunction with "including" in subsections B and C on the basis of § 1-**
4581 **218, which states "'Includes' means includes, but not limited to."**

4582 § ~~23-38.81~~ 23.1-707. Prepaid tuition contracts and ~~college and ABL~~ savings trust
4583 agreements; ~~terms; termination; etc.~~

4584 A. Each prepaid tuition contract made pursuant to this chapter shall include the
4585 following terms and provisions:

4586 1. The amount of payment or payments and the number of payments required from a
4587 purchaser on behalf of a qualified beneficiary;

4588 2. The terms and conditions under which purchasers shall remit payments, including the
4589 dates of such payments;

4590 3. Provisions for late payment charges, defaults, withdrawals, refunds, and any penalties;

4591 4. The name and date of birth of the qualified beneficiary on whose behalf the contract is
4592 made;

4593 5. Terms and conditions for a substitution for the qualified beneficiary originally named;

4594 6. Terms and conditions for termination of the contract, including any refunds,
4595 withdrawals, or transfers of tuition prepayments, and the name of the person ~~or persons~~ entitled
4596 to terminate the contract;

4597 7. The time period during which the qualified beneficiary ~~must is required to~~ claim
4598 benefits from the Plan;

4599 8. The number of credit hours or quarters, semesters, or terms contracted for by the
4600 purchaser;

4601 9. All other rights and obligations of the purchaser and the trust; and

4602 10. Any other terms and conditions ~~which that~~ the ~~Board board~~ deems necessary or
4603 appropriate, including those necessary to conform the contract with the requirements of Internal
4604 Revenue Code § 529, as amended, which specifies the requirements for qualified state tuition
4605 programs.

4606 B. Each college savings trust agreement made pursuant to this chapter shall include the
4607 following terms and provisions:

4608 1. The maximum and minimum contribution allowed on behalf of each qualified
4609 beneficiary for the payment of qualified higher education expenses at eligible institutions, ~~both~~
4610 as both such terms are defined in § 529 of the Internal Revenue Code of 1986, as amended, or
4611 other applicable federal law;

4612 2. Provisions for withdrawals, refunds, transfers, and any penalties;

4613 3. The name, address, and date of birth of the qualified beneficiary on whose behalf the
4614 savings trust account is opened;

4615 4. Terms and conditions for a substitution for the qualified beneficiary originally named;

4616 5. Terms and conditions for termination of the account, including any refunds,
4617 withdrawals, or transfers, and applicable penalties, and the name of the person ~~or persons~~
4618 entitled to terminate the account;

4619 6. The time period during which the qualified beneficiary ~~must is required to~~ use benefits
4620 from the savings trust account;

4621 7. All other rights and obligations of the contributor and the Plan; and

4622 8. Any other terms and conditions ~~which that~~ the ~~Board board~~ deems necessary or
4623 appropriate, including those necessary to conform the savings trust account with the
4624 requirements of § 529 of the Internal Revenue Code of 1986, as amended, or other applicable
4625 federal law.

4626 C. Each ABLE savings trust agreement made pursuant to this chapter shall include the
4627 following terms and provisions:

4628 1. The maximum and minimum annual contribution and maximum account balance
4629 allowed on behalf of each qualified beneficiary for the payment of qualified disability expenses,
4630 as defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable
4631 federal law;

4632 2. Provisions for withdrawals, refunds, transfers, return of excess contributions, and any
4633 penalties;

4634 3. The name, address, and date of birth of the qualified beneficiary on whose behalf the
4635 savings trust account is opened;

4636 4. Terms and conditions for a substitution for the qualified beneficiary originally named;

4637 5. Terms and conditions for termination of the account, including any transfers to the
4638 state upon the death of the qualified beneficiary, refunds, withdrawals, transfers, applicable
4639 penalties, and the name of the person ~~or persons~~ entitled to terminate the account;

4640 6. The time period during which the qualified beneficiary ~~must is required to~~ use benefits
4641 from the savings trust account;

4642 7. All other rights and obligations of the contributor and the Plan; and

4643 8. Any other terms and conditions that the ~~Board~~ board deems necessary or appropriate,
4644 including those necessary to conform the savings trust account with the requirements of § 529A
4645 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

4646 D. In addition to the provisions required by subsection A, each prepaid tuition contract
4647 shall include provisions for the application of tuition prepayments (i) at accredited, nonprofit,
4648 independent or private institutions of higher education ~~located in Virginia~~, including actual
4649 interest and income earned on such prepayments, and (ii) at non-Virginia public and ~~at~~
4650 accredited, nonprofit, independent or private institutions of higher education ~~located in other~~
4651 states, including principal and reasonable return on such principal as determined by the ~~Board~~
4652 board. Payments authorized for accredited, nonprofit, independent or private institutions ~~located~~
4653 in Virginia may of higher education shall not exceed the projected highest payment made for
4654 tuition at a public institution of higher education ~~in Virginia~~ in the same academic year, less a
4655 fee to be determined by the ~~Board~~ board. Payments authorized for non-Virginia public and ~~for~~
4656 accredited, nonprofit, independent or private institutions of higher education ~~located in other~~
4657 states may shall not exceed the projected average payment made for tuition at a public
4658 institution of higher education ~~in Virginia~~ in the same academic year, less a fee to be determined
4659 by the ~~Board~~ board.

4660 E. All prepaid tuition contracts and savings trust agreements shall specifically provide
4661 that, if after a specified period of time the contract or savings trust agreement has not been
4662 terminated ~~nor and~~ the qualified beneficiary's rights have not been exercised, the ~~Board~~ board,
4663 after making reasonable effort to contact the purchaser or contributor and the qualified
4664 beneficiary or their agents, shall report such unclaimed moneys to the State Treasurer pursuant
4665 to § 55-210.12.

4666 F. Notwithstanding any provision of law to the contrary, money in the Plan ~~shall be is~~
4667 exempt from creditor process and ~~shall is~~ not ~~be~~ liable to attachment, garnishment, or other
4668 process, ~~nor shall it or~~ be seized, taken, appropriated, or applied by any legal or equitable
4669 process or operation of law to pay any debt or liability of any purchaser, contributor, or
4670 beneficiary, ~~provided, however, except~~ that the state of residence of the beneficiary of an ABLE
4671 savings trust account shall be a creditor of such account in the event of the death of the
4672 beneficiary.

4673 G. No prepaid tuition contract or savings trust account shall be assigned for the benefit
4674 of creditors, used as security or collateral for any loan, or otherwise subject to alienation, sale,
4675 transfer, assignment, pledge, encumbrance, or charge.

4676 H. The ~~Board's~~ board's decision on any dispute, claim, or action arising out of or related
4677 to a prepaid tuition contract or savings trust agreement made or entered into pursuant to this
4678 chapter or benefits ~~thereunder~~ under such prepaid tuition contract or savings trust agreement
4679 shall be considered a case decision as defined in § 2.2-4001 and all proceedings related ~~thereto~~
4680 to such dispute, claim, or action shall be conducted pursuant to Article 3 (§ 2.2-4018 et seq.) of
4681 the Administrative Process Act. Judicial review shall be ~~exclusively~~ provided exclusively
4682 pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

4683 **Drafting note: Technical changes are made, including removing "or persons" in**
4684 **subdivisions A 6, B 5, and C 5 pursuant to § 1-227, which states that throughout the Code**
4685 **any word in the singular includes the plural and vice versa.**

4686 ~~§ 23-38.82.~~

4687 **Drafting note: Repealed by Acts 1997, cc. 785 and 861.**

4688 § ~~23-38.83~~ [23.1-708](#). ~~Plan property tax~~ [Assets of the Plan](#) exempt [from taxation](#).

4689 The assets of the Plan and ~~its~~ [their](#) income ~~shall be~~ [are](#) exempt from state and local
4690 taxation.

4691 **Drafting note: Technical changes.**

4692 § ~~23-38.84~~ [23.1-709](#). Annual report.

4693 ~~The Board~~ [On or before December 15, the board](#) shall post on its website and submit to
4694 the Governor, the Senate Committee on Finance, and the House Committees on Appropriations
4695 and Finance; an annual statement ~~on or before December 15~~ of the receipts, disbursements, and
4696 current investments of the Plan for the preceding year. The report shall set forth a complete
4697 operating and financial statement covering the operation of the Plan during the year and shall
4698 include a statement of projected receipts, disbursements, investments, and costs for the further
4699 operation of the Plan.

4700 **Drafting note: Technical changes.**

4701 § ~~23-38.85~~ [23.1-710](#). Forms [and audit](#) of accounts and records; ~~audit of same~~.

4702 The accounts and records of the ~~Board~~ [board](#) showing the receipt and disbursement of
4703 funds from whatever source derived shall be in such form as the Auditor of Public Accounts
4704 prescribes, provided that such accounts ~~shall~~ correspond as nearly as possible to the accounts
4705 and records for such matters maintained by corporate enterprises. The Auditor of Public
4706 Accounts; or his legally authorized representatives; shall annually audit the accounts of the
4707 [Board](#) [board](#), and the [board shall bear the](#) cost of such audit services ~~as shall be required shall be~~
4708 [borne by the Board](#).

4709 **Drafting note: Technical changes.**

4710 § ~~23-38.86~~ [23.1-711](#). Admission to institutions not guaranteed; [coverage limitations](#).

4711 Nothing in this chapter ~~nor~~ [or](#) in any prepaid tuition contract or savings trust agreement
4712 [entered into pursuant to this chapter](#) shall be construed as a promise or guarantee ~~by~~:

4713 1. By the ~~Board~~ board or the Commonwealth of any admission to, continued enrollment
4714 at, or graduation at from any public ~~two-year or four-year~~ institution of higher education ~~in the~~
4715 ~~Commonwealth.~~

4716 ~~Nothing in this chapter or in any prepaid tuition contract entered into pursuant to this~~
4717 ~~chapter shall be construed as a promise or guarantee that;~~

4718 2. That the beneficiary's cost of tuition at an institution of higher education other than a
4719 public institution of higher education will be covered in full by the proceeds of the beneficiary's
4720 tuition credits.

4721 ~~Nothing in this chapter or in any savings trust agreement entered into pursuant to this~~
4722 ~~chapter shall be construed as a promise or guarantee that; or~~

4723 3. That any qualified higher education expense ~~shall~~ will be covered in full by
4724 contributions to or earnings on any savings trust account.

4725 **Drafting note: Technical changes.**

4726 § ~~23-38.87~~ 23.1-712. Payroll deductions.

4727 The Commonwealth ~~and its,~~ the agencies and localities of the Commonwealth and their
4728 subdivisions, and any employer in the Commonwealth are authorized to agree, by contract or
4729 otherwise, to remit payments or contributions on behalf of an employee toward prepaid tuition
4730 contracts or savings trust accounts through payroll deductions.

4731 **Drafting note: Technical changes.**

4732 § ~~23-38.87-1~~ 23.1-713. Liberal construction of chapter.

4733 Insofar as the provisions of this chapter are inconsistent with the provisions of any other
4734 general, special, or local law, ~~general, special, or local~~, the provisions of this chapter shall ~~be~~
4735 controlling control. This chapter ~~shall also constitute~~ constitutes full and complete authority,
4736 without regard to the provisions of any other law, for ~~the doing of performing~~ the acts ~~and~~
4737 ~~things herein~~ authorized in this chapter and shall be liberally construed to effect the purposes
4738 hereof of this chapter.

4739 **Drafting note: Technical changes.**

4740 CHAPTER 8.4741 HEALTH AND CAMPUS SAFETY.

4742 **Drafting note: Provisions of existing Chapters 1 and 17 relating to student health**
4743 **and campus safety are consolidated in proposed Chapter 8, and technical changes are**
4744 **made.**

4745 Article 1.4746 Student Health.

4747 **Drafting note: Provisions of existing Chapter 1 relating to student health are**
4748 **consolidated in proposed Article 1, and technical changes are made.**

4749 § ~~23-7.5~~ 23.1-800. Health histories ~~required; and~~ immunizations required; exemptions.

4750 A. No full-time student ~~shall be enrolled~~ who enrolls for the first time in any ~~four-year,~~
4751 baccalaureate public institution of higher education ~~in this Commonwealth is eligible to register~~
4752 for his second semester or quarter unless he (i) has furnished, before the beginning of the second
4753 semester or quarter of enrollment, a health history consistent with guidelines adopted by each
4754 institution's board of visitors, ~~pursuant to the requirements of this section. Any student who fails~~
4755 ~~to furnish the history will not be eligible for registration for the second semester or quarter. Any~~
4756 ~~student who~~ that includes documented evidence, provided by a licensed health professional or
4757 health facility, of the diseases for which the student has been immunized, the numbers of doses
4758 given, the date on which the immunization was administered, and any further immunizations
4759 indicated or (ii) objects to such health history requirement on religious grounds ~~shall be, in~~
4760 which case he is exempt from ~~the health history such~~ requirement ~~set forth in this section~~.

4761 B. ~~The health history shall include documented evidence, provided by a licensed health~~
4762 ~~professional or health facility, of the diseases for which the student has been immunized, the~~
4763 ~~numbers of doses given, the dates when administered and any further immunizations indicated.~~

4764 Prior to enrollment, ~~all students~~ for the first time in any baccalaureate public institution of
4765 higher education, each student shall be immunized by vaccine against diphtheria, tetanus,

4766 poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the
4767 guidelines of the American College Health Association.

4768 C. ~~In addition to the immunization requirements set forth in subsection B, all incoming~~
4769 ~~full-time students, prior~~ Prior to enrollment ~~for the first time~~ in any ~~baccalaureate~~ public ~~four-~~
4770 ~~year~~ institution of higher education, each full-time student shall be vaccinated against ~~(i)~~
4771 meningococcal disease and ~~(ii)~~ hepatitis B.

4772 ~~However, if the institution of higher education provides the student or, if the student is a~~
4773 ~~minor, the student's parent or other legal representative, detailed information on the risks~~
4774 ~~associated with meningococcal disease and hepatitis B and on the availability and effectiveness~~
4775 ~~of any vaccine, unless~~ the student or, if the student is a minor, the student's parent or ~~other~~ legal
4776 ~~representative may sign guardian signs~~ a written waiver stating that he has received and
4777 reviewed ~~the detailed~~ information on the risks associated with meningococcal disease and
4778 hepatitis B and the availability and effectiveness of any vaccine and has chosen not to be or not
4779 to have the student vaccinated.

4780 D. Any student ~~shall be is~~ exempt from the immunization requirements set forth in ~~this~~
4781 ~~section~~ subsections B and C who (i) objects on the grounds that administration of immunizing
4782 agents conflicts with his religious tenets or practices, unless the Board of Health has declared an
4783 emergency or epidemic of disease ~~has been declared by the Board of Health~~, or (ii) presents a
4784 statement from a licensed physician ~~which that~~ states that his physical condition is such that
4785 administration of one or more of the required immunizing agents would be detrimental to his
4786 health.

4787 E. The Board and Commissioner of Health shall cooperate with any board of visitors
4788 seeking assistance in the implementation of this section.

4789 F. ~~Further, the State~~ The Council ~~of Higher Education~~ shall, in cooperation with the
4790 Board and Commissioner of Health, encourage private ~~colleges and universities~~ institutions of
4791 higher education to develop a procedure for providing information about the risks associated

4792 with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine
4793 against meningococcal disease and hepatitis B.

4794 **Drafting note: Technical changes.**

4795 § ~~23-9.2:3-2~~ 23.1-801. ~~Education~~ Educational program on human immunodeficiency
4796 virus infection.

4797 Virginia-Each public ~~institutions~~ institution of higher education, in cooperation with the
4798 Department of Health, shall develop and implement ~~education~~ educational programs for college
4799 students on the etiology, effects, and prevention of infection with human immunodeficiency
4800 virus.

4801 **Drafting note: Technical changes.**

4802 § ~~23-9.2:8~~ 23.1-802. Student mental health; policies; website resource.

4803 A. The governing board of each public institution of higher education shall develop and
4804 implement policies that (i) advise students, faculty, and staff, including residence hall staff, of
4805 the proper procedures for identifying and addressing the needs of students exhibiting suicidal
4806 tendencies or behavior; and (ii) provide for training; where appropriate. Such policies shall
4807 require procedures for notifying the institution's student health or counseling center for the
4808 purposes set forth in ~~subsection C~~ subdivision B 4 of § ~~23-9.2:3~~ 23.1-1303 when a student
4809 exhibits suicidal tendencies or behavior.

4810 B. The governing board of each baccalaureate public ~~four-year~~ institution of higher
4811 education shall establish a written memorandum of understanding with its local community
4812 services board or behavioral health authority and with local hospitals and other local mental
4813 health facilities in order to expand the scope of services available to students seeking treatment.
4814 The memorandum shall designate a contact person to be notified when a student is involuntarily
4815 committed, or when a student is discharged from a facility and consents to such notification.
4816 The memorandum shall ~~also~~ provide for the inclusion of the institution in the post-discharge
4817 planning of a student who has been committed and intends to return to campus, to the extent
4818 allowable under state and federal privacy laws.

4819 ~~§ 23-9.2:14. Mental health resources website page required.~~

4820 C. Each ~~four-year~~ baccalaureate public institution of higher education shall create and
4821 feature on its website a page with information dedicated solely to the mental health resources
4822 available to students at the institution.

4823 **Drafting note: The provisions of existing §§ 23-9.2:8 and 23-9.2:14 are logically**
4824 **combined as proposed § 23.1-802. Technical changes are made.**

4825 Article 2.

4826 Campus Safety; General Provisions.

4827 **Drafting note: Provisions of existing Chapter 1 relating to campus safety generally**
4828 **are consolidated in proposed Article 2 of Chapter 8, and technical changes are made.**

4829 ~~§ 23-9.2:11~~ 23.1-803. First warning notification and emergency ~~notification~~ broadcast
4830 system required.

4831 ~~By January 1, 2009, the~~ A. ~~The~~ governing ~~boards~~ board of each public institution of
4832 higher education shall establish a comprehensive, prompt, and reliable first warning notification
4833 and emergency broadcast system for their students, faculty, and staff, both on and off campus.
4834 Such system shall be activated in the case of an emergency and may rely on website
4835 announcements; email notices; phone, cellular phone, and text messages; alert lines; public
4836 address systems; and other means of communication. ~~In addition, each~~

4837 B. Each public institution of higher education shall designate individuals authorized to
4838 activate the first warning notification and emergency broadcast system and provide such
4839 individuals with appropriate training for its use.

4840 **Drafting note: An obsolete 2009 deadline is stricken, and technical changes are**
4841 **made.**

4842 ~~§ 23-9.2:9~~ 23.1-804. Institutional crisis and emergency management plan; ~~review~~
4843 ~~required; annual functional exercise required.~~

4844 A. The ~~board of visitors or other~~ governing ~~body~~ board of each public institution of
4845 higher education shall develop, adopt, and keep current a written crisis and emergency

4846 management plan. The plan shall ~~include a provision that~~ (i) require the Department of Criminal
4847 Justice Services and the Virginia Criminal Injuries Compensation Fund ~~shall to~~ be contacted
4848 immediately to deploy assistance in the event of an emergency as defined in the emergency
4849 response plan when there are victims as defined in § 19.2-11.01 and (ii) include current contact
4850 information for both agencies. The Department of Criminal Justice Services and the Virginia
4851 Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those
4852 individuals determined to be victims, ~~and the plan shall also contain current contact information~~
4853 for both agencies.

4854 B. Every four years, each public institution of higher education shall conduct a
4855 comprehensive review and revision of its crisis and emergency management plan to ensure that
4856 the plan remains current, and the revised plan shall be adopted formally by the ~~board of visitors~~
4857 ~~or other~~ governing body board. Such review shall also be certified in writing to the Department
4858 of Emergency Management. The institution shall coordinate with the local emergency
4859 management organization, as defined by in § 44-146.16, to ensure integration into the local
4860 emergency operations plan.

4861 C. ~~In addition, the president and vice president~~ The chief executive officer of each
4862 public institution of higher education, ~~or in the case of the Virginia Military Institute, the~~
4863 ~~superintendent~~, shall annually (i) review the institution's crisis and emergency management
4864 plan; (ii) certify in writing to the Department of Emergency Management that ~~the president and~~
4865 ~~vice president, or the superintendent, have~~ he has reviewed the plan; and (iii) make
4866 recommendations to the institution for appropriate changes to the plan.

4867 D. Each public institution of higher education shall annually conduct a functional
4868 exercise in accordance with the protocols established by the institution's crisis and emergency
4869 management plan and certify in writing to the Department of Emergency Management that such
4870 exercise was conducted.

4871 **Drafting note: Technical changes.**

4872 § ~~23-9.2-10~~ 23.1-805. Violence prevention committee; threat assessment team.

4873 A. Each public ~~college or university~~ institution of higher education shall ~~have in place~~
4874 establish policies and procedures for the prevention of violence on campus, including
4875 assessment of and intervention with individuals whose behavior poses a threat to the safety of
4876 the campus community.

4877 B. The ~~board of visitors or other~~ governing body board of each public institution of
4878 higher education shall determine a violence prevention committee structure on campus
4879 composed of individuals charged with education on and prevention of violence on campus. Each
4880 violence prevention committee shall include representatives from student affairs, law
4881 enforcement, human resources, counseling services, residence life, and other constituencies as
4882 needed. ~~Such committee and~~ shall ~~also~~ consult with legal counsel as needed. ~~Once formed, each~~
4883 Each violence prevention committee shall develop a clear statement of: ~~(i)~~ mission, ~~(ii)~~
4884 membership, and ~~(iii)~~ leadership. Such statement shall be published and made available to the
4885 campus community.

4886 C. Each violence prevention committee shall ~~be charged with:~~ (i) ~~providing provide~~
4887 guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior
4888 that may represent a physical threat to the community; (ii) ~~identifying identify~~ members of the
4889 campus community to whom threatening behavior should be reported; (iii) ~~establishing establish~~
4890 policies and procedures that outline circumstances under which all faculty and staff are required
4891 to report behavior that may represent a physical threat to the community, provided that such
4892 report is consistent with state and federal law; and (iv) ~~establishing establish~~ policies and
4893 procedures for (a) the assessment of individuals whose behavior may present a threat, (b)
4894 appropriate means of intervention with such individuals, and (c) sufficient means of action,
4895 including interim suspension, referrals to community services boards or health care providers
4896 for evaluation or treatment, medical separation to resolve potential physical threats, ~~or and~~
4897 notification of family members or guardians, or both, unless such notification would prove
4898 harmful to the individual in question, consistent with state and federal law.

4899 D. The ~~board of visitors or other~~ governing body board of each public institution of
4900 higher education shall establish a ~~specific~~ threat assessment team that ~~shall include~~ includes
4901 members from law enforcement, mental health professionals, representatives of student affairs
4902 and human resources, and, if available, college or university counsel. ~~Such~~ Each threat
4903 assessment team shall implement the assessment, intervention, and action policies set forth by
4904 the violence prevention committee pursuant to subsection C.

4905 E. Each threat assessment team shall establish relationships or utilize existing
4906 relationships with mental health agencies and local and state law-enforcement agencies ~~as well~~
4907 ~~as mental health agencies~~ to expedite assessment of and intervention with individuals whose
4908 behavior may present a threat to safety. Upon a preliminary determination that an individual
4909 poses a threat of violence to self or others, or exhibits significantly disruptive behavior or a need
4910 for assistance, ~~a the~~ threat assessment team may obtain criminal history record information, as
4911 provided in §§ 19.2-389 and 19.2-389.1, and health records, as provided in § 32.1-127.1:03.

4912 F. No member of a threat assessment team shall redisclose any criminal history record
4913 information or health information obtained pursuant to this section or otherwise use any record
4914 of an individual beyond the purpose for which such disclosure was made to the threat
4915 assessment team.

4916 **Drafting note: Technical changes.**

4917 § ~~23-9.2:15~~ 23.1-806. Reporting of acts of sexual violence.

4918 A. For purposes of this section:

4919 "Campus" means (i) any building or property owned or controlled by an institution of
4920 higher education within the same reasonably contiguous geographic area of the institution and
4921 used by the institution in direct support of, or in a manner related to, the institution's educational
4922 purposes, including residence halls, and (ii) any building or property that is within or reasonably
4923 contiguous to the area described in clause (i) that is owned by the institution but controlled by
4924 another person, is frequently used by students, and supports institutional purposes, such as a
4925 food or other retail vendor.

4926 "Noncampus building or property" means (i) any building or property owned or
4927 controlled by a student organization officially recognized by an institution of higher education
4928 or (ii) any building or property owned or controlled by an institution of higher education that is
4929 used in direct support of, or in relation to, the institution's educational purposes, is frequently
4930 used by students, and is not within the same reasonably contiguous geographic area of the
4931 institution.

4932 "Public property" means all public property, including thoroughfares, streets, sidewalks,
4933 and parking facilities, that is within the campus, or immediately adjacent to and accessible from
4934 the campus.

4935 "Responsible employee" means a person employed by a public institution of higher
4936 education or ~~private~~ nonprofit private institution of higher education who has the authority to
4937 take action to redress sexual violence, who has been given the duty of reporting acts of sexual
4938 violence or any other misconduct by students to the Title IX coordinator or other appropriate
4939 institution designee, or whom a student could reasonably believe has this authority or duty.

4940 "Sexual violence" means physical sexual acts perpetrated against a person's will or
4941 where a person is incapable of giving consent.

4942 "Title IX coordinator" means an employee designated by a public institution of higher
4943 education or ~~private~~ nonprofit private institution of higher education to coordinate the
4944 institution's efforts to comply with and carry out the institution's responsibilities under Title IX
4945 (20 U.S.C. § 1681 et seq.). If no such employee has been designated by the institution, the
4946 institution shall designate an employee who will be responsible for receiving information of
4947 alleged acts of sexual violence from responsible employees in accordance with subsection B.

4948 B. Any responsible employee who in the course of his employment obtains information
4949 that an act of sexual violence may have been committed against a student attending the
4950 institution or may have occurred on campus, in or on a noncampus building or property, or on
4951 public property shall report such information to the Title IX coordinator as soon as practicable
4952 after addressing the immediate needs of the victim.

4953 C. Upon receipt of information pursuant to subsection B, the Title IX coordinator or his
4954 designee shall promptly report the information, including any personally identifiable
4955 information, to a review committee established pursuant to subsection D. Nothing in this section
4956 shall prevent the Title IX coordinator or any other responsible employee from providing any
4957 information to law enforcement with the consent of the victim.

4958 D. Each public institution of higher education—~~or and nonprofit~~ private—~~nonprofit~~
4959 institution of higher education shall establish a review committee for the purposes of reviewing
4960 information related to acts of sexual violence, including information reported pursuant to
4961 subsection C. Such review committee shall consist of three or more persons and shall include
4962 the Title IX coordinator or his designee, a representative of law enforcement, and a student
4963 affairs representative. If the institution has established a campus police department pursuant to
4964 [Chapter 17 Article 3](#) (§ ~~23-232~~ [23.1-809](#) et seq.)—~~of this title~~, the representative of law
4965 enforcement shall be a member of such department; ~~;~~ otherwise, the representative of law
4966 enforcement shall be a representative of campus security. The review committee may be the
4967 threat assessment team established under § ~~23-9.2:10~~ [23.1-805](#) or a separate body. The review
4968 committee may obtain law-enforcement records, criminal history record information as provided
4969 in §§ 19.2-389 and 19.2-389.1, health records as provided in § 32.1-127.1:03, available
4970 institutional conduct or personnel records, and known facts and circumstances of the
4971 information reported pursuant to subsection C or information or evidence known to the
4972 institution or to law enforcement. The review committee shall be considered to be a threat
4973 assessment team established pursuant to § ~~23-9.2:10~~ [23.1-805](#) for purposes of (i) obtaining
4974 criminal history record information and health records and (ii) the Virginia Freedom of
4975 Information Act (§ 2.2-3700 et seq.). The review committee shall conduct its review in
4976 compliance with federal privacy law.

4977 E. Upon receipt of information of an alleged act of sexual violence reported pursuant to
4978 subsection C, the review committee shall meet within 72 hours to review the information and
4979 shall meet again as necessary as new information becomes available.

4980 F. If, based on consideration of all factors, the review committee, or if the committee
4981 cannot reach a consensus, the representative of law enforcement on the review committee,
4982 determines that the disclosure of the information, including personally identifiable information,
4983 is necessary to protect the health or safety of the student or other individuals as set forth in 34
4984 C.F.R. § 99.36, the representative of law enforcement on the review committee shall
4985 immediately disclose such information to the law-enforcement agency that would be responsible
4986 for investigating the alleged act of sexual violence. Such disclosure shall be for the purposes of
4987 investigation and other actions by law enforcement. Upon such disclosure, the Title IX
4988 coordinator or his designee shall notify the victim that such disclosure is being made. The
4989 provisions of this subsection shall not apply if the law-enforcement agency responsible for
4990 investigating the alleged act of sexual violence is located outside the United States.

4991 G. In cases in which the alleged act of sexual violence would constitute a felony
4992 violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, the representative of law
4993 enforcement on the review committee shall inform the other members of the review committee
4994 and shall within 24 hours consult with the attorney for the Commonwealth or other prosecutor
4995 responsible for prosecuting the alleged act of sexual violence and provide to him the
4996 information received by the review committee without disclosing personally identifiable
4997 information, unless such information was disclosed pursuant to subsection F. In addition, if such
4998 consultation does not occur and any other member of the review committee individually
4999 concludes that the alleged act of sexual violence would constitute a felony violation of Article 7
5000 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, that member shall within 24 hours consult with the
5001 attorney for the Commonwealth or other prosecutor responsible for prosecuting the alleged act
5002 of sexual violence and provide to him the information received by the review committee without
5003 disclosing personally identifiable information, unless such information was disclosed pursuant
5004 to subsection F.

5005 H. At the conclusion of the review, the Title IX coordinator and the law-enforcement
5006 representative shall each retain (i) the authority to proceed with any further investigation or

5007 adjudication allowed under state or federal law and (ii) independent records of the review team's
5008 considerations, which shall be maintained under applicable state and federal law.

5009 I. No responsible employee shall be required to make a report pursuant to subsection B
5010 if:

5011 1. The responsible employee obtained the information through any communication
5012 considered privileged under state or federal law or the responsible employee obtained the
5013 information in the course of providing services as a licensed health care professional, an
5014 employee providing administrative support for such health care professionals, a professional
5015 counselor, an accredited rape crisis or domestic violence counselor, a campus victim support
5016 personnel, a member of clergy, or an attorney; or

5017 2. The responsible employee has actual knowledge that the same matter has already been
5018 reported to the Title IX coordinator or to the attorney for the Commonwealth or the law-
5019 enforcement agency responsible for investigating the alleged act of sexual violence.

5020 J. Any responsible employee who makes a report required by this section or testifies in a
5021 judicial or administrative proceeding as a result of such report ~~shall be~~ is immune from any civil
5022 liability alleged to have resulted therefrom unless such person acted in bad faith or with
5023 malicious intent.

5024 K. The provisions of this section shall not require a person who is the victim of an
5025 alleged act of sexual violence to report such violation.

5026 L. The institution shall ensure that a victim of an alleged act of sexual violence is
5027 informed of (i) the available law-enforcement options for investigation and prosecution; (ii) the
5028 importance of collection and preservation of evidence; (iii) the available options for a protective
5029 order; (iv) the available campus options for investigation and adjudication under the institution's
5030 policies; (v) the victim's rights to participate or decline to participate in any investigation to the
5031 extent permitted under state or federal law; (vi) the applicable federal or state confidentiality
5032 provisions that govern information provided by a victim; (vii) the available on-campus
5033 resources and any unaffiliated community resources, including sexual assault crisis centers,

5034 domestic violence crisis centers, or other victim support services; and (viii) the importance of
5035 seeking appropriate medical attention.

5036 **Drafting note: Technical changes.**

5037 § ~~23-9.2-16~~ 23.1-807. Sexual assault; memorandum of understanding; policies.

5038 A. ~~Each Richard Bland College and each baccalaureate public institution of higher~~
5039 ~~education or and nonprofit private ~~nonprofit~~ institution of higher education shall establish,~~ and
5040 the State Board ~~for Community Colleges~~ shall adopt a policy requiring each comprehensive
5041 community college to establish, a written memorandum of understanding with a sexual assault
5042 crisis center or other victim support service in order to provide sexual assault victims with
5043 immediate access to a confidential, independent advocate who can provide a trauma-informed
5044 response that includes an explanation of options for moving forward.

5045 B. Each public institution of higher education ~~or and nonprofit private ~~nonprofit~~~~
5046 institution of higher education shall adopt policies to provide to sexual assault victims
5047 information on contacting such sexual assault crisis center or other victim support service.

5048 **Drafting note: Technical changes.**

5049 § ~~23-9.2-17~~ 23.1-808. Sexual violence policy review.

5050 By October 31 of each year, the System, Richard Bland College, each baccalaureate
5051 public institution of higher education ~~or, and each nonprofit private ~~nonprofit~~ institution of~~
5052 higher education ~~and the State Board for Community Colleges~~ shall certify to the State Council
5053 ~~of Higher Education for Virginia~~ that it has reviewed its sexual violence policy and updated it as
5054 appropriate. The State Council ~~of Higher Education for Virginia~~ and the Department of
5055 Criminal Justice Services shall establish criteria for the certification process and may request
5056 information relating to the policies for the purposes of sharing best practices and improving
5057 campus safety. The State Council ~~of Higher Education for Virginia~~ and the Department of
5058 Criminal Justice Services shall report to the Secretary of Education on the certification status of
5059 each such institution ~~and the Virginia Community College System~~ by November 30 of each
5060 year.

5061 **Drafting note: Technical changes.**

5062 ~~CHAPTER 17.~~

5063 ~~CAMPUS POLICE DEPARTMENTS.~~

5064 Article 3.

5065 Campus Safety; Campus Police Departments.

5066 **Drafting note: Existing Chapter 17 is logically reorganized as proposed Article 3 of**
5067 **Chapter 8, and technical changes are made.**

5068 § ~~23-232~~ 23.1-809. Establishment Public institutions of higher education; establishment
5069 of campus police departments authorized; employment of officers.

5070 A. The governing board of each public institution of higher ~~learning named in § 23-14,~~
5071 ~~hereafter sometimes referred to in this chapter as "institution," is authorized to~~ education may
5072 establish a campus police department and ~~to~~ employ campus police officers and auxiliary police
5073 forces upon appointment as provided in §§ ~~23-233~~ 23.1-811 and ~~23-233.1~~ 23.1-812. Such
5074 employment ~~shall be~~ is governed by the Virginia Personnel Act, ~~as set forth in Chapter 29~~ (§
5075 2.2-2900 et seq.) ~~of Title 2.2,~~ except that the governing ~~body~~ board of a public institution of
5076 higher education may direct that the employment of the chief of the campus police department is
5077 not governed by the Virginia Personnel Act.

5078 B. The Virginia Commonwealth University Health System Authority ~~shall be authorized~~
5079 ~~to~~ and Eastern Virginia Medical School may employ police officers and auxiliary police forces
5080 as provided in this ~~chapter article~~ and, in the case of the Authority, in § ~~23-50.16:10~~ 23.1-2406,
5081 except that the employment of such officers and forces ~~shall is~~ not ~~be~~ governed by the Virginia
5082 Personnel Act (§ 2.2-2900 et seq.).

5083 **Drafting note: Technical changes.**

5084 § ~~23-232.1~~ 23.1-810. Authorization for campus police departments in private institutions
5085 of higher education.

5086 The governing board of each private institution of higher education ~~is authorized to~~ may
5087 establish, in compliance with the provisions of this ~~chapter article~~, a campus police department

5088 and ~~to~~ employ campus police officers upon appointment as provided in § ~~23-233~~ 23.1-812.
5089 Except as such provisions apply exclusively to public institutions of higher education or
5090 employees, the provisions of this ~~chapter article~~ shall apply to the appointment and employment
5091 of officers, and the operation, powers, duties, and jurisdiction of ~~private~~ campus police
5092 departments at private institutions of higher education, and such departments ~~shall be~~ are subject
5093 to and shall enjoy the benefits of this ~~chapter article~~. However, to be qualified to use the word
5094 "police" to describe the department or its officers, any private ~~college or university which~~
5095 institution of higher education that establishes a campus police department shall require ~~that~~
5096 each officer to comply with the training or other requirements for law-enforcement officers
5097 established by the Department of Criminal Justice Services pursuant to Chapter 1 (§ 9.1-100 et
5098 seq.) of Title 9.1.

5099 **Drafting note: Technical changes.**

5100 § ~~23-233.1~~ 23.1-811. Establishment of auxiliary police forces; ~~powers, authority and~~
5101 immunities generally.

5102 The governing ~~boards~~ board of each public institution of higher education and private
5103 institution of higher education, for the further preservation of public peace, safety, and good
5104 order of the campus community, ~~shall have the power to~~ may establish, equip, and maintain an
5105 auxiliary police ~~forces~~ force. When called into service pursuant to procedures established by the
5106 governing board, members of ~~these such~~ auxiliary police forces ~~shall~~ have all the powers,
5107 authority, and immunities of ~~public institutions of higher education~~ campus police officers at
5108 public institutions of higher education.

5109 **Drafting note: Technical changes.**

5110 § ~~23-236~~ 23.1-812. ~~Investigation of prospective officers; terms of employment;~~
5111 uniforms, etc Appointment of campus police officers and members of an auxiliary police force.

5112 A. Prior to appointment as a campus police officer or member of an auxiliary police
5113 force, each ~~person~~ individual shall be investigated by the campus police department of the
5114 institution applying for the order of appointment or, if none has been established, by the police

5115 department of the ~~county, city or town~~ locality in which such institution is located. Such
5116 investigation shall determine whether the ~~person~~ individual is responsible, honest, and in all
5117 ways capable of performing the duties of a campus police officer.

5118 ~~§ 23-233. Appointment of officers.~~

5119 B. Upon application of the governing board of ~~an~~ a public institution of higher education
5120 or private institution of higher education, the circuit court of the ~~county or city wherein~~ locality
5121 in which the institution is located, ~~in its discretion~~, may, by order, appoint the ~~persons~~
5122 individuals named in the application to be campus police officers or members of an auxiliary
5123 police force at such institution.

5124 ~~B.C.~~ Each campus police officer and member of an auxiliary police force appointed and
5125 employed pursuant to this ~~chapter shall be~~ article is a state employee of the institution named in
5126 the order of appointment. Insofar as it is not inconsistent with the Virginia Personnel Act (§ 2.2-
5127 2900 et seq.), the governing board of such institution shall provide for the conditions and terms
5128 of employment and compensation and ~~provide~~ a distinctive uniform and badge of office for such
5129 officers and members of an auxiliary police force.

5130 **Drafting note: Technical changes are made, including (i) changing a reference in**
5131 **subsection A to "county, city or town" to "locality" pursuant to § 1-221, which states that**
5132 **throughout the Code "locality" means a county, city, or town; (ii) incorporating existing §**
5133 **23-233, Appointment of officers, as proposed subsection B of this section; and (iii)**
5134 **changing subsection B of § 23-236 to proposed subsection C.**

5135 ~~§ 23-235~~ 23.1-813. Officers and members to comply with requirements of Department
5136 of Criminal Justice Services.

5137 All ~~persons~~ individuals appointed and employed as campus police officers or ~~as~~
5138 members of an auxiliary ~~forces~~ police force pursuant to this ~~chapter~~ article shall comply with the
5139 requirements for law-enforcement officers as established by the Department of Criminal Justice
5140 Services pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1.

5141 **Drafting note: Technical changes.**

5142 § ~~23-237~~ 23.1-814. Termination of employment of campus police officers and members
5143 of auxiliary police forces.

5144 ~~A person~~ An individual appointed as a campus police officer or a member of an auxiliary
5145 police force shall exercise his powers only as long as he remains employed or activated, ~~as the~~
5146 ~~case may be~~, by the institution named in the order of the appointment. The appointment order
5147 entered by the circuit court shall automatically be revoked upon the termination of the ~~officer's~~
5148 employment of the officer or member at the institution and may be revoked by the court for
5149 malfeasance, misfeasance, or nonfeasance. The institution shall notify the court upon
5150 termination of the ~~officer's~~ employment of the officer or member at the institution.

5151 **Drafting note: Technical changes.**

5152 § ~~23-234~~ 23.1-815. ~~Powers~~ Campus police forces and auxiliary police forces; powers
5153 and duties; jurisdiction.

5154 A. As used in this section:

5155 "Campus" means (i) any building or property owned or controlled by an institution of
5156 higher education located within the same reasonably contiguous geographic area of the
5157 institution and used by the institution in direct support of, or in a manner related to, the
5158 institution's educational purposes, including residence halls, and (ii) any building or property
5159 that is within or reasonably contiguous to the area described in clause (i) that is owned by the
5160 institution but controlled by another person, is frequently used by students, and supports
5161 institutional purposes, such as a food or other retail vendor.

5162 "Noncampus building or property" means (i) any building or property owned or
5163 controlled by a student organization that is officially recognized by an institution of higher
5164 education or (ii) any building or property owned or controlled by an institution of higher
5165 education that is used in direct support of, or in relation to, the institution's educational
5166 purposes, is frequently used by students, and is not within the same reasonably contiguous
5167 geographic area of the institution.

5168 "Public property" means all public property, including thoroughfares, streets, sidewalks,
 5169 and parking facilities, that is within the campus, or immediately adjacent to and accessible from
 5170 the campus.

5171 B. A campus police officer appointed as provided in § ~~23-233~~ 23.1-812 or a member of
 5172 an auxiliary police force appointed and activated pursuant to § ~~23-233.1~~ § 23.1-811 and 23.1-
 5173 812 shall be deemed police officers of localities who may exercise the powers and duties
 5174 conferred by law upon such police officers ~~of cities, towns, or counties, and shall be so deemed,~~
 5175 including ~~but not limited to~~ the provisions of Chapters 5 (§ 19.2-52 et seq.), 7 (§ 19.2-71 et
 5176 seq.), and 23 (§ 19.2-387 et seq.) of Title 19.2, (i) upon any property owned or controlled by the
 5177 ~~relevant~~ public institution of higher education or private institution of higher education, or, upon
 5178 request, any property owned or controlled by another public institution of higher education or
 5179 private institution of higher education, and upon the streets, sidewalks, and highways,
 5180 immediately adjacent ~~thereto, to any such property;~~ (ii) pursuant to a mutual aid agreement (a)
 5181 as provided for in § 15.2-1727 or (b) between the governing board of a public institution of
 5182 higher education or private institution of higher education and ~~such other another public~~
 5183 institution of higher education or private institution of higher education, ~~public or private,~~ in the
 5184 Commonwealth or an adjacent political ~~subdivisions,~~ subdivision; (iii) in close pursuit of a
 5185 person as provided in § 19.2-77; and (iv) upon approval by the appropriate circuit court of a
 5186 petition by the local governing body for concurrent jurisdiction in designated areas with the
 5187 police officers of the ~~county, city, or town~~ locality in which the institution, its satellite
 5188 campuses, or other properties are located. The local governing body may only petition the
 5189 circuit court for such concurrent jurisdiction pursuant ~~only~~ to a request by the local law-
 5190 enforcement agency ~~for concurrent jurisdiction.~~

5191 B. All ~~public or~~ C. Each public institution of higher education and private ~~institutions~~
 5192 institution of higher education that ~~have~~ establishes a campus police ~~forces established in~~
 5193 ~~accordance with the provisions of~~ force pursuant to this ~~chapter article~~ shall enter into and
 5194 become a party to a mutual aid ~~agreements~~ agreement with ~~one or more of the following:~~ (i) an

5195 adjacent local law-enforcement agency or ~~(ii)~~ the Department of State Police, for the use of their
5196 regular and auxiliary joint forces, ~~both regular and auxiliary~~, equipment, and materials when
5197 needed in the investigation of any felony criminal sexual assault or medically unattended death
5198 occurring on property owned or controlled by ~~the such~~ institution of higher education or any
5199 death resulting from an incident occurring on such property. Such mutual aid agreements shall
5200 include provisions requiring either the campus police force or the agency with which it has
5201 established a mutual aid agreement pursuant to this subsection, in the event that such police
5202 force or agency conducts an investigation that involves a felony criminal sexual assault as set
5203 forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 occurring on campus, in or on a
5204 noncampus building or property, or on public property, to notify the local attorney for the
5205 Commonwealth of such investigation within 48 hours of beginning such investigation. ~~Such No~~
5206 such notification provision shall ~~not~~ require a campus police force or the agency with which it
5207 has established a mutual aid agreement to disclose identifying information about the victim. ~~The~~
5208 provisions of Nothing in this section ~~shall not prohibit~~ prohibits a campus police force or
5209 auxiliary police force from requesting assistance from any appropriate law-enforcement agency
5210 of the Commonwealth, ~~even though a with which the institution has not entered into a~~ mutual
5211 aid agreement ~~has not been executed with that agency.~~

5212 ~~C. All public or~~ D. Each public institution of higher education and private ~~institutions~~
5213 institution of higher education that (i) ~~do not have~~ has not established a campus police ~~forces~~
5214 ~~established in accordance with the provisions of~~ force or auxiliary police force pursuant to this
5215 ~~chapter article~~ and (ii) ~~have~~ has a security ~~departments department,~~ rely relies on ~~municipal,~~
5216 ~~county, local~~ or state police forces, or ~~contract contracts~~ for security services from private
5217 parties pursuant to § ~~23-238~~ 23.1-818 shall enter into and become a party to a memorandum of
5218 understanding with an adjacent local law-enforcement agency or the Department of State Police
5219 (the Department) to require either such local law-enforcement agency or the Department, in the
5220 event that such agency or the Department conducts an investigation that involves a felony
5221 criminal sexual assault as set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2

5222 occurring on campus, in or on a noncampus building or property, or on public property, to notify
5223 the local attorney for the Commonwealth of such investigation within 48 hours of beginning
5224 such investigation. ~~Such~~ No such notification provision shall ~~not~~ require the law-enforcement
5225 agency or the Department to disclose identifying information about the victim.

5226 D. For purposes of this section:

5227 "Campus" means (i) any building or property owned or controlled by an institution of
5228 higher education located within the same reasonably contiguous geographic area of the
5229 institution and used by the institution in direct support of, or in a manner related to, the
5230 institution's educational purposes, including residence halls, and (ii) any building or property
5231 that is within or reasonably contiguous to the area described in clause (i) that is owned by the
5232 institution but controlled by another person, is frequently used by students, and supports
5233 institutional purposes, such as a food or other retail vendor.

5234 "Noncampus building or property" means (i) any building or property owned or
5235 controlled by a student organization that is officially recognized by an institution of higher
5236 education or (ii) any building or property owned or controlled by an institution of higher
5237 education that is used in direct support of, or in relation to, the institution's educational
5238 purposes, is frequently used by students, and is not within the same reasonably contiguous
5239 geographic area of the institution.

5240 "Public property" means all public property, including thoroughfares, streets, sidewalks,
5241 and parking facilities, that is within the campus, or immediately adjacent to and accessible from
5242 the campus.

5243 **Drafting note: Technical changes are made, including moving definitions to the**
5244 **beginning of the proposed section. The phrase "but not limited to" after "including" is**
5245 **stricken in subsection B per § 1-218, which states: "'Includes' means includes, but not**
5246 **limited to."**

5247 § ~~23-234.1~~ 23.1-816. Extending police power of public institutions of higher education
5248 beyond boundaries ~~thereof~~; jurisdiction of general district courts; duty of attorneys for the
5249 Commonwealth.

5250 A. The governing board of any public institution of higher education that leases, rents, or
5251 owns satellite campuses, public buildings, and other property located beyond the limits of such
5252 institution ~~shall have and~~ has and may exercise full police power over ~~these properties such~~
5253 property and ~~over persons individuals~~ using ~~the same such property~~. The governing board may
5254 prescribe ~~rules policies~~ and regulations for the operation and use of ~~these such~~ properties and ~~for~~
5255 the conduct of ~~all persons individuals~~ using ~~them such property~~ and may provide appropriate
5256 administrative penalties for the violation of ~~these rules such policies~~ and regulations.

5257 B. The general district court for the ~~county, city, or town where~~ locality in which
5258 violations of law or ~~approved policies or~~ regulations established by the governing board of the
5259 institution ~~occurs shall have pursuant to subsection A has~~ jurisdiction ~~of over~~ all cases ~~arising~~
5260 within the county, city, or town involving such violations.

5261 C. It ~~shall be~~ is the duty of ~~the each local~~ attorney for the Commonwealth ~~for the county,~~
5262 ~~city, or town where the offense occurs~~ to prosecute all violators of the laws pertaining to the
5263 provisions enumerated in this ~~chapter article that occur in such locality~~.

5264 **Drafting note: Technical changes are made, including changing references to**
5265 **"counties, cities, and towns" to "localities" pursuant to § 1-221, which states that**
5266 **throughout the Code "locality" means a county, city, or town.**

5267 § ~~23-232.2~~ 23.1-817. Inspection of criminal incident information.

5268 A. ~~Criminal incident information, as described in subsection B,~~ of any campus police
5269 department established pursuant to § ~~23-232.1~~ 23.1-810, including (i) the date, time, and general
5270 location of the alleged crime; (ii) a general description of injuries suffered or property damaged
5271 or stolen; and (iii) the name and address of any individual arrested as a result of felonies
5272 committed against persons or property or misdemeanors involving assault, battery, or moral
5273 turpitude reported to the campus police, shall be open to inspection and copying by any ~~(i)~~

5274 citizen of the Commonwealth, ~~(ii)~~ currently registered student of the institution, or ~~(iii)~~ parent of
5275 a registered student, during the regular office hours of the custodian of such information-

5276 ~~B. Criminal incident information shall include (i) the date, time, and general location of~~
5277 ~~the alleged crime; (ii) a general description of injuries suffered or property damaged or stolen;~~
5278 ~~and (iii) the name and address of any individual arrested as a result of felonies committed~~
5279 ~~against persons or property or misdemeanors involving assault, battery, or moral turpitude~~
5280 ~~reported to the campus police, except where unless such disclosure is prohibited by law;~~
5281 ~~however, where. If the release of such information is likely to jeopardize an ongoing criminal~~
5282 ~~investigation or the safety of an individual, cause a suspect to flee or evade detection, or result~~
5283 ~~in the destruction of evidence, such information may be withheld until ~~the above referenced~~~~
5284 ~~such damage is no longer likely to occur from the release of such information.~~

5285 **Drafting note: Technical changes.**

5286 § ~~23-238~~ 23.1-818. Security departments and other security services.

5287 Nothing in this ~~chapter article~~ shall abridge the authority of the governing board of ~~an a~~
5288 public institution of higher education or private institution of higher education to establish
5289 security departments, whose officers and employees shall not have the powers and duties set
5290 forth in § ~~23-234~~ 23.1-815, in place of or ~~supplemental in addition~~ to campus police
5291 departments ~~or to~~, rely upon ~~municipal, county local~~ or state police forces, ~~or to~~ contract for
5292 security services from private parties.

5293 **Drafting note: Technical changes.**

5294 CHAPTER 9.

5295 ACADEMIC POLICIES.

5296 **Drafting note: Provisions in existing Chapters 1 and 1.1 relating to academic**
5297 **policies that apply to certain institutions of higher education in the Commonwealth are**
5298 **consolidated in proposed Chapter 9, and technical changes are made.**

5299 Article 1.

5300 General Provisions.

5301 **Drafting note: Provisions in existing Chapter 1 relating to academic policies in**
5302 **general are consolidated in proposed Article 1 of Chapter 9, and technical changes are**
5303 **made.**

5304 § ~~23-9.2-18~~ 23.1-900. Academic transcripts; suspension, permanent dismissal, or
5305 withdrawal from institution.

5306 A. As used in this section, "sexual violence" means physical sexual acts perpetrated
5307 against a person's will or against a person incapable of giving consent.

5308 B. The registrar of each (i) private institution of higher education that is eligible to
5309 participate in the Tuition Assistance Grant Program or to receive project financing from the
5310 Virginia College Building Authority pursuant to ~~the Educational Facilities Authority Act of~~
5311 1972 Article 2 (§ ~~23-30.39~~ 23.1-1220 et seq.) of Chapter 12 and (ii) public institution of higher
5312 education, or the other employee, office, or department of the institution that is responsible for
5313 maintaining student academic records, shall include a prominent notation on the academic
5314 transcript of each student who has been suspended for, has been permanently dismissed for, or
5315 withdraws from the institution while under investigation for an offense involving sexual
5316 violence under the institution's code, rules, or set of standards governing student conduct stating
5317 that such student was suspended for, was permanently dismissed for, or withdrew from the
5318 institution while under investigation for an offense involving sexual violence under the
5319 institution's code, rules, or set of standards. Such notation shall be substantially in the following
5320 form: "[Suspended, Dismissed, or Withdrew while under investigation] for a violation of [insert
5321 name of institution's code, rules, or set of standards]." Each such institution shall (a) notify each
5322 student that any such suspension, permanent dismissal, or withdrawal will be documented on the
5323 student's academic transcript and (b) adopt a procedure for removing such notation from the
5324 academic transcript of any student who is subsequently found not to have committed an offense
5325 involving sexual violence under the institution's code, rules, or set of standards governing
5326 student conduct. ~~For purposes of this section, "sexual violence" means physical sexual acts~~
5327 ~~perpetrated against a person's will or against a person incapable of giving consent.~~

5328 ~~B.C.~~ The institution shall remove from a student's academic transcript any notation
 5329 placed on such transcript pursuant to subsection ~~A.B~~ due to such student's suspension if the
 5330 student (i) completed the term and any conditions of the suspension ~~and any conditions thereof~~
 5331 and (ii) has been determined by the institution to be in good standing according to the
 5332 institution's code, rules, or set of standards governing such a determination.

5333 ~~C.D.~~ The provisions of this section shall apply only to a student who is taking or has
 5334 taken a course at ~~a campus of~~ a public institution of higher education or private institution of
 5335 higher education on a campus that is located in the Commonwealth; however, the provisions of
 5336 this section shall not apply to any public institution of higher education established pursuant to
 5337 Chapter ~~10 25~~ (§ ~~23-92 23.1-2500~~ et seq.).

5338 **Drafting note: Technical changes are made, including moving the definition of**
 5339 **"sexual violence" to the beginning of this proposed section.**

5340 Article 2.

5341 Programs of Instruction.

5342 **Drafting note: Academic policy provisions of existing Chapter 1 relating to**
 5343 **programs of instruction are consolidated in proposed Article 2 of Chapter 9, and technical**
 5344 **changes are made.**

5345 § ~~23-9.2:3.5 23.1-901.~~ Education programs Programs on ~~economic~~ economics education
 5346 and financial literacy.

5347 ~~Virginia public colleges and universities~~ A. Public institutions of higher education shall
 5348 ~~make provisions for the promotion of the development of~~ promote the development of student
 5349 life skills ~~through the inclusion of~~ by including the principles of economics education and
 5350 financial literacy within an existing general education course, the freshman orientation process,
 5351 or ~~other~~ another appropriate venue. ~~These~~ Such principles may include, ~~but need not be limited~~
 5352 ~~to,~~ instruction concerning personal finance, such as credit card use, opening and managing an
 5353 account in a financial institution, completing a loan application, managing student loans, savings

5354 and investments, consumer rights and responsibilities, predatory lending practices and interest
5355 rates, consumer fraud, identity theft and protection, and debt management.

5356 B. The State Council of Higher Education for Virginia shall ~~also~~ encourage private
5357 colleges and universities institutions of higher education to include such principles as part of
5358 their student orientation programs.

5359 **Drafting note: Technical changes are made, including removing "but need not be**
5360 **limited to" when used in conjunction with "includes" in subsection A on the basis of § 1-**
5361 **218, which states, "'Includes' means includes, but not limited to."**

5362 § ~~23-9.2:3-6~~ 23.1-902. Education preparation programs offered by institutions of higher
5363 education.

5364 A. Education preparation programs offered by public institutions of higher education and
5365 private institutions of higher education shall ~~be required to~~ meet the requirements for
5366 accreditation and program approval as prescribed by the Board of Education in its regulations.

5367 B. As provided in § 22.1-298.2, the Board of Education shall prescribe an assessment of
5368 basic skills for individuals seeking entry into an approved education preparation program and
5369 shall establish a minimum passing score for such assessment. The Board ~~also of Education~~ may
5370 prescribe in its regulations other requirements for admission to ~~Virginia's~~ approved education
5371 preparation programs ~~in its regulations in the Commonwealth~~.

5372 C. ~~Candidates~~ Any candidate who ~~fail~~ fails to achieve the minimum score established by
5373 the Board of Education may be denied entrance into ~~the relevant an~~ education preparation
5374 program on the basis of such failure; ~~however, if enrolled in the program, they, but any such~~
5375 candidate who gains entrance and enrolls in an education preparation program shall have the
5376 opportunity to address ~~any all~~ deficiencies.

5377 **Drafting note: Technical changes.**

5378 § ~~23-9.2:7~~ 23.1-903. Distance learning.

5379 ~~Effective January 1, 2005, each~~ Each public institution of higher education shall include
5380 in its strategic plan information indicating to what extent, if any, it will use distance learning to

5381 expand access to, improve the quality of, and minimize the cost of education at such institution.
5382 For institutions ~~using that use distance learning~~ or ~~planning plan~~ to use distance learning in the
5383 future, such information shall include the degree to which distance learning will be integrated
5384 into the curriculum, benchmarks for measuring such integration, and a schedule for the
5385 evaluation of ~~such distance learning~~ courses.

5386 The ~~State~~ Council shall assist the governing ~~boards~~ board of each public institution of
5387 higher education in the development of such information.

5388 **Drafting note: The January 1, 2005, effective date is stricken as obsolete. Technical**
5389 **changes are made.**

5390 Article 3.

5391 Course Credit.

5392 **Drafting note: Academic policy provisions of existing Chapter 1 relating to course**
5393 **credit are consolidated in proposed Article 3 of Chapter 9, and technical changes are**
5394 **made.**

5395 § ~~23-9.2:3.7~~ 23.1-904. Course credit; veterans; active duty military students.

5396 A. The governing ~~boards~~ board of each public institution of higher education shall
5397 implement policies that provide students called to active military duty during an academic
5398 semester with the opportunity to earn full course credit. Such policies shall ~~include~~ provide, as
5399 one option, that such students who have completed 75 percent of the course requirements at the
5400 time of activation and who meet other specified requirements receive full course credit.

5401 B. The governing ~~boards~~ board of each public institution of higher education shall, in
5402 accordance with guidelines developed by the ~~State~~ Council ~~of Higher Education for Virginia~~,
5403 implement policies for the purpose of awarding academic credit to students for educational
5404 experience gained from service in the ~~armed forces~~ Armed Forces of the United States.

5405 C. The governing ~~boards~~ board of each public institution of higher education shall, in
5406 accordance with guidelines developed by the ~~State~~ Council ~~of Higher Education for Virginia~~,

5407 implement policies that recognize the scheduling difficulties and obligations encountered by
5408 active duty members of the [Armed Forces of the](#) United States ~~armed forces~~.

5409 **Drafting note: Technical changes.**

5410 ~~§ 23-9.2-3.8.~~

5411 **Drafting note: Repealed by Acts 2015, c. 578, effective July 1, 2016.**

5412 ~~§ 23-9.2-3.9~~ [23.1-905](#). Academic credit for American Sign Language.

5413 ~~Academic~~ [Each public institution of higher education shall count](#) credit received for
5414 successful completion of American Sign Language courses either in a secondary school or
5415 [another institution of](#) higher education ~~institution shall be counted~~ toward satisfaction of the
5416 foreign language entrance requirements of ~~a~~ [the](#) public institution of higher education.

5417 **Drafting note: Technical changes.**

5418 ~~§ 23-9.2-3.10~~ [23.1-906](#). [\(Effective July 1, 2016\)](#) Course credit; Advanced Placement,
5419 Cambridge Advanced, College-Level Examination Program, and International Baccalaureate
5420 examinations.

5421 A. The ~~State~~ [Council of Higher Education for Virginia \(Council\)](#), in consultation with
5422 the governing board of each public institution of higher education, shall establish a policy for
5423 granting undergraduate course credit to entering freshman students who have taken one or more
5424 Advanced Placement, Cambridge Advanced (A/AS), College-Level Examination Program
5425 (CLEP), or International Baccalaureate examinations. The policy shall:

5426 1. Outline the conditions necessary for each public institution of higher education to
5427 grant course credit, including the minimum required scores on such examinations;

5428 2. Identify ~~each public institution of higher education's~~ [the](#) course credit or other
5429 academic requirements [of each public institution of higher education](#) that the student satisfies by
5430 achieving the minimum required scores on such examinations; and

5431 3. Ensure, to the extent possible, that the grant of course credit is consistent across each
5432 public institution of higher education and each such examination.

5433 B. The Council and each public institution of higher education shall make the policy
5434 available to the public on its website.

5435 **Drafting note: Existing § 23-9.2:3.10 was enacted by Chapter 578 of the Acts of**
5436 **Assembly of 2015 to become effective July 1, 2016. Technical changes are made.**

5437 **Note to drafters: Remove effective date in final bill.**

5438 Article 4.

5439 Articulation, Transfer, and Dual Enrollment.

5440 **Drafting note: Academic policy provisions of existing Chapters 1 and 1.1 relating to**
5441 **articulation, transfer, and dual enrollment are consolidated in proposed Article 4 of**
5442 **Chapter 9, and technical changes are made.**

5443 § ~~23-9.2:3.02~~ 23.1-907. Articulation, dual admissions, and guaranteed admissions
5444 agreements; admission of certain comprehensive community college graduates.

5445 A. The governing board of each ~~four-year~~ baccalaureate public institution of higher
5446 education shall develop, consistent with ~~the State Council of Higher Education Guidelines~~
5447 guidelines and the institution's six-year plan as set forth in § ~~23-38.87:17~~ 23.1-306, articulation,
5448 dual admissions, and guaranteed admissions agreements with ~~all institutions within the Virginia~~
5449 Community College System and any two-year ~~each associate-degree-granting~~ public institution
5450 of higher education.

5451 B. ~~A Uniform Certificate of General Studies shall be developed by the State~~ The Council
5452 ~~of Higher Education, the Virginia Community College System, and the each~~ public ~~institutions~~
5453 institution of higher education shall develop a one-year uniform certificate of general studies
5454 program as set forth in subdivision 20 of § ~~23-9.6:1~~ 23.1-203. All credits earned in academic
5455 subject coursework by students attending ~~a two-year college an associate-degree-granting public~~
5456 institution of higher education who complete ~~an approved the~~ one-year uniform certificate of
5457 general studies program ~~shall be~~ are transferrable to a ~~four-year~~ baccalaureate public institution
5458 of higher education in accordance with Council guidelines.

5459 C. The ~~State Council of Higher Education for Virginia~~ shall prepare an annual report on
5460 the pertinent aspects of the pipeline of students transferring from ~~institutions within the Virginia~~
5461 ~~Community College System comprehensive community colleges~~ to ~~four-year baccalaureate~~
5462 public institutions of higher education.

5463 D. The ~~State Council of Higher Education~~, consistent with its responsibility to facilitate
5464 the development of articulation, dual admissions, and guaranteed admissions agreements set
5465 forth in §§ ~~23-9.6:1 23.1-203~~ and ~~23-9.14:2 23.1-908~~, shall develop guidelines for such
5466 agreements.

5467 E. Each ~~institution within the Virginia Community College System comprehensive~~
5468 ~~community college~~ shall develop agreements for postsecondary degree attainment with the
5469 public high schools in the school divisions that ~~they serve, such comprehensive community~~
5470 ~~college serves~~ specifying the options for students to complete an ~~associate's associate~~ degree or
5471 a one-year Uniform Certificate of General Studies concurrent with a high school diploma. Such
5472 agreements shall specify the credit available for dual enrollment courses and Advanced
5473 Placement courses with qualifying exam scores of three or higher. ~~Agreements shall be~~
5474 ~~submitted by the institutions to the Chancellor of the Virginia Community College System and~~
5475 ~~the Superintendent of Public Instruction by April 15, 2013.~~

5476 **Drafting note: A 2013 deadline for submission of agreements in subsection E is**
5477 **stricken as obsolete. Technical changes are made, including replacing "institutions within**
5478 **the Virginia Community Colleges System" with "comprehensive community colleges," a**
5479 **term that has the same meaning and is defined title-wide in proposed § 23.1-100.**

5480 § ~~23-9.14:2 23.1-908~~. State Transfer Tool.

5481 A. The Council shall develop, in cooperation with ~~the each~~ public ~~two-year and four-~~
5482 ~~year institutions institution~~ of higher education, a State Transfer Tool that designates ~~those each~~
5483 general education ~~courses course~~ that ~~are is~~ offered ~~within various in an~~ associate degree
5484 ~~programs program~~ at ~~the an associate-degree-granting~~ public ~~two-year institutions that are~~

5485 institution of higher education and transferable for course credit to ~~the~~ a baccalaureate public
 5486 ~~four-year institutions~~ institution of higher education.

5487 In developing the State Transfer Tool, the Council shall also seek the participation of
 5488 private institutions of higher education ~~in the Commonwealth~~.

5489 B. The Council shall develop guidelines to govern the development and implementation
 5490 of articulation, dual admissions, and guaranteed admissions agreements between ~~the~~
 5491 Commonwealth's public two-year associate-degree-granting public institutions of higher
 5492 education and ~~four-year~~ baccalaureate public institutions of higher education. Dual admissions
 5493 agreements shall set forth (i) the obligations of ~~the students~~ each student accepted ~~in to~~
 5494 ~~programs~~ a program, including grade point average requirements, acceptable associate degree
 5495 majors, and completion timetables, and (ii) the ~~student's~~ extent to which each student accepted
 5496 to such a program may access ~~to~~ the privileges of enrollment ~~in at~~ both institutions ~~during the~~
 5497 ~~time while he is~~ enrolled in at either institution. Such agreements ~~shall be~~ are subject to the
 5498 admissions requirements of the ~~four-year~~ baccalaureate public institutions of higher education.

5499 C. The Council shall develop and make available to the public information identifying
 5500 all general education courses offered at associate-degree-granting public ~~two-year~~ institutions of
 5501 higher education and designating those that are ~~accepted for purposes of transfer~~ transferable for
 5502 course credit at ~~four-year~~ baccalaureate public institutions of higher education and baccalaureate
 5503 private institutions of higher education ~~in Virginia~~.

5504 **Drafting note: Technical changes.**

5505 § ~~23-7.4:7~~ 23.1-909. Combined cooperative degree program.

5506 The Secretary of Education ~~(Secretary)~~ and the Director ~~director~~ of the ~~State~~ Council ~~of~~
 5507 Higher Education for Virginia (Director), in consultation with each ~~two-year or four-year~~ public
 5508 ~~or~~ institution of higher education and nonprofit private, ~~nonprofit~~ institution of higher education
 5509 ~~in the Commonwealth and the Virginia Community College System~~, shall develop a plan to
 5510 establish and advertise a cooperative degree program whereby any undergraduate student
 5511 enrolled at any ~~two-year or four-year~~ public institution of higher education or nonprofit private;

5512 ~~nonprofit~~ institution of higher education ~~in the Commonwealth~~ may complete, through the use
 5513 of online courses at any such institution, the course credit requirements to receive a degree at a
 5514 tuition cost not to exceed \$4,000, or ~~such the lowest~~ cost that is achievable, per academic year.

5515 No later than October 1, 2016, the Secretary of Education and the ~~Director~~ director of
 5516 the Council shall report to the Chairmen of the House Committee on Appropriations, the House
 5517 Committee on Education, the Senate Committee on Finance, and the Senate Committee on
 5518 Education and Health on the progress made ~~by the Secretary and Director~~ toward developing a
 5519 cooperative degree program plan pursuant to this section.

5520 **Drafting note: Technical changes.**

5521 ~~§ 23-8.~~

5522 **Drafting note: Repealed by Acts 2014, c. 6.**

5523 ~~§ 23-9.2:3.4.~~

5524 **Drafting note: Repealed by Acts 2006, cc. 27 and 349, cl. 2.**

5525 ~~§ 23-9.2:6.~~

5526 **Drafting note: Repealed by Acts 1990, c. 800.**

5527 ~~CHAPTER 3.1.~~

5528 ~~VIRGINIA COLLEGE BUILDING AUTHORITY.~~

5529 ~~§§ 23-30.1 through 23-30.22.~~

5530 **Drafting note: Repealed by Acts 1966, c. 685.**

5531 ~~SUBTITLE III.~~

5532 ~~MANAGEMENT AND FINANCING.~~

5533 ~~CHAPTER 4.10 10.~~

5534 RESTRUCTURED HIGHER EDUCATION FINANCIAL AND ADMINISTRATIVE
 5535 OPERATIONS ACT.

5536 **Drafting note: Existing Chapter 4.10 is reorganized as proposed Chapter 10.**

5537 ~~SUBCHAPTER 1.~~

5538 ~~GENERAL PROVISIONS.~~

5539 **Drafting note: Existing Subchapter 1 of Chapter 4.10 is reorganized as proposed**
5540 **Articles 1 and 2 of Chapter 10.**

5541 [Article 1.](#)

5542 [Definitions.](#)

5543 **Drafting note: Proposed Article 1 consists of chapter-wide definitions.**

5544 ~~§ 23-38.89~~ [23.1-1000](#). Definitions.

5545 As used in this chapter, ~~the following terms have the following meanings,~~ unless the
5546 context requires ~~otherwise~~ [a different meaning](#):

5547 "Bonds, notes, or other obligations" means bonds, notes, commercial paper, bond
5548 anticipation notes, revenue certificates, capital leases, lease participation certificates, or other
5549 evidences of indebtedness or deferred purchase financing arrangements.

5550 "Capital project" means the acquisition of any interest in land, including [\(i\) capital leases](#)
5551 [and \(ii\) improvements on the acquired land, ~~either consisting of \(a\) new construction of at least~~
5552 ~~5,000 square feet or more or, \(b\) new construction costing at least \\$12 million or more, or \(c\)~~
5553 ~~improvements or renovations costing at least \\$12 million or more, or capital leases.~~](#)

5554 "Covered ~~Employee~~ [employee](#)" means any ~~person~~ [individual](#) who is employed by a
5555 covered institution on either a salaried or wage basis.

5556 "Covered institution" means, ~~on and after its effective date of the initial Management~~
5557 ~~Agreement,~~ a public institution of higher education ~~of the Commonwealth~~ that has entered into a
5558 management agreement with the Commonwealth to be governed by the provisions of
5559 [Subchapter 3 Article 4](#) (~~§ 23-38.91~~ [23.1-1004](#) et seq.) ~~of this chapter.~~

5560 "Enabling ~~legislation~~ [statutes](#)" means ~~those chapters, other than this chapter, of Title 23,~~
5561 ~~as amended,~~ [each chapter in subtitle IV \(§ 23.1-1300 et seq.\), and in the case of the University](#)
5562 [of Virginia Medical Center §§ 2.2-2817.2, 2.2-2905, 51.1-126.3, and 51.1-1100,](#) creating,
5563 continuing, or otherwise setting forth the powers, [duties,](#) purposes, and missions of ~~the each~~
5564 individual public ~~institutions~~ [institution](#) of higher education ~~of the Commonwealth, and as~~

5565 ~~provided in §§ 2.2-2817.2, 2.2-2905, 51.1-126.3, and 51.1-1100 in the case of the University of~~
5566 ~~Virginia Medical Center, unless otherwise expressly provided in this subchapter chapter.~~

5567 "Facilities" means all (i) real, personal, tangible, and intangible ~~property or rights in~~
5568 ~~property, real and personal, tangible and intangible~~, including ~~but not limited to~~ all ~~facilities and~~
5569 (a) infrastructure suitable for supporting a covered institution's mission and ancillary activities
5570 and ~~including any and all~~ (b) structures, buildings, improvements, additions, extensions,
5571 replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches,
5572 roadways, and other related and supporting facilities, ~~now or hereafter~~ held, possessed, owned,
5573 leased, operated, or used, in whole or in part, by a covered institution and (ii) rights in such
5574 property.

5575 "Includes" has the same meaning as provided in § 1-218.

5576 "Management agreement" means an agreement ~~required by subsection D of § 23-38.88~~
5577 between the Commonwealth and a public institution of higher education seeking to become
5578 governed by Subchapter 3 Article 4 (§ 23-38.91 23.1-1004 et seq.) ~~of this chapter.~~

5579 "Participating covered employee" includes (i) all salaried nonfaculty covered employees
5580 who were employed by the covered institution on the day prior to the effective date of the initial
5581 management agreement and elect pursuant to § 23.1-1022 to participate in and be governed by
5582 the program, plans, policies, and procedures established by the institution pursuant to Article 4
5583 (§ 23.1-1004 et seq.); (ii) all salaried nonfaculty covered employees who are employed by the
5584 covered institution on or after the effective date of the initial management agreement; (iii) all
5585 nonsalaried nonfaculty covered employees of the covered institution without regard to when
5586 they were hired; (iv) all faculty covered employees of the covered institution without regard to
5587 when they were hired; and (v) all employees of the University of Virginia Medical Center
5588 without regard to when they were hired.

5589 "Project" means (i) any research ~~programs and any program~~, research facility, or
5590 educational facility of an a covered institution ~~governed by Subchapter 3 (§ 23-38.91 et seq.) of~~
5591 ~~this chapter~~ or equipment necessary or convenient to or consistent with the purposes of such

5592 institution, whether or not owned by the institution, including, ~~without limitation,~~ (a) research,
5593 training, teaching, dormitory, and classroom facilities; and all related and supporting facilities;
5594 and equipment necessary or desirable in connection ~~therewith~~ with such facilities or incidental
5595 ~~thereto; or equipment alone; and also including, without limitation,~~ to such facilities; (b) office,
5596 parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative,
5597 communications, computer, and recreational and athletic facilities; (c) hotels and related
5598 facilities; (d) power plants and equipment; (e) storage space; (f) hospitals; (g) nursing homes;
5599 (h) continuing care facilities; (i) self-care facilities; (j) health maintenance centers; (k) medical
5600 office facilities; (l) clinics; (m) outpatient clinics; (n) surgical centers; (o) alcohol, substance
5601 abuse, and drug treatment centers; ~~laboratories;~~ (p) sanitariums; (q) hospices; (r) facilities for
5602 the residence or care of the elderly, ~~the~~ handicapped, or ~~the~~ chronically ill; (s) residential
5603 facilities for nurses, interns, and physicians; (t) other ~~kinds of~~ facilities for the treatment of sick,
5604 disturbed, or infirm ~~persons or individuals,~~ the prevention of disease, or ~~the~~ maintenance of
5605 health; (u) colleges, schools, or divisions offering undergraduate, graduate, professional, or
5606 extension programs, or any combination of such programs, for such branches of learning as may
5607 be appropriate; (v) vehicles, mobile medical facilities, and other transportation equipment;
5608 ~~together with mobile medical facilities;~~ and (w) air transport equipment, including equipment
5609 necessary or desirable for the transportation of medical equipment, medical personnel, or
5610 patients; and (ii) all lands, buildings, improvements, approaches, and appurtenances necessary
5611 or desirable in connection with or incidental to any such program, facility, or equipment.

5612 ~~"Public institution of higher education" means a two-year or four-year public institution~~
5613 ~~of higher education.~~

5614 "Virginia Retirement System" ~~means that includes any~~ retirement system, ~~or other~~
5615 ~~authorized retirement system,~~ established ~~pursuant to or authorized by~~ Title 51.1.

5616 **Drafting note: This proposed section incorporates the definition of "participating**
5617 **covered employee" from subsection C of existing § 23-38.114. The definition of "public**
5618 **institution of higher education" is stricken as that term is now defined title-wide pursuant**

5619 to proposed § 23.1-100. The definition of "capital project" is updated to reflect provisions
5620 of the general appropriation act. Technical changes are made.

5621 Article 2.

5622 Financial and Administrative Standards, Authority, and Incentives.

5623 **Drafting note: Proposed Article 2 incorporates the provisions of existing §§ 2.2-**
5624 **5004, 2.2-5005, and 23-38.88 relating to financial and administrative standards, authority,**
5625 **and incentives for public institutions of higher education.**

5626 **Note to drafters: Include repeal of §§ 2.2-5004 and 2.2-5005 in the final bill.**

5627 § ~~2.2-5004~~ 23.1-1001. Financial and administrative management standards for public
5628 institutions of higher education.

5629 ~~For purposes of this chapter:~~

5630 ~~"Public institution of higher education" means the same as that term is defined in § 23-~~
5631 ~~38.89.~~

5632 A. ~~Every~~ Each public institution of higher education ~~in the Commonwealth~~ shall ~~take all~~
5633 ~~appropriate actions to~~ meet the following financial and administrative management standards:

5634 1. An unqualified opinion from the Auditor of Public Accounts upon the audit of the
5635 public institution's financial statements;

5636 2. No significant audit deficiencies attested to by the Auditor of Public Accounts;

5637 3. Substantial compliance with all financial reporting standards approved by the State
5638 Comptroller;

5639 4. Substantial attainment of accounts receivable standards approved by the State
5640 Comptroller, including ~~but not limited to~~, any standards for outstanding receivables and bad
5641 debts;

5642 5. Substantial attainment of accounts payable standards approved by the State
5643 Comptroller including ~~but not limited to~~, any standards for accounts payable past due; and

5644 6. ~~Such other~~ Other financial and administrative management standards ~~as established by~~
5645 the Governor ~~may establish, or as may be or~~ included in the general appropriation act currently
5646 in effect.

5647 B. ~~Any~~ Each public institution of higher education that does not meet all of the financial
5648 management standards in subsection A, ~~including any established by the Governor, and such~~
5649 ~~other financial management standards as may be included in the appropriation act currently in~~
5650 ~~effect as determined in a~~ according to the written certification ~~by of~~ the Auditor of Public
5651 Accounts pursuant to § 30-133.1 shall develop and implement a written plan of corrective action
5652 ~~for purposes of meeting to meet~~ such standards as soon as practicable. The ~~Chairman~~ chairman
5653 ~~or rector~~ of the ~~Board of Visitors or other~~ governing ~~body~~ board of the public institution of
5654 higher education shall promptly provide a copy of the completed written plan to the Auditor of
5655 Public Accounts and the Secretaries of Education, Finance, and Administration ~~promptly upon~~
5656 ~~completion of the development of the written plan.~~

5657 C. ~~In addition, any~~ Each public institution of higher education that does not meet all of
5658 the administrative management standards ~~specified~~ established by the Governor, and such
5659 standards currently in effect for such institutions ~~as determined in a~~ according to the written
5660 certification ~~by of~~ the Auditor of Public Accounts pursuant to § 30-133.1 shall develop and
5661 implement a written plan of corrective action ~~for purposes of meeting to meet~~ such standards as
5662 soon as practical. ~~Copies~~ The chairman or rector of the ~~corrective action plan shall be provided~~
5663 ~~to the same persons included under subsection B upon completion~~ governing board of the
5664 ~~development~~ public institution of higher education shall promptly provide a copy of the
5665 completed written plan to the Auditor of Public Accounts and the Secretaries of Education,
5666 Finance, and Administration.

5667 **Drafting note: Proposed § 23.1-1001 incorporates the provisions of existing § 2.2-**
5668 **5004. The definition of "public institution of higher education" is stricken because that**
5669 **term is defined for the title pursuant to proposed § 23.1-100. Technical changes are made.**

5670 § ~~23-38.88~~ 23.1-1002. Eligibility for restructured financial and administrative
5671 operational authority and financial benefits.

5672 A. ~~Public institutions~~ The state goals for each public institution of higher education are
5673 to:

5674 1. Consistent with its institutional mission, provide access to higher education for all
5675 citizens throughout the Commonwealth, including underrepresented populations, and consistent
5676 with subdivision 4 of § 23.1-203 and in accordance with anticipated demand analysis, meet
5677 enrollment projections and degree estimates as agreed upon with the Council. Each such
5678 institution shall bear a measure of responsibility for ensuring that the statewide demand for
5679 enrollment is met;

5680 2. Consistent with § 23.1-306, ensure that higher education remains affordable,
5681 regardless of individual or family income, and through a periodic assessment determine the
5682 impact of tuition and fee levels net of financial aid on applications, enrollment, and student
5683 indebtedness incurred for the payment of tuition, mandatory fees, and other necessary charges;

5684 3. Offer a broad range of undergraduate and, where appropriate, graduate programs
5685 consistent with its mission and assess regularly the extent to which the institution's curricula and
5686 degree programs address the Commonwealth's need for sufficient graduates in particular
5687 shortage areas, including specific academic disciplines, professions, and geographic regions;

5688 4. Ensure that the institution's academic programs and course offerings maintain high
5689 academic standards by undertaking a continuous review and improvement of academic
5690 programs, course availability, faculty productivity, and other relevant factors;

5691 5. Improve student retention so that students progress from initial enrollment to a timely
5692 graduation and the number of degrees conferred increases as enrollment increases;

5693 6. Consistent with its institutional mission, develop articulation agreements that have
5694 uniform application to all comprehensive community colleges and meet appropriate general
5695 education and program requirements at the baccalaureate institution of higher education,

5696 provide additional opportunities for associate degree graduates to be admitted and enrolled, and
5697 offer dual enrollment programs in cooperation with high schools;

5698 7. Actively contribute to efforts to stimulate the economic development of the
5699 Commonwealth and the area in which the institution is located, and for those institutions subject
5700 to a management agreement pursuant to Article 4 (§ 23.1-1004 et seq.), in areas with below-
5701 state average income levels and employment rates;

5702 8. Consistent with its institutional mission, increase the level of externally funded
5703 research conducted at the institution and facilitate the transfer of technology from university
5704 research centers to private sector companies;

5705 9. Work actively and cooperatively with public elementary and secondary school
5706 administrators, teachers, and students to improve student achievement, upgrade the knowledge
5707 and skills of teachers, and strengthen leadership skills of school administrators;

5708 10. Prepare a six-year financial plan consistent with § 23.1-306;

5709 11. Conduct the institution's business affairs in a manner that (i) helps maximize the
5710 operational efficiencies and economies of the institution and the Commonwealth and (ii) meets
5711 all financial and administrative management standards pursuant to § 23.1-1001 specified by the
5712 Governor and included in the current general appropriation act, which shall include best
5713 practices for electronic procurement and leveraged purchasing, information technology, real
5714 estate portfolio management, and diversity of suppliers through fair and reasonable
5715 consideration of small, women-owned, and minority-owned business enterprises; and

5716 12. Seek to ensure the safety and security of students on campus.

5717 B. Each public institution of higher education shall be eligible for the following
5718 restructured financial and operational authority that meets the state goals set forth in subsection
5719 A on or after August 1, 2005 may:

5720 1. To dispose Dispose of their its surplus materials at the location where the surplus
5721 materials are held and ~~to~~ retain any proceeds from such disposal as provided in subdivision B 14
5722 of § 2.2-1124;

5723 2. ~~To have the option, as~~ As provided in and pursuant to the conditions in subsection C
5724 of § 2.2-1132 ~~and pursuant to the conditions and provisions under such subsection, to~~ contract
5725 with a building official of the locality in which construction is taking place and for such official
5726 to perform any inspection and certifications required ~~for the purpose of complying to comply~~
5727 with the Uniform Statewide Building Code (§ 36-97 et seq.) pursuant to subsection C of § 36-
5728 98.1;

5729 3. For ~~those each~~ public ~~institutions~~ institution of higher education that ~~have~~ has in effect
5730 a signed memorandum of understanding with the Secretary of Administration regarding
5731 participation in the nongeneral fund decentralization program as set forth in the general
5732 appropriation act, as provided in subsection C of § 2.2-1132, ~~to~~ enter into contracts for specific
5733 construction projects without the preliminary review and approval of the Division of
5734 Engineering and Buildings of the Department of General Services, provided such institutions are
5735 in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.)
5736 and utilize the general terms and conditions for those forms of procurement approved by the
5737 Division of Engineering and Buildings and the Office of the Attorney General;

5738 4. ~~To acquire~~ Acquire easements as provided in subdivision 4 of § 2.2-1149;

5739 5. ~~To enter~~ Enter into an operating/income lease or capital lease pursuant to the
5740 conditions and provisions ~~provided~~ in subdivision 5 of § 2.2-1149;

5741 6. ~~To convey~~ Convey an easement pertaining to any property such institution owns or
5742 controls as provided in subsection C of § 2.2-1150;

5743 7. In accordance with the conditions and provisions ~~of in~~ subdivision C 2 of § 2.2-1153,
5744 ~~to~~ sell surplus real property that is possessed and controlled by the institution and valued at less
5745 than \$5 million, ~~which is possessed and controlled by the institution;~~

5746 8. For purposes of compliance with § 2.2-4310, ~~to~~ procure goods, services, and
5747 construction from a vendor that the institution has certified as a small, women-owned, ~~and or~~ or
5748 minority-owned business enterprise pursuant to the conditions and provisions ~~provided~~ in § 2.2-
5749 1609;

5750 9. ~~To be~~ Be exempt from review of their budget request for information technology by
5751 the CIO as provided in subdivision A 4 of § 2.2-2007;

5752 10. ~~To be allowed to establish~~ Adopt policies for the designation of administrative and
5753 professional faculty positions at the institution pursuant to the conditions and provisions
5754 provided in subsection E of § 2.2-2901;

5755 11. ~~To receive the financial benefits described under § 2.2-5005 pursuant to the~~
5756 ~~conditions and provisions of such section;~~

5757 12. ~~To be~~ Be exempt from reporting its purchases to the Secretary of Education,
5758 provided that all purchases, including sole source purchases, are placed through the
5759 Commonwealth's electronic procurement system using proper system codes for the methods of
5760 procurement; and

5761 13. ~~To utilize~~ 12. Utilize as methods of procurement a fixed price, design-build, or
5762 construction management contract notwithstanding the provisions of § 2.2-4306; ~~and~~

5763 14. ~~The restructured financial and operational authority set forth in Article 2 (§ 23-~~
5764 ~~38.90) and Article 3 (§ 23-38.91 et seq.).~~

5765 ~~No such authority shall be granted unless the institution meets the conditions set forth in~~
5766 ~~this chapter.~~

5767 B. ~~The Board of Visitors of a public institution of higher education shall commit to the~~
5768 ~~Governor and the General Assembly by August 1, 2005, through formal resolution adopted~~
5769 ~~according to its own bylaws, to meeting the state goals specified below, and shall be responsible~~
5770 ~~for ensuring that such goals are met, in addition to such other responsibilities as may be~~
5771 ~~prescribed by law. Each such institution shall commit to the Governor and the General~~
5772 ~~Assembly to:~~

5773 1. ~~Consistent with its institutional mission, provide access to higher education for all~~
5774 ~~citizens throughout the Commonwealth, including underrepresented populations, and, consistent~~
5775 ~~with subdivision 4 of § 23-9.6:1 and in accordance with anticipated demand analysis, meet~~
5776 ~~enrollment projections and degree estimates as agreed upon with the State Council of Higher~~

5777 ~~Education for Virginia. Each such institution shall bear a measure of responsibility for ensuring~~
5778 ~~that the statewide demand for enrollment is met;~~

5779 ~~2. Consistent with § 23-38.87:17, ensure that higher education remains affordable,~~
5780 ~~regardless of individual or family income, and through a periodic assessment, determine the~~
5781 ~~impact of tuition and fee levels net of financial aid on applications, enrollment, and student~~
5782 ~~indebtedness incurred for the payment of tuition and fees;~~

5783 ~~3. Offer a broad range of undergraduate and, where appropriate, graduate programs~~
5784 ~~consistent with its mission and assess regularly the extent to which the institution's curricula and~~
5785 ~~degree programs address the Commonwealth's need for sufficient graduates in particular~~
5786 ~~shortage areas, including specific academic disciplines, professions, and geographic regions;~~

5787 ~~4. Ensure that the institution's academic programs and course offerings maintain high~~
5788 ~~academic standards, by undertaking a continuous review and improvement of academic~~
5789 ~~programs, course availability, faculty productivity, and other relevant factors;~~

5790 ~~5. Improve student retention such that students progress from initial enrollment to a~~
5791 ~~timely graduation, and that the number of degrees conferred increases as enrollment increases;~~

5792 ~~6. Consistent with its institutional mission, develop articulation agreements that have~~
5793 ~~uniform application to all Virginia community colleges and meet appropriate general education~~
5794 ~~and program requirements at the four-year institution, provide additional opportunities for~~
5795 ~~associate degree graduates to be admitted and enrolled, and offer dual enrollment programs in~~
5796 ~~cooperation with high schools;~~

5797 ~~7. Actively contribute to efforts to stimulate the economic development of the~~
5798 ~~Commonwealth and the area in which the institution is located, and for those institutions subject~~
5799 ~~to a management agreement set forth in Article 3 (§ 23-38.91 et seq.), in areas that lag the~~
5800 ~~Commonwealth in terms of income, employment, and other factors;~~

5801 ~~8. Consistent with its institutional mission, increase the level of externally funded~~
5802 ~~research conducted at the institution and facilitate the transfer of technology from university~~
5803 ~~research centers to private sector companies;~~

5804 ~~9. Work actively and cooperatively with elementary and secondary school~~
5805 ~~administrators, teachers, and students in public schools and school divisions to improve student~~
5806 ~~achievement, upgrade the knowledge and skills of teachers, and strengthen leadership skills of~~
5807 ~~school administrators;~~

5808 ~~10. Prepare a six year financial plan consistent with § 23-38.87:17;~~

5809 ~~11. Conduct the institution's business affairs in a manner that maximizes operational~~
5810 ~~efficiencies and economies for the institution, contributes to maximum efficiencies and~~
5811 ~~economies of state government as a whole, and meets the financial and administrative~~
5812 ~~management standards as specified by the Governor pursuant to § 2.2-5004 and included in the~~
5813 ~~appropriation act that is in effect, which shall include best practices for electronic procurement~~
5814 ~~and leveraged purchasing, information technology, real estate portfolio management, and~~
5815 ~~diversity of suppliers through fair and reasonable consideration of small, women-owned, and~~
5816 ~~minority-owned business enterprises; and~~

5817 ~~12. Seek to ensure the safety and security of the Commonwealth's students on college~~
5818 ~~and university campuses.~~

5819 ~~Upon making such commitments to the Governor and the General Assembly by August~~
5820 ~~1, 2005, the public institution of higher education shall be allowed to exercise the restructured~~
5821 ~~financial and operational authority set forth in subdivisions A 1 through A 13, subject to such~~
5822 ~~conditions as may be provided under the enabling statutes granting the additional authority.~~

5823 ~~C. As provided in § 23-9.6:1.01, the State Council of Higher Education shall in~~
5824 ~~consultation with the respective chairmen of the House Committees on Education and~~
5825 ~~Appropriations and the Senate Committees on Finance and Education and Health or their~~
5826 ~~designees, representatives of public institutions of higher education, and such other state~~
5827 ~~officials as may be designated by the Governor, develop objective measures of educational-~~
5828 ~~related performance and institutional performance benchmarks for such objective measures. At~~
5829 ~~a minimum, the State Council shall develop such objective measures and institutional~~
5830 ~~performance benchmarks for the goals and objectives set forth in subdivisions B 1 through B 10~~

~~5831 and B 12. In addition, the Governor shall develop objective measures of financial and
5832 administrative management performance and related institutional performance benchmarks for
5833 the goals and objectives set forth in subdivision B 11.~~

~~5834 As provided in subsection C of § 23-9.6:1.01, any public institution of higher education
5835 that has been certified during the fiscal year by the State Council of Higher Education for
5836 Virginia as meeting the institutional performance benchmarks in effect for the fiscal year as set
5837 forth in the general appropriation act shall be provided the financial benefits under § 2.2-5005.
5838 Such benefits shall first be provided as determined under such section. Objective criteria for
5839 measuring performance with regard to the state goals and objectives developed pursuant to
5840 subsection B, and benefits or consequences for meeting or not meeting those goals and
5841 objectives, shall be developed as provided in subdivision B 5 of § 23-38.87:20.~~

~~5842 D. 1. The restructured financial and operational authority set forth in Article 3 (§ 23-
5843 38.91 et seq.) shall only be granted in accordance with the expressed terms of a management
5844 agreement between the public institution of higher education and the Commonwealth.~~

~~5845 No restructured financial or operational authority set forth in Article 3 (§ 23-38.91 et
5846 seq.) shall be granted to a public institution of higher education unless such authority is
5847 expressly included in the management agreement. In addition, the only implied authority that
5848 shall be granted from entering into a management agreement is that implied authority that is
5849 actually necessary to carry out the expressed grant of restructured financial or operational
5850 authority. As a matter of law, the initial presumption shall be that any restructured financial or
5851 operational authority set forth in Article 3 (§ 23-38.91 et seq.) is not included in the
5852 management agreement. These requirements shall also apply to any other provision included in
5853 Article 3 (§ 23-38.91 et seq.).~~

~~5854 2. No public institution of higher education shall enter into a management agreement
5855 unless:~~

~~5856 a. (i) Its most current and unenhanced bond rating received from (a) Moody's Investors
5857 Service, Inc., (b) Standard & Poor's, Inc., or (c) Fitch Investor's Services, Inc. is at least AA-~~

~~5858 (i.e., AA minus) or its equivalent, provided that such bond rating has been received within the~~
~~5859 last three years of the date that the initial agreement is entered into or (ii) the institution has (a)~~
~~5860 participated in decentralization pilot programs in the areas of finance and capital outlay, (b)~~
~~5861 demonstrated management competency in those two areas as evidenced by a written~~
~~5862 certification from the Cabinet Secretary or Secretaries designated by the Governor, (c) received~~
~~5863 additional operational authority under a memorandum of understanding pursuant to § 23-38.90~~
~~5864 in at least one functional area, and (d) demonstrated management competency in that area for a~~
~~5865 period of at least two years. In submitting "The Budget Bill" for calendar year 2005 pursuant to~~
~~5866 subsection A of § 2.2-1509, the Governor shall include criteria for determining whether or not~~
~~5867 an institution has demonstrated the management competency required by clause (ii);~~

~~5868 b. An absolute two-thirds, or more, of the institution's governing body shall have voted~~
~~5869 in the affirmative for a resolution expressing the sense of the body that the institution is~~
~~5870 qualified to be, and should be, governed by the provisions of Article 3 (§ 23-38.91 et seq.),~~
~~5871 which resolution shall be included in the initial management agreement;~~

~~5872 c. The institution agrees to reimburse the Commonwealth for any additional costs to the~~
~~5873 Commonwealth in providing health or other group insurance benefits to employees, and in~~
~~5874 undertaking any risk management program, that are attributable to the institution's exercise of~~
~~5875 any restructured financial or operational authority set forth in Article 3 (§ 23-38.91 et seq.). The~~
~~5876 institution's agreement to reimburse the Commonwealth for such additional costs shall be~~
~~5877 expressly included in each management agreement with the institution. The Secretary of~~
~~5878 Finance and the Secretary of Administration, in consultation with the Virginia Retirement~~
~~5879 System and the affected institutions, shall establish procedures for determining any amounts to~~
~~5880 be paid by each institution and a mechanism for transferring the appropriate amounts directly~~
~~5881 and solely to the programs whose costs have been affected.~~

~~5882 In developing management agreements, public institutions of higher education shall give~~
~~5883 consideration to potential future impacts of tuition increases on the Virginia College Savings~~
~~5884 Plan (§ 23-38.75) and shall discuss such potential impacts with parties participating in~~

5885 ~~development of such agreements. The chief executive officer of the Virginia College Savings~~
5886 ~~Plan shall provide to the institution and such parties the Plan's assumptions underlying the~~
5887 ~~contract pricing of the program; and~~

5888 ~~d. Before executing a management agreement with the Commonwealth that affects~~
5889 ~~insurance or benefit programs administered by the Virginia Retirement System, the Governor~~
5890 ~~shall transmit a draft of the relevant provisions to the Board of Trustees of the Virginia~~
5891 ~~Retirement System, which shall review the relevant provisions in order to ensure compliance~~
5892 ~~with the applicable provisions of Title 51.1, administrative policies and procedures and federal~~
5893 ~~regulations governing retirement plans. The Board shall advise the Governor and appropriate~~
5894 ~~Cabinet Secretaries of any conflicts.~~

5895 ~~3. Each initial management agreement with an institution shall remain in effect for a~~
5896 ~~period of three years. Subsequent management agreements with the institution shall remain in~~
5897 ~~effect for a period of five years.~~

5898 ~~If an existing agreement is not renewed or a new agreement executed prior to the~~
5899 ~~expiration of the three-year or five-year term, as applicable, the existing agreement shall remain~~
5900 ~~in effect on a provisional basis for a period not to exceed one year. If, after the expiration of the~~
5901 ~~provisional one-year period, the management agreement has not been renewed or a new~~
5902 ~~agreement executed, the institution shall no longer be granted any of the financial or operational~~
5903 ~~authority set forth in Article 3 (§ 23-38.91 et seq.), unless and until such time as a new~~
5904 ~~management agreement is entered into between the institution and the Commonwealth.~~

5905 ~~The Joint Legislative Audit and Review Commission, in cooperation with the Auditor of~~
5906 ~~Public Accounts, shall conduct a review relating to the initial management agreement with each~~
5907 ~~public institution of higher education. The review shall cover a period of at least the first 24~~
5908 ~~months from the effective date of the management agreement. The review shall include, but~~
5909 ~~shall not be limited to, the degree of compliance with the expressed terms of the management~~
5910 ~~agreement, the degree to which the institution has demonstrated its ability to manage~~
5911 ~~successfully the administrative and financial operations of the institution without jeopardizing~~

~~5912 the financial integrity and stability of the institution, the degree to which the institution is
5913 meeting the objectives described in subsection B, and any related impact on students and
5914 employees of the institution from execution of the management agreement. The Joint
5915 Legislative Audit and Review Commission shall make a written report of its review no later
5916 than June 30 of the third year of the management agreement. The Joint Legislative Audit and
5917 Review Commission is authorized, but not required, to conduct a similar review of any
5918 management agreement entered into subsequent to the initial agreement.~~

~~5919 4. The right and power by the Governor to void a management agreement shall be
5920 expressly included in each management agreement. The management agreement shall provide
5921 that if the Governor makes a written determination that a public institution of higher education
5922 that has entered into a management agreement with the Commonwealth is not in substantial
5923 compliance with the terms of the agreement or with the requirements of this chapter in general,
5924 (i) the Governor shall provide a copy of that written determination to the chairmen of the Board
5925 of Visitors or other governing body of the public institution of higher education and to the
5926 members of the General Assembly, and (ii) the institution shall develop and implement a plan of
5927 corrective action, satisfactory to the Governor, for purposes of coming into substantial
5928 compliance with the terms of the management agreement and with the requirements of this
5929 chapter, as soon as practicable, and shall provide a copy of such corrective action plan to the
5930 members of the General Assembly. If after a reasonable period of time after the corrective
5931 action plan has been implemented by the institution, the Governor determines that the institution
5932 is not yet in substantial compliance with the management agreement or the requirements of this
5933 chapter, the Governor may void the management agreement. Upon the Governor voiding a
5934 management agreement, the affected public institution of higher education shall not be allowed
5935 to exercise any restructured financial or operational authority pursuant to the provisions of
5936 Article 3 (§ 23-38.91 et seq.) unless and until the institution enters into a subsequent
5937 management agreement with the Secretary or Secretaries designated by the Governor or the void
5938 management agreement is reinstated by the General Assembly.~~

5939 ~~5. A management agreement with a public institution of higher education shall not grant~~
5940 ~~any of the restructured financial or operational authority set forth in Article 3 (§ 23-38.91 et~~
5941 ~~seq.) to the Virginia Cooperative Extension and Agricultural Experiment Station, the University~~
5942 ~~of Virginia College at Wise, or the Virginia Institute of Marine Sciences or to an affiliated entity~~
5943 ~~of the institution unless such intent, as well as the degree of the restructured financial or~~
5944 ~~operational authority to be granted, is expressly included in the management agreement.~~

5945 ~~6. Following the execution of each management agreement with a public institution of~~
5946 ~~higher education and submission of that management agreement to the Chairmen of the House~~
5947 ~~Committee on Appropriations, the House Committee on Education, the Senate Committee on~~
5948 ~~Finance, and the Senate Committee on Education and Health pursuant to § 23-38.97, the~~
5949 ~~Governor shall include a recommendation for approval of the management agreement in "The~~
5950 ~~Budget Bill" submitted pursuant to subsection A of § 2.2-1509 or in his gubernatorial~~
5951 ~~amendments submitted pursuant to subsection E of § 2.2-1509 due by the December 20 that~~
5952 ~~immediately follows the date of submission of the management agreement to such Committees.~~
5953 ~~Following the General Assembly's consideration of whether to approve or disapprove the~~
5954 ~~management agreement as recommended, if the management agreement is approved as part of~~
5955 ~~the general appropriation act, it shall become effective on the effective date of such general~~
5956 ~~appropriation act. However, no management agreement shall be entered into by a public~~
5957 ~~institution of higher education and the Secretary or Secretaries designated by the Governor after~~
5958 ~~November 15 of a calendar year.~~

5959 ~~E. A covered institution and the members of its governing body, officers, directors,~~
5960 ~~employees, and agents shall be entitled to the same sovereign immunity to which they would be~~
5961 ~~entitled if the institution were not governed by this chapter; provided further, that the Virginia~~
5962 ~~Tort Claims Act (§ 8.01-195.1 et seq.) and its limitations on recoveries shall remain applicable~~
5963 ~~with respect to institutions governed by this chapter.~~

5964 ~~§ 2.2-5005. Incentive performance benefits to certain public institutions of higher~~
5965 ~~education.~~

5966 ~~As used in this section, unless the context requires a different meaning:~~
5967 ~~"Fiscal year of implementation" means the first full fiscal year for which the financial~~
5968 ~~and administrative management and educational related performance benchmarks described~~
5969 ~~under § 23-9.6:1.01 are effective, as provided in a general appropriation act.~~
5970 ~~Beginning with the fiscal year that immediately follows the fiscal year of~~
5971 ~~implementation and for all fiscal years thereafter, each C. Each~~ public institution of higher
5972 education that (i) has been certified during the fiscal year by the ~~State Council of Higher~~
5973 ~~Education of Virginia~~ pursuant to § ~~23-9.6:1.01~~ 23.1-206 as having met the institutional
5974 performance benchmarks for public institutions of higher education and (ii) meets the ~~conditions~~
5975 ~~prescribed state goals set~~ in subsection ~~B of § 23-38.88~~, A shall receive the following financial
5976 benefits:

- 5977 1. Interest on the tuition and fees and other nongeneral fund Educational and General
5978 Revenues deposited into the State Treasury by the ~~public institution of higher education~~, as
5979 provided in the general appropriation act. Such interest shall be paid from the general fund and
5980 shall be an appropriate and equitable amount as determined and certified in writing by the
5981 Secretary of Finance to the Comptroller by the end of each fiscal year; or as soon ~~thereafter~~ as
5982 practicable after the end of such fiscal year;
- 5983 2. Any unexpended appropriations of the public institution of higher education at the
5984 ~~close end~~ of the fiscal year, which shall be reappropriated and allotted for expenditure by the
5985 institution in the immediately following fiscal year; ~~and~~
- 5986 3. A pro rata amount of the rebate due to the Commonwealth on credit card purchases of
5987 \$5,000 or less made during the fiscal year. The amount to be paid to each institution shall equal
5988 a pro rata share based upon its total transactions of \$5,000 or less using the credit card that is
5989 approved for use by all state agencies as compared to all transactions of \$5,000 or less using
5990 such card by all state agencies. The Comptroller shall determine the public institution's pro rata
5991 share and, as provided in the general appropriation act, shall pay the institution by August 15, ~~or~~

5992 ~~as soon thereafter as practicable,~~ of the fiscal year immediately following the year of
5993 certification or as soon as practicable after August 15 of such fiscal year.

5994 The payment to an institution of its pro rata share under this subdivision shall also be
5995 applicable to other rebate or refund programs in effect that are similar to that of the credit card
5996 rebate program described in this subdivision. The Secretary of Finance shall identify such other
5997 rebate or refund programs and shall determine the pro rata share to be paid to the ~~public~~
5998 institution ~~of higher education;~~ and

5999 4. A rebate of any transaction fees for the prior fiscal year paid for sole source
6000 procurements made by the institution in accordance with subsection E of § 2.2-4303, for using a
6001 vendor ~~who that~~ is not registered with the Department of General ~~Service's~~ Services' web-based
6002 electronic procurement program commonly known as "eVA₂", as provided in the general
6003 appropriation act. Such rebate shall be certified by the Department of General Services and paid
6004 to each public institution by August 15, ~~or as soon thereafter as practicable,~~ of the fiscal year
6005 immediately following the year of certification or as soon as practicable after August 15 of such
6006 fiscal year.

6007 **Drafting note: For the sake of clarity, proposed subsection A incorporates the**
6008 **provisions of existing subsection B of § 23-38.88, and proposed subsection B incorporates**
6009 **the provisions of existing subsection A of § 23-38.88. Existing subsection C of § 23-38.88 is**
6010 **stricken as duplicative of provisions of existing §§ 23-9.6:1.01 (proposed § 23.1-206) and**
6011 **23-38.87:20 (proposed § 23.1-309). Existing subsections D and E of § 23-38.88, which relate**
6012 **to covered institutions, are stricken here and incorporated instead into proposed Article 4**
6013 **on covered institutions. Proposed subsection C incorporates the provisions of existing §**
6014 **2.2-5005. Existing subdivision A 11 of § 23-38.88 is stricken as duplicative of provisions of**
6015 **§ 2.2-5004 (subsection C of proposed § 23.1-1001). Existing subdivision A 14 of § 23-38.88**
6016 **is stricken here and incorporated instead into proposed subsection A of § 23.1-1003 and**
6017 **proposed subsection A of § 23.1-1004. Technical changes are made.**

6018 SUBCHAPTER 2.

6019 ~~FINANCIAL AND ADMINISTRATIVE MEMORANDA OF UNDERSTANDING.~~

6020 Article 3.

6021 Restructured Financial and Administrative Authority; Memorandum of Understanding.

6022 **Drafting note: Existing Subchapter 2 of Chapter 4.10 is reorganized as proposed**
6023 **Article 3 of Chapter 10.**

6024 ~~§ 23-38.90~~ 23.1-1003. Memoranda of understanding.

6025 Effective July 1, 2008, any A. Each public institution of higher education that meets the
6026 state goals set forth in subsection A of § 23.1-1002 may enter into a memorandum of
6027 understanding with the appropriate Cabinet Secretary ~~or Secretaries~~, as designated by the
6028 Governor, for ~~additional~~ restructured operational authority in any operational area ~~or areas~~
6029 adopted by the General Assembly in accordance with law, provided that the authority granted in
6030 the memorandum of understanding is consistent with that institution's ability to manage its
6031 operations in the particular area ~~or areas~~ and ~~provided that the following general criteria are met:~~

6032 1. The institution ~~has received and maintained Council certification (i) is certified by the~~
6033 Council pursuant to ~~§ 23-9.6:1.01, 23.1-206~~ or ~~(ii) upon the completion of the development of~~
6034 ~~the objective criteria for measuring goals and objectives described in subdivision B 5 of § 23-~~
6035 ~~38.87:20, pursuant to § 23-38.87:21~~ 23.1-310 for the most recent year that the Council has
6036 completed certification;

6037 2. An absolute two-thirds or more of the institution's governing ~~body shall have board~~
6038 has voted in the affirmative for a resolution expressing the sense of the ~~body board~~ that the
6039 institution is qualified to be, and should be, governed by memoranda of understanding ~~as~~
6040 provided in this chapter;

6041 3. The institution ~~shall adopt~~ adopts at least one new measure for each area of
6042 operational authority for which a memorandum of understanding is requested. Each measure
6043 shall be developed in consultation with (i) the appropriate Cabinet Secretary. ~~If the adopted~~
6044 ~~measure is education-related, then it shall be developed in consultation with~~ or (ii) the Secretary

6045 of Education and the Council if the measure is education-related. Any education-related
6046 measure ~~shall be approved by~~ is subject to the approval of the Council; and

6047 4. The institution ~~shall post~~ posts on the Department of General Services' central
6048 electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award
6049 notices, and emergency award notices to ensure visibility and access to the Commonwealth's
6050 procurement opportunities on one website.

6051 B. Within 15 days of receipt of a request from a public institution of higher education to
6052 enter into a memorandum of understanding ~~as provided in this section~~, the Cabinet Secretary ~~or~~
6053 Secretaries receiving ~~that the~~ request shall notify the Chairmen of the House Committee on
6054 Appropriations and the Senate Committee on Finance of the request. The Cabinet Secretary ~~or~~
6055 Secretaries shall determine within 90 calendar days whether ~~or not~~ to enter into the requested
6056 memorandum of understanding, or ~~some variation thereof~~ a modified memorandum of
6057 understanding.

6058 C. If the ~~determination is to enter~~ Cabinet Secretary enters into a memorandum of
6059 understanding with the public institution of higher education, ~~the Cabinet Secretary or~~
6060 Secretaries he shall forward a copy of the governing ~~body's board's~~ resolution and a copy of the
6061 memorandum of understanding to the Chairmen of the House Committee on Appropriations and
6062 the Senate Committee on Finance. Each initial memorandum of understanding shall remain in
6063 effect for ~~a period of~~ three years. Subsequent memoranda of understanding shall remain in effect
6064 for ~~a period of~~ five years.

6065 D. If the ~~determination is not to~~ Cabinet Secretary does not enter into a memorandum of
6066 understanding with the public institution of higher education, ~~the Cabinet Secretary or~~
6067 Secretaries he shall notify the Chairmen of the House Committee on Appropriations and the
6068 Senate Committee on Finance of the reasons for denying the institution's request. If an
6069 institution's request is denied, nothing in this section shall prohibit ~~the a public~~ institution of
6070 higher education from submitting a future request to enter into a memorandum of understanding
6071 pursuant to this section.

6072 **Drafting note: The original July 1, 2008, effective date for existing § 23-38.90 is**
6073 **stricken as obsolete. Proposed subsection A of § 23.1-1003 incorporates the provisions of**
6074 **existing subdivision A 14 of § 23-38.88. Technical changes are made.**

6075

~~SUBCHAPTER 3.~~

6076

~~ALTERNATIVE AUTHORITY FOR COVERED INSTITUTIONS.~~

6077

~~Article 1.~~

6078

~~Governance; Scope of Subchapter; Other Laws.~~

6079

~~Article 4.~~

6080

~~Restructured Financial and Administrative Authority; Covered Institutions; Management~~

6081

~~Agreements.~~

6082

Drafting note: Existing Subchapter 3 and each of its seven articles are reorganized

6083

as proposed Article 4 of Chapter 10.

6084

~~§ 23-38.91 23.1-1004. Responsibility and accountability for management of institution;~~

6085

~~governance Management agreement; eligibility and application.~~

6086

A. The ~~Board of Visitors governing~~ and administration of ~~a public university or college~~

6087

~~of the Commonwealth each public institutions of higher education~~ that ~~meets the state goals set~~

6088

~~forth in subsection A of § 23.1-1002 and~~ meets the requirements of this ~~subchapter article~~ to

6089

demonstrate the ability to manage successfully the administrative and financial operations of the

6090

institution without jeopardizing the financial integrity and stability of the institution may ~~enter~~

6091

~~into negotiation~~ negotiate with the Governor to develop a management agreement with the

6092

Commonwealth, ~~as provided in this subchapter to exercise restructured financial and~~

6093

~~administrative authority.~~ Consistent with the terms of the management agreement, the Board of

6094

~~Visitors shall assume full responsibility for management of the institution, subject to the~~

6095

~~requirements and conditions set forth in this subchapter, the general requirements for~~

6096

~~management agreements as provided in § 23-38.88, and the specific management agreement~~

6097

~~with the Commonwealth. The Board of Visitors shall be fully accountable for (a) the~~

6098

~~management of the institution of higher education as provided in this subchapter, (b) meeting~~

6099 ~~the requirements of §§ 2.2-5004, 23-9.6:1.01, and 23-38.87:17 or, upon the completion of the~~
6100 ~~development of the objective criteria for measuring goals and objectives described in~~
6101 ~~subdivision B 5 of § 23-38.87:20, § 23-38.87:21, and (c) meeting such other provisions as may~~
6102 ~~be set forth in the management agreement with the Commonwealth.~~

6103 ~~B. Each covered institution shall be governed and administered in the manner provided~~
6104 ~~in this subchapter but subject to the expressed terms of the management agreement entered into~~
6105 ~~pursuant to § 23-38.88, in the appropriation act, and in each such institution's enabling~~
6106 ~~legislation. No public institution of higher education shall enter into a management agreement~~
6107 ~~unless:~~

6108 ~~1. (i) Its most current and unenhanced bond rating received from Moody's Investors~~
6109 ~~Service, Inc., Standard & Poor's, Inc., or Fitch Investor's Services, Inc., is at least AA- (i.e., AA~~
6110 ~~minus) or its equivalent, provided that such bond rating has been received within the last three~~
6111 ~~years of the date that the initial management agreement is entered into or (ii) the institution has~~
6112 ~~participated in decentralization pilot programs in the areas of finance and capital outlay,~~
6113 ~~demonstrated management competency in those two areas as evidenced by a written~~
6114 ~~certification from the Cabinet Secretary designated by the Governor, received restructured~~
6115 ~~operational authority under a memorandum of understanding pursuant to Article 3 (§ 23.1-1003~~
6116 ~~et seq.) in at least one functional area, and demonstrated management competency in that area~~
6117 ~~for a period of at least two years;~~

6118 ~~2. At least an absolute two-thirds of the institution's governing board has voted in the~~
6119 ~~affirmative for a resolution in support of a request for restructured operational authority under a~~
6120 ~~management agreement;~~

6121 ~~3. The institution submits to the Governor a written request for his approval of the~~
6122 ~~management agreement that contains evidence that (i) the institution possesses the necessary~~
6123 ~~administrative infrastructure, experience, and expertise to perform successfully its public~~
6124 ~~educational mission as a covered institution; (ii) the institution is financially able to operate as a~~
6125 ~~covered institution without jeopardizing the financial integrity and stability of the institution;~~

6126 (iii) the institution consistently meets the financial and administrative management standards
6127 pursuant to § 23.1-1001; and (iv) the institution's governing board has adopted performance and
6128 accountability standards, in addition to any institutional performance benchmarks included in
6129 the general appropriation act and developed pursuant to § 23.1-206, against which its
6130 implementation of the restructured operational authority under the management agreement can
6131 be measured;

6132 4. The institution provides a copy of the written request to the Chairmen of the House
6133 Committee on Appropriations, the House Committee on Education, the Senate Committee on
6134 Finance, and the Senate Committee on Education and Health;

6135 5. The institution agrees to reimburse the Commonwealth for any additional costs that
6136 the Commonwealth incurs to provide health or other group insurance benefits to employees and
6137 undertake any risk management program that are attributable to the institution's exercise of
6138 restructured operational authority. The Secretary of Finance and the Secretary of
6139 Administration, in consultation with the Virginia Retirement System and the affected
6140 institutions, shall establish procedures for determining any amounts to be paid by each
6141 institution and a mechanism for transferring the appropriate amounts directly and solely to the
6142 affected programs;

6143 6. The institution considers potential future impacts of tuition increases on the Virginia
6144 College Savings Plan and discusses such potential impacts with parties participating in
6145 development of the management agreement. The chief executive officer of the Virginia College
6146 Savings Plan shall provide to the institution and such parties the Plan's assumptions underlying
6147 the contract pricing of the program; and

6148 7. The Governor transmits a draft of any management agreement that affects insurance
6149 or benefit programs administered by the Virginia Retirement System to the Board of Trustees of
6150 the Virginia Retirement System, which shall review the relevant provisions of the management
6151 agreement to ensure compliance with the applicable provisions of Title 51.1, administrative

6152 policies and procedures, and federal regulations governing retirement plans and advise the
6153 Governor and appropriate Cabinet Secretaries of any conflicts.

6154 **Drafting note: Proposed subsection A of § 23.1-1004 incorporates the provisions of**
6155 **existing subdivision A 14 of § 23-38.88. Proposed subsection B of § 23.1-1004 incorporates**
6156 **the provisions of existing subdivision D 2 of § 23-38.88 and existing subsection A of § 23-**
6157 **38.97. The second sentence of existing § 23-38.91 is stricken here and incorporated instead**
6158 **into proposed subsection L of § 23.1-1006. Existing subsection B of § 23-38.91 is stricken**
6159 **here and incorporated instead into proposed subsection C of § 23.1-1006. Technical**
6160 **changes are made.**

6161 ~~§ 23-38.97~~ 23.1-1005. Eligibility requirements and procedures; Approval of a
6162 management agreement.

6163 ~~A. Any public institution of higher education may initiate the process to be governed by~~
6164 ~~this subchapter by complying with the following requirements:~~

6165 ~~1. An absolute two-thirds, or more, of the institution's governing body shall have voted~~
6166 ~~in the affirmative for a resolution expressing the sense of the body that the institution is~~
6167 ~~qualified to be, and should be, governed by this subchapter.~~

6168 ~~2. Following such affirmative vote by such governing body, the institution shall submit~~
6169 ~~to the Governor a written request for his approval to be governed by this subchapter. A copy of~~
6170 ~~such request shall be sent to the Chairmen of the House Committee on Appropriations, the~~
6171 ~~House Committee on Education, the Senate Committee on Finance and the Senate Committee~~
6172 ~~on Education and Health. Such written request shall provide documentation substantiating that:~~
6173 ~~(i) the institution possesses the necessary administrative infrastructure, experience, and expertise~~
6174 ~~to perform successfully its public educational mission as a covered institution; (ii) the institution~~
6175 ~~is financially able to operate as a covered institution without jeopardizing the financial integrity~~
6176 ~~and stability of the institution; (iii) the institution consistently meets the financial and~~
6177 ~~administrative management standards pursuant to § 2.2-5004; and (iv) the institution's~~
6178 ~~governing body has adopted performance and accountability standards, in addition to any~~

6179 ~~institutional performance benchmarks included in the general appropriation act and developed~~
6180 ~~pursuant to § 23-9.6:1.01, against which its implementation of this additional authority can be~~
6181 ~~measured.~~

6182 ~~B.~~ If the Governor finds that the public institution of higher education meets the criteria
6183 set forth in ~~subdivision A 2, § 23.1-1004,~~ he shall authorize ~~those Cabinet Secretaries he deems~~
6184 ~~the~~ appropriate Cabinet Secretary to enter into a management agreement, ~~as described in § 23-~~
6185 ~~38.88,~~ with the governing body board of ~~that such~~ institution ~~addressing such matters as that~~
6186 ~~institution's in-state undergraduate student enrollment, its financial aid requirements and~~
6187 ~~capabilities, and its tuition policy for in-state undergraduate students.~~

6188 ~~C. Any B.~~ Each such management agreement, ~~executed by the designated Cabinet~~
6189 ~~Secretaries and governing body of the institution~~ shall be submitted ~~by~~ no later than the
6190 succeeding November 15 ~~of any given year~~ to the House Committee on Appropriations, the
6191 House Committee on Education, the Senate Committee on Finance, and the Senate Committee
6192 on Education and Health. The Governor shall include a recommendation for approval of the
6193 management agreement with the public institution of higher education in "The Budget Bill"
6194 submitted pursuant to subsection A of § 2.2-1509 or in his gubernatorial amendments submitted
6195 pursuant to subsection E of § 2.2-1509 due by the December 20 that immediately follows the
6196 date of submission of the management agreement to such Committees. ~~Following the~~

6197 C. The General ~~Assembly's consideration of whether~~ Assembly shall consider whether to
6198 approve or disapprove the management agreement as recommended, ~~if.~~ If the management
6199 agreement is approved as part of the general appropriation act, it shall become effective on the
6200 effective date of such general appropriation act.

6201 **Drafting note: Existing subsection A of § 23-38.97 is stricken here and incorporated**
6202 **instead into proposed subsection B of § 23.1-1004. A portion of existing subsection B of §**
6203 **23-38.97 is stricken here and incorporated instead into proposed § 23.1-1006.**

6204 ~~§ 23-38.92~~ 23.1-1006. Scope of subchapter Management agreement; contents and scope.

6205 A. ~~Any public~~ Each covered institution ~~of higher education~~ that complies with the
6206 requirements of this ~~subchapter article~~ shall ~~thereafter~~ have the powers and authority set forth in
6207 this ~~subchapter article~~ that are expressly included in the management agreement.

6208 B. Each management agreement ~~described in § 23-38.88~~, shall include:

6209 1. A copy of the governing board's resolution in support of a request for restructured
6210 operational authority;

6211 2. The institution's express agreement to reimburse the Commonwealth for any
6212 additional costs that the Commonwealth incurs to provide health or other group insurance
6213 benefits to employees and undertake any risk management program that are attributable to the
6214 institution's exercise of restructured operational authority;

6215 3. The institution's undergraduate Virginia student enrollment, financial aid requirements
6216 and capabilities, and tuition policy for undergraduate Virginia students; and

6217 4. A statement of the Governor's power to void the management agreement pursuant to
6218 subsection E of § 23.1-1007.

6219 C. There is a presumption that restructured operational authority is not included in the
6220 management agreement, and such authority shall only be granted to a covered institution if it is
6221 expressly included in the management agreement. The only implied authority that is granted to a
6222 covered institution is that which is necessary to carry out the express grant of restructured
6223 operational authority. Each covered institution shall be governed and administered in the
6224 manner provided in (i) this article but subject to the expressed terms of the management
6225 agreement, (ii) the general appropriation act, and (iii) the institution's enabling statutes.

6226 B.-D. Except as specifically made inapplicable under ~~this subchapter and this article or~~
6227 the express terms of a management agreement ~~described in § 23-38.88~~, the provisions of Title
6228 2.2 relating generally to the operation, management, supervision, regulation, and control of
6229 public institutions of higher education ~~shall be~~ are applicable to covered institutions as provided
6230 by the express terms of the management agreement ~~described in § 23-38.88~~.

6231 ~~C. E.~~ In the event of a conflict between any provision of Title 2.2 and any provision of
6232 ~~this subchapter as expressed by~~ the management agreement, the provisions of the management
6233 agreement shall control. In the event of a conflict between any provision of this ~~subchapter~~
6234 ~~article~~ and an institution's enabling ~~legislation statutes~~, the enabling ~~legislation shall~~ statutes
6235 control.

6236 ~~§ 23-38.96. Conflicts of interests.~~

6237 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-
6238 3100 et seq.) that are applicable to officers and employees of a state governmental agency shall
6239 continue to apply to the members of the governing ~~body board~~ and the ~~Covered Employees~~
6240 covered employees of a covered institution.

6241 G. A covered institution, its officers, directors, employees, and agents, and the members
6242 of its governing board are entitled to the same sovereign immunity to which they would be
6243 entitled if the institution were not governed by this article.

6244 H. The Virginia Tort Claims Act (§ 8.01-195.1 et seq.) and its limitations on recoveries
6245 remain applicable to covered institutions.

6246 I. A management agreement with a public institution of higher education shall not grant
6247 restructured operational authority to the Virginia Cooperative Extension Service and
6248 Agricultural Experiment Station Division, the University of Virginia's College at Wise, the
6249 Virginia Institute of Marine Science, or an affiliated entity of the institution unless the intent to
6250 grant such authority and the degree to which such authority is granted is expressly included in
6251 the management agreement.

6252 ~~§ 23-38.93. Educational policies of the Commonwealth; other requirements.~~

6253 ~~A. For purposes of §§ 2.2-5004, 23-1.01, 23-1.1, 23-2, 23-2.1, 23-2.1:1, 23-3, 23-4.2,~~
6254 ~~23-4.3, 23-4.4, 23-7.1:02, 23-7.4, 23-7.4:1, 23-7.4:2, 23-7.4:3, 23-7.5, 23-8.2:1, 23-9.1, 23-9.2,~~
6255 ~~23-9.2:3, 23-9.2:3.1 through 23-9.2:5, 23-9.6:1.01, Chapter 4.9 (§ 23-38.75 et seq.), and § 23-~~
6256 ~~38.87:17, J. For purposes of § 23.1-101, § 23.1-102, § 23.1-103, § 23.1-104, § 23.1-107,~~
6257 ~~Chapter 2 (§ 23.1-200 et seq.), § 23.1-306, § 23.1-402, § 23.1-403, § 23.1-404, Chapter 5 (§~~

6258 [23.1-500 et seq.](#), Chapter 6 (§ 23.1-600 et seq.), Chapter 7 (§ 23.1-700 et seq.), § 23.1-800, §
 6259 [23.1-801](#), § 23.1-901, § 23.1-1001, Chapter 11 (§ 23.1-1100 et seq.), Chapter 12 (§ 23.1-1200 et
 6260 [seq.](#)), subsections G, H, and I of § 23.1-1300, § 23.1-1302, and subdivision B of § 23.1-1303,
 6261 each covered institution shall remain a public institution of higher education—~~of the~~
 6262 ~~Commonwealth~~ following its conversion to a covered institution governed by this ~~chapter~~,
 6263 ~~article~~ and shall retain the authority granted and any obligations required by such provisions. ~~In~~
 6264 ~~addition, each covered institution shall retain the authority, and any obligations related to the~~
 6265 ~~exercise of such authority, that is granted to institutions of higher education pursuant to Chapter~~
 6266 ~~1.1 (§ 23-9.3 et seq.); Chapter 3 (§ 23-14 et seq.); Chapter 3.2 (§ 23-30.23 et seq.); Chapter 3.3~~
 6267 ~~(§ 23-30.39 et seq.); Chapter 4 (§ 23-31 et seq.); Chapter 4.01 (§ 23-38.10:2 et seq.); Chapter~~
 6268 ~~4.1 (§ 23-38.11 et seq.); Chapter 4.4 (§ 23-38.45 et seq.); Chapter 4.4:1 (§ 23-38.53:1 et seq.);~~
 6269 ~~Chapter 4.4:2 (§ 23-38.53:4 et seq.); Chapter 4.4:3 (§ 23-38.53:11); Chapter 4.4:4 (§ 23-~~
 6270 ~~38.53:12 et seq.); Chapter 4.5 (§ 23-38.54 et seq.); Chapter 4.7 (§ 23-38.70 et seq.); Chapter 4.8~~
 6271 ~~(§ 23-38.72 et seq.); and Chapter 4.9 (§ 23-38.75 et seq.).~~

6272 ~~B-K.~~ State government-owned or operated and state-owned teaching hospitals that are a
 6273 part of a covered institution as of the ~~institution's~~ effective date of the [covered institution's](#) initial
 6274 ~~Management Agreement~~ [management agreement](#) shall continue to be characterized as state
 6275 government-owned or operated and state-owned teaching hospitals for purposes of payments
 6276 under the ~~State Plan~~ [state plan](#) for ~~Medicaid Services~~ [medical assistance services](#) adopted
 6277 pursuant to § 32.1-325 ~~et seq.~~, provided that the covered institution commits to serve indigent
 6278 and medically indigent patients, ~~in which event.~~ [If such covered institution commits to serve](#)
 6279 [indigent and medically indigent patients.](#) the Commonwealth, through the Department of
 6280 Medical Assistance Services, shall, subject to the appropriation in the [current general](#)
 6281 appropriation act ~~in effect~~, continue to reimburse the full cost of the provision of care, treatment,
 6282 health-related [services](#), and educational services to indigent and medically indigent patients and
 6283 continue to treat hospitals that were part of a covered institution and that were Type One

6284 Hospitals prior to the ~~institution's~~ effective date of the covered institution's initial ~~Management~~
6285 Agreement management agreement as Type One Hospitals for purposes of such reimbursement.

6286 L. Consistent with the terms of the management agreement, the governing board of each
6287 covered institution shall assume full responsibility for management of the institution, subject to
6288 the requirements and conditions set forth in this article and the management agreement and shall
6289 be fully accountable for meeting the requirements of §§ 23.1-206, 23.1-306, and 23.1-310 and
6290 such other provisions as may be set forth in the management agreement.

6291 **Drafting note: Proposed subsections D and E incorporate the provisions of existing**
6292 **subsections B and C of § 23-38.92. Proposed subdivision B 3 incorporates a portion of**
6293 **existing subsection B of § 23-38.97. The remainder of proposed subsection B and**
6294 **subsections G, H, and I incorporate portions of existing subsections D and E of § 23-38.88.**
6295 **Proposed subsection C incorporates the provisions of the second paragraph of existing**
6296 **subdivision D 1 of § 23-38.88 and existing subsection B of § 23-38.91. Proposed subsection**
6297 **F incorporates the provisions of existing § 23-38.93. Proposed subsections J and K**
6298 **incorporate the provisions of existing § 23-38.96. Proposed subsection L incorporates the**
6299 **provisions of the second sentence of existing § 23-38.91. Technical changes are made.**

6300 Article 2.

6301 Eligibility Requirements and Procedures; Management Agreement.

6302 **Drafting note: The article structure of existing Subchapter 3 of is not retained in**
6303 **proposed Chapter 10.**

6304 § 23-38.94 23.1-1007. Audits Management agreement; duration and oversight.

6305 A. Each initial management agreement shall remain in effect for a period of three years.

6306 Subsequent management agreements shall remain in effect for a period of five years.

6307 B. If an existing management agreement is not renewed or a new management
6308 agreement is not executed prior to the expiration date, the existing agreement shall remain in
6309 effect on a provisional basis for a period not to exceed one year. If, after the expiration of the
6310 provisional one-year period, the management agreement has not been renewed or a new

6311 agreement has not been executed, the public institution of higher education shall not exercise
6312 such restructured operational authority until it enters into a new management agreement with the
6313 Commonwealth.

6314 C. The Joint Legislative Audit and Review Commission, in cooperation with the Auditor
6315 of Public Accounts, shall review, for at least the first 24 months from the effective date of the
6316 management agreement, the level of compliance with the expressed terms of the management
6317 agreement, the degree to which the public institution of higher education has demonstrated its
6318 ability to manage successfully the administrative and financial operations of the institution
6319 without jeopardizing the financial integrity and stability of the institution, the degree to which
6320 the institution is meeting the state goals set forth in subsection A of § 23.1-1002, and any impact
6321 that the management agreement has had on students and employees of the institution. The Joint
6322 Legislative Audit and Review Commission shall make a written report of its review no later
6323 than June 30 of the third year of the management agreement. The Joint Legislative Audit and
6324 Review Commission may conduct a similar review of any management agreement entered into
6325 subsequent to the initial agreement.

6326 D. The Auditor of Public Accounts or his legally authorized representatives shall audit
6327 annually accounts of all covered institutions and shall distribute copies of each annual audit to
6328 the Governor and to the Chairmen of the House Committee on Appropriations and the Senate
6329 Committee on Finance. Pursuant to § 30-133, the Auditor of Public Accounts and his legally
6330 authorized representatives shall examine annually the accounts and books of each such
6331 institution; ~~however, a, but no~~ covered institution shall ~~not~~ be deemed ~~to be~~ a state or
6332 governmental agency, advisory agency, public body, or agency or instrumentality for purposes
6333 of Chapter 14 (§ 30-130 et seq.) of Title 30 except for those provisions in such chapter that
6334 relate to requirements for financial recordkeeping and bookkeeping. Each covered institution
6335 shall be is subject to ~~periodic external review by the Joint Legislative and Audit Review~~
6336 ~~Commission and~~ such other reviews and audits as ~~shall be~~ are required by law.

6337 E. If the Governor makes a written determination that the covered institution is not in
6338 substantial compliance with the terms of the management agreement or with the requirements of
6339 this chapter, he shall provide a copy of that written determination to the chairman or rector of
6340 the governing board of the covered institution and to the General Assembly, and the covered
6341 institution shall develop and implement a plan of corrective action. The covered institution shall
6342 provide a copy of such corrective action plan to the Governor and General Assembly. If the
6343 Governor determines that the covered institution is not yet in substantial compliance with the
6344 management agreement or the requirements of this chapter after a reasonable period of time
6345 following the implementation of the corrective action plan, the Governor may void the
6346 management agreement and the institution's status as a covered institution shall terminate and it
6347 shall not exercise such restructured operational authority until the institution enters into a
6348 subsequent management agreement with the Cabinet Secretary designated by the Governor or
6349 the voided management agreement is reinstated by the General Assembly.

6350 ~~§ 23-38.98. Revocation of management agreement.~~

6351 F. An institution's status as a covered institution may be revoked by an act of the General
6352 Assembly ~~(i)~~ if the institution fails to meet the requirements of this ~~subchapter, or (ii) if the~~
6353 institution fails to meet the requirements of the management agreement as provided in § 23-
6354 38.88. An institution's status as a covered institution shall terminate upon the Governor voiding
6355 the management agreement with the institution as provided under subdivision D 4 of § 23-38.88
6356 article or the management agreement.

6357 **Drafting note: Proposed subsections A, B, C, and E incorporate portions of existing**
6358 **subsection D of § 23-38.88. Proposed subsection D incorporates the provisions of existing §**
6359 **23-38.94. The reference to periodic reviews by the Joint Legislative Audit and Review**
6360 **Commission in proposed subsection D is stricken as duplicative of language in proposed**
6361 **subsection C. Proposed subsection F incorporates the provisions of existing § 23-38.98.**
6362 **Technical changes are made.**

6363 ~~§ 23-38.95.~~

6364 **Drafting note: Repealed by Acts 2013, c. 577, cl. 2.**

6365 Article 3.

6366 Powers and Authority Generally.

6367 **Drafting note: The article structure of existing Subchapter 3 of Chapter 4.10 is not**
6368 **retained in proposed Chapter 10.**

6369 § ~~23-38.99~~ 23.1-1008. Powers and Covered institutions; operational authority generally.

6370 In addition to those powers granted in each covered institution's enabling ~~legislation~~
6371 statutes and ~~in~~ the general appropriation act, ~~a~~ each covered institution, subject to the express
6372 provisions of the management agreement ~~as provided in § 23-38.88, shall have, may exercise~~ all
6373 the powers and authority necessary or convenient to carry out the purposes and provisions of
6374 this ~~subchapter. The powers of the Board of Visitors of the institution shall include~~ article and:

6375 1. ~~To make~~ Make and execute contracts, guarantees, or any other instruments and
6376 agreements necessary or convenient ~~for to~~ the exercise of its powers, authority, and functions,
6377 including, ~~without limitation, to make and execute~~ contracts with persons to (i) operate and
6378 manage any or all of the covered institution's facilities or operations; and ~~to~~ (ii) incur liabilities
6379 and secure the obligations of any entity or individual; ~~;~~ provided, however, that no covered
6380 institution may pledge the faith and credit of the Commonwealth or enter into an
6381 indemnification agreement or binding arbitration agreement contrary to ~~the law of Virginia~~
6382 applicable to state agencies; state law;

6383 2. ~~To conduct~~ Conduct or engage in any lawful business, activity, effort, or project
6384 consistent with the covered institution's purposes or necessary or convenient to the exercise of
6385 its powers and authority; ~~;~~ and

6386 3. ~~To procure such~~ Procure insurance, participate in ~~such~~ insurance plans, provide ~~such~~
6387 self-insurance, continue participation in the Commonwealth's insurance or self-insurance plans,
6388 continue ~~to participate~~ participation in the Commonwealth's risk management programs, and
6389 continue participation in the Virginia Retirement System or other Commonwealth sponsored
6390 retirement plans subject to the conditions ~~and provisions of Article 6 (§ 23-38.114 et seq.) of~~

6391 ~~this subchapter, or in §§ 23.1-1020 through 23.1-1026, and~~ any combination of the foregoing, as
 6392 provided in this ~~subchapter article~~. The purchase of insurance, participation in an insurance
 6393 plan, or creation of a self-insurance plan by the covered institution shall not be deemed a waiver
 6394 or relinquishment of any sovereign immunity to which the covered institution or its officers,
 6395 directors, employees, or agents are otherwise entitled. ~~The fact that a covered institution is~~
 6396 ~~governed by this subchapter shall not disqualify it from participating~~ Covered institutions may
 6397 participate in any Commonwealth or Virginia Retirement System insurance, self-insurance, or
 6398 risk management program on the same terms and conditions applicable to other state agencies
 6399 and other public institutions of higher education.

6400 **Drafting note: Technical changes.**

6401 § ~~23-38.100~~ 23.1-1009. ~~Operation of projects~~ Covered institutions; operational authority;
 6402 projects.

6403 A. ~~A~~ Each covered institution ~~may be authorized to~~ acquire, plan, design, construct, own,
 6404 rent as landlord or tenant, operate, control, remove, renovate, enlarge, equip, and maintain,
 6405 directly or through stock or nonstock corporations or other entities, any project ~~as defined in this~~
 6406 ~~subchapter~~. Such ~~projects~~ project may be owned or operated by the institution ~~or~~, other persons,
 6407 or jointly by such institution and other persons, and may be operated within or ~~without~~ outside
 6408 the Commonwealth, ~~so as~~ long as ~~their~~ (i) the operations of such project are necessary or
 6409 desirable to assist the institution in carrying out its public purposes within the Commonwealth,
 6410 and ~~so long as~~ (ii) any private benefit resulting to any such other private persons from any such
 6411 project is merely incidental to the public benefit of such project.

6412 B. ~~In~~ Each covered institution may continue, adopt, and enforce policies for the
 6413 operation of any facility, including any veterinary facility ~~or any~~, hospital, or other health care
 6414 and related ~~facilities~~ facility owned or operated by ~~a covered~~ the institution, ~~such institution may~~
 6415 ~~continue in effect or adopt and enforce all policies necessary or desirable for such operation~~.
 6416 Any such policies pertaining to the operation of any veterinary facility, hospital, or other health
 6417 care or related ~~facilities~~ facility may include, ~~without limitation, rules relating to~~ the conditions

6418 ~~under which the privilege~~ of practicing any health profession or veterinary medicine ~~may be~~
6419 ~~available therein in the facility~~, the admission and treatment of patients, the procedures for
6420 determining the qualification of patients for indigent care or other programs, and the protection
6421 of patients and employees, provided that such policies ~~shall do~~ not discriminate on the basis of
6422 race, religion, color, sex, national origin, or any other factor prohibited by law.

6423 **Drafting note: Technical changes.**

6424 § ~~23-38.101~~ 23.1-1010. ~~Creation~~ Covered institutions; operational authority; creation of
6425 entities; and participation in joint ventures.

6426 A. ~~A~~ Each covered institution may ~~create~~:

6427 1. (i) Create or assist in the creation of; ~~may (ii)~~ own in whole or in part or otherwise
6428 control; ~~may (iii)~~ participate in or with any entities, public or private; and ~~may (iv)~~ purchase,
6429 receive, subscribe for, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise
6430 acquire or dispose of any ~~(i) (a)~~ shares or obligations of, or other interests in, any ~~entities~~ entity
6431 organized for any purpose within or ~~without~~ outside the Commonwealth, and ~~(ii) (b)~~ obligations
6432 of any person or corporation. No part of the assets or net earnings of such institution shall inure
6433 to the benefit of, or be distributable to, any private individual; except that reasonable
6434 compensation may be paid for services rendered to or for such institution in furtherance of its
6435 public purposes; and benefits may be conferred that are in conformity with ~~said its public~~
6436 purposes.

6437 ~~B. A covered institution may participate~~ 2. Participate in joint ventures with individuals,
6438 corporations, governmental bodies or agencies, partnerships, associations, insurers, or other
6439 entities to facilitate any activities or programs consistent with ~~the its~~ public purposes and the
6440 intent of this ~~subchapter~~ article.

6441 ~~C. A covered institution may create~~ 3. Create or continue the existence of one or more
6442 nonprofit entities for the purpose of soliciting, accepting, managing, and administering grants,
6443 and gifts and bequests, including endowment gifts and bequests; and gifts and bequests in trust.

6444 ~~D. 4.~~ In carrying out any activities authorized by this ~~subchapter article~~, a covered
6445 ~~institution may~~ provide appropriate assistance, including (i) making loans from its funds, other
6446 than general fund appropriations or proceeds of bonds issued under Article X, Section 9 (a), 9
6447 (b), or 9 (c), ~~of the Constitution of Virginia~~ or ~~under Article X, Section 9 (d), if such issuance is~~
6448 ~~Commonwealth general fund supported~~, of the Constitution of Virginia, ~~if such issuance is~~
6449 ~~supported by general funds~~ and (ii) providing the time of its employees to corporations,
6450 partnerships, associations, joint ventures, or other entities, ~~whether or not such corporations,~~
6451 ~~partnerships, associations, joint ventures or other~~ entities are owned or controlled in whole or in
6452 part, ~~or~~ directly or indirectly, by such institution.

6453 **Drafting note: Technical changes.**

6454 § ~~23-38.102~~ 23.1-1011. ~~Campus Covered institutions; operational authority; campus~~
6455 police.

6456 A. A covered institution may establish or continue to operate ~~or establish~~ a campus
6457 police department in accordance with the provisions of ~~Chapter 17 Article 3~~ (§ ~~23-232~~ 23.1-809
6458 et seq.), ~~as those provisions are modified by this subchapter of Chapter 8~~. Campus police shall
6459 possess the powers provided in Article 3 of Chapter 17; provided however 8, except that a
6460 covered institution's employment of campus police ~~shall be is~~ governed by the provisions of this
6461 ~~subchapter article~~ rather than by Chapter 28 (§ 2.2-2800 et seq.) and Chapter 29 (§ 2.2-2900 et
6462 seq.) of Title 2.2.

6463 B. Campus police officers of a covered institution ~~shall be are~~ eligible to participate in
6464 the same state-sponsored retirement plans, ~~and~~ on the same terms and conditions, ~~that as~~ campus
6465 police officers of other public institutions of higher education ~~are eligible to participate in~~.

6466 **Drafting note: Technical changes.**

6467 ~~Article 4.~~

6468 ~~Institutional Management.~~

6469 **Drafting note: The article structure of existing Subchapter 3 is not retained in**
6470 **proposed Chapter 10.**

6471 § ~~23-38.104~~ 23.1-1012. ~~Financial~~ Covered institutions; operational authority; financial
6472 operations ~~of covered institutions~~ generally.

6473 A. ~~Subject to such accountability measures and audits as are provided in this subchapter~~
6474 ~~or as may otherwise be specifically made applicable by other law to institutions governed by~~
6475 ~~this subchapter and subject to the expressed terms of the management agreement described in §~~
6476 ~~23-38.88, a~~ Each covered institution may ~~be permitted~~ (i) ~~to~~ independently manage its
6477 operations and finances, including holding and investing its tuition, fees, research funds,
6478 auxiliary enterprise funds, and all other public funds; (ii) ~~to~~ create any ~~and all financial policies~~
6479 policy deemed necessary to conduct its financial operations; (iii) ~~to~~ adopt the budget for the
6480 institution; and (iv) ~~to~~ control the expenditures of all moneys generated or received by the
6481 institution, including tuition, fees, and other nongeneral fund revenue sources.

6482 B. Subject to the express terms of the management agreement ~~described in § 23-38.88, in~~
6483 ~~managing its operations and finances, the Board of Visitors, the governing board~~ of ~~a each~~
6484 covered institution ~~shall have~~ has the sole authority to establish tuition, ~~fee~~ mandatory fees,
6485 room, and board, and other necessary charges consistent with sum sufficient appropriation
6486 authority for all nongeneral funds as provided by the Governor and the General Assembly in the
6487 Commonwealth's biennial appropriations authorization appropriation act. ~~The Board of Visitors~~
6488 ~~shall include the institution's commitment to provide need-based grant aid for middle and~~
6489 ~~lower income Virginia students in a manner that encourages student enrollment and progression~~
6490 ~~without respect to potential increases in tuition and fees~~. In the event that the institution retains
6491 any ~~or all of the~~ nongeneral funds ~~are retained by the institution, the institution, it~~ shall invest
6492 such funds consistent with an investment policy established by the ~~Board of Visitors governing~~
6493 board and retain all income earned on such investments. In the event that the Commonwealth
6494 holds any ~~or all of the~~ nongeneral funds ~~are held~~ on behalf of the institution ~~by the~~
6495 Commonwealth of Virginia, the institution shall receive a share of the income earned by the
6496 Commonwealth on the investment of such funds as provided in subsection C of § 2-2-5005 23.1-
6497 1002.

6498 C. The governing board of each covered institution shall include in its six-year plan
6499 pursuant to § 23.1-306 its commitment to providing need-based grant aid for middle-income and
6500 lower-income Virginia students in a manner that encourages student enrollment and progression
6501 without respect to potential increases in tuition and fees.

6502 D. Each covered institution's management agreement ~~described in § 23-38.88~~ shall
6503 include the quantification of cost savings realized as a result of the ~~additional~~ restructured
6504 operational ~~flexibility provided~~ authority pursuant to this ~~subchapter~~ article.

6505 ~~D. A-E.~~ Each covered institution may enter into any contract ~~which the institution that it~~
6506 determines to be necessary or appropriate to place any bond or investment of the institution, in
6507 whole or in part, on the interest rate, cash flow, or other basis desired by the institution, ~~which~~
6508 ~~contract may include, without limitation, including~~ contracts commonly known as interest rate
6509 swap agreements, ~~and~~ futures ~~or, and~~ contracts providing for payments based on levels of, or
6510 changes in, interest rates. ~~These~~ Each covered institution may enter into such contracts ~~or~~
6511 ~~arrangements may be entered into by the institution~~ in connection with, or incidental to, or for
6512 the purpose of entering into, or maintaining any (i) agreement that secures bonds, notes, or other
6513 obligations or (ii) investment or contract providing for investment, otherwise authorized by law,
6514 including ~~but not limited to~~ § 23-38.105 23.1-1013. ~~These~~ Such contracts ~~and arrangements~~ may
6515 contain such payment, security, default, remedy, and other terms and conditions as determined
6516 by the institution, after giving due consideration to the creditworthiness of the counterpart or
6517 other obligated party, including any rating by any nationally recognized rating agency, and any
6518 other criteria ~~as that~~ may be appropriate. Any money set aside and pledged to secure payments
6519 of bonds, notes, or other obligations or any ~~of the contracts~~ contract entered into pursuant to this
6520 section may be pledged to and used to service any ~~of the contracts or agreements entered into~~
6521 ~~pursuant to this section~~ such contract.

6522 § 23-38.106. Records of financial transactions.

6523 F. The governing ~~body~~ board of ~~a~~ each covered institution shall adopt a system of
6524 independent financial management that includes bookkeeping and accounting procedures that

6525 have been prescribed for governmental organizations by the Government Accounting Standards
6526 Board.

6527 **Drafting note: Proposed subsection F incorporates the provisions of existing § 23-**
6528 **38.106. Technical changes are made.**

6529 § ~~23-38.105~~ 23.1-1013. ~~Investments~~ Covered institutions; operational authority;
6530 financial operations; investment of operating funds.

6531 ~~A~~ Each covered institution may invest its operating funds in any obligations or securities
6532 that are considered legal investments for public funds in accordance with Chapter 45 (§ 2.2-
6533 4500 et seq.) of Title 2.2. Such institution's governing ~~body~~ board shall adopt written investment
6534 guidelines ~~which that~~ provide that such investments shall be made solely in the interest of the
6535 covered institution and shall be undertaken with the care, skill, prudence, and diligence under
6536 the circumstances then prevailing that a prudent person acting in a like capacity and familiar
6537 with such matters would use in the conduct of an enterprise of a like character and with like
6538 aims.

6539 **Drafting note: Technical changes.**

6540 § ~~23-38.107~~ 23.1-1014. ~~Financing~~ Covered institutions; operational authority; financial
6541 operations; financing and indebtedness.

6542 A. ~~A~~ Each covered institution ~~shall have the authority to~~ may:

6543 1. Borrow money and issue bonds, notes, or other obligations as provided in this
6544 ~~subchapter article~~ and to purchase such bonds, notes, or other obligations;

6545 2. Seek financing from, incur, or assume indebtedness to, and enter into contractual
6546 commitments with, the Virginia Public Building Authority and the Virginia College Building
6547 Authority, which authorities are authorized to borrow money and make and issue negotiable
6548 notes, bonds, notes, or other obligations ~~and other evidences of indebtedness~~ to provide such
6549 financing relating to facilities or any project; and

6550 3. Seek financing from, incur, or assume indebtedness to, and enter into contractual
 6551 commitments with, the Commonwealth as otherwise provided by law relating to the institution's
 6552 facilities or any project.

6553 B. Notwithstanding the provisions of this chapter, no covered institution ~~shall be deemed~~
 6554 ~~to be~~ is exempt from any requirement or covenant contained in any outstanding bonds, notes, or
 6555 other ~~evidences of indebtedness obligations~~.

6556 **Drafting note: Technical changes.**

6557 § ~~23-38.108~~ 23.1-1015. ~~Power~~ Covered institutions; operational authority; financial
 6558 operations; power to issue bonds, notes, or other obligations.

6559 A. Notwithstanding the provisions of § ~~23-29~~ 23.1-1119, ~~which shall be inapplicable to~~
 6560 ~~the exercise by a covered institution of the authority granted in this article~~, a covered institution
 6561 may (i) issue bonds, notes, or other obligations ~~from time to time~~ for any purpose that is
 6562 consistent with its institutional mission, including, ~~without limitation~~, to (a) finance or refinance
 6563 any project, ~~to~~ (b) appropriately manage operational cash flows, ~~to~~ (c) provide for ~~short term~~
 6564 short-term financing, ~~to~~ (d) refund bonds, notes, or other obligations issued ~~therefore~~ by or on
 6565 behalf of such institution, or otherwise, including bonds, notes, or other obligations or
 6566 obligations not then subject to redemption, and ~~may~~ (ii) guarantee, assume, or otherwise agree
 6567 to pay, in whole or in part, indebtedness issued by such institution or any affiliated entity for
 6568 managing operational cash flows or resulting in the acquisition or construction of facilities for
 6569 the benefit of such institution; ~~or the refinancing thereof; provided, however, that nothing~~.

6570 B. Nothing in this ~~subchapter article~~ shall preclude a covered institution from
 6571 participation in any financing program or bond issue established and implemented by the
 6572 Commonwealth; or any agency ~~thereof of the Commonwealth~~, including, ~~without limitation~~, (i)
 6573 any financing program or bond issue under Article X, Section 9_(b) or 9_(c) of the Constitution
 6574 of Virginia, ~~or~~ and (ii) any financing program or bond issue under Article X, Section 9_(d) of the
 6575 Constitution of Virginia undertaken by the Treasury Board, the Virginia College Building
 6576 Authority, or the Virginia Public Building Authority; if such institution is otherwise eligible ~~for~~

6577 and approved ~~for such participation to participate~~ and is otherwise able to fulfill any
6578 requirements that may be imposed upon it ~~in relation to such~~ by virtue of its participation.

6579 ~~B.-C.~~ Notwithstanding Article 8 (§ 2.2-2415 et seq.) of Chapter 24 of Title 2.2, Chapter
6580 ~~3 11~~ (§ ~~23-14~~ 23.1-1100 et seq.) ~~of Title 23~~, and § ~~23-65~~ 23.1-2205, each covered ~~institutions~~
6581 institution may issue bonds, notes, or other obligations consistent with debt capacity and
6582 management policies and guidelines established by its ~~Board of Visitors governing board~~
6583 without (i) obtaining the consent of any legislative body, elected official, commission, board,
6584 bureau, political subdivision, or agency of the Commonwealth ~~or of any political subdivision,~~
6585 ~~and without;~~ (ii) any proceedings or conditions other than those specifically required by this
6586 ~~subchapter. Bonds, notes, or other obligations may be issued for the benefit of covered~~
6587 ~~institutions without article;~~ (iii) the approval required by the provisions of Article 8 (§ 2.2-2415
6588 et seq.) of Chapter 24 of Title 2.2. ~~No bonds, notes, or other obligations issued under the~~
6589 ~~authority of this article shall be subject to;~~ or (iv) any ~~review or approval procedure, rules,~~
6590 ~~regulations, regulation~~ or procedures procedure, including a review or approval procedure,
6591 adopted pursuant to Chapter ~~3 11~~ (§ ~~23-14~~ 23.1-1100 et seq.) ~~of Title 23~~.

6592 ~~C.-A-D.~~ Each covered institution may issue such types of bonds, notes, or other
6593 obligations as it ~~may determine~~ determines are appropriate and consistent with debt capacity and
6594 management policies and guidelines established by its ~~Board of Visitors governing board,~~
6595 including ~~without limitation,~~ bonds, notes, or other obligations payable as to principal and
6596 interest from any one or more of the following sources: (i) its revenues generally; (ii) income
6597 and revenues derived from the operation, sale, or lease of a particular project ~~or projects,~~
6598 whether or not ~~they are~~ it is financed or refinanced from the proceeds of such bonds, notes, or
6599 other obligations; (iii) funds realized from the enforcement of security interests or other liens or
6600 obligations securing such bonds, notes, or other obligations; (iv) proceeds from the sale of
6601 bonds, notes, or other obligations; (v) payments under letters of credit, policies of municipal
6602 bond insurance, guarantees, or other credit enhancements; (vi) any reserve or sinking funds

6603 created to secure such payment; (vii) accounts receivable of such institution; or (viii) other
6604 available funds of such institution.

6605 ~~D.~~E. Any bonds, notes, or other obligations may be ~~additionally~~ supported by any grant,
6606 contribution, or appropriation from a participating political subdivision, the covered institution,
6607 the Commonwealth ~~or~~, any political subdivision, agency, or instrumentality ~~thereof of the~~
6608 Commonwealth, any federal agency, or any unit, private corporation, partnership, association, or
6609 individual.

6610 ~~E.~~F. Bonds, notes, or other obligations of a covered institution are ~~declared to be~~ for an
6611 essential public and governmental purpose.

6612 ~~F.~~G. It ~~shall be is~~ lawful for any bank or trust company within or ~~without outside~~ the
6613 Commonwealth to serve as depository of the proceeds of bonds, notes, or other obligations or ~~of~~
6614 other revenues of a covered institution ~~and to~~, furnish indemnifying bonds, notes, or other
6615 obligations, or ~~to~~ pledge such securities as may be required by such institution, provided that
6616 any such deposits ~~shall be are~~ collateralized in accordance with the Security for Public Deposits
6617 Act (§ 2.2-4400 et seq.) in the case of a bank or savings institution or ~~in accordance with~~ Article
6618 3 (§ 6.2-1047 et seq.) of Chapter 10 of Title 6.2 in the case of a trust company.

6619 **Drafting note: Technical changes are made, including striking the superfluous**
6620 **phrase "from time to time" in subsection A as per Code Commission policy.**

6621 ~~Article 5.~~

6622 ~~Capital Projects; Procurement; Property Generally.~~

6623 **Drafting note: The article structure of existing Subchapter 3 is not retained in**
6624 **proposed Chapter 10.**

6625 § ~~23-38.109~~ 23.1-1016. ~~Capital Covered institutions; operational authority; financial~~
6626 operations; capital projects.

6627 A. The governing board of each covered institution shall adopt policies for the review,
6628 approval, and implementation of all capital projects undertaken by the institution.

6629 B. All capital projects of a covered institution, whether funded by an appropriation of the
6630 General Assembly or otherwise, shall be approved by ~~such the~~ institution's governing ~~body, and~~
6631 ~~the governing body of each covered institution shall adopt policies for the review, approval, and~~
6632 ~~implementation of all capital projects undertaken by the institution board.~~

6633 B-C. Except as otherwise provided in subdivision ~~C D~~ 2, capital projects undertaken at a
6634 covered institution may be exempt from any capital outlay oversight performed or required by
6635 the Department of General Services, the Division of Engineering and Buildings, the Department
6636 of Planning and Budget, and any other state agency that supports the functions performed by
6637 ~~these such~~ departments.

6638 C-D. Capital projects undertaken at a covered institution ~~shall be~~ are subject to the
6639 institution's capital project policies adopted pursuant to subsection A, and:

6640 1. Any capital project undertaken at a covered institution ~~shall be~~ that costs \$300,000 or
6641 more is subject to the environmental, historic preservation, and conservation requirements of
6642 state ~~statutes law~~ that are generally applicable to capital projects in the Commonwealth. ~~For~~
6643 ~~purposes of this subdivision, "capital project" means a capital project as defined in § 23-38.89~~
6644 ~~costing \$300,000 or more;~~ and

6645 2. If the capital project is funded in whole or in part with a general fund appropriation
6646 for that purpose or proceeds from bonds issued under Article X, Section 9 (a), 9 (b), or 9 (c) of
6647 the Constitution of Virginia, or under Article X, Section 9 (d) of the Constitution of Virginia, if
6648 such issuance is ~~Commonwealth general fund~~ supported by general funds, ~~of the Constitution of~~
6649 ~~Virginia~~, the project shall remain subject to ~~such the~~ pre-appropriation approvals ~~as that~~ are in
6650 effect ~~from time to time~~ within the executive and legislative branches of state government, but
6651 ~~such project~~ may ~~nevertheless~~ be exempt under the management agreement from any ~~and all~~
6652 state post-appropriation review, approval, administrative, or other policy or procedure functions
6653 performed or required by the Department of General Services, the Division of Engineering and
6654 Buildings, the Department of Planning and Budget, and any other state agency that supports the

6655 functions performed by ~~these such~~ departments, ~~subject to the terms of any management~~
6656 ~~agreement.~~

6657 3. If a covered institution constructs improvements on land, or renovates property, that
6658 ~~was~~ originally ~~was~~ acquired or constructed in whole or in part with a general fund appropriation
6659 for that purpose or proceeds from bonds issued under Article X, Section 9_(a), 9_(b), or 9_(c) ~~of~~
6660 ~~the Constitution of Virginia~~, or ~~under Article X, Section 9_(d), of the Constitution of Virginia~~ if
6661 such issuance is ~~Commonwealth general fund supported, of the Constitution of Virginia,~~
6662 ~~supported by general funds~~ and such improvements or renovations are undertaken entirely with
6663 funds not appropriated by the General Assembly, such improvements or renovations ~~must shall~~
6664 be consistent with such institution's master plan approved by its governing ~~body board~~ and, if
6665 the cost of such improvements or renovations is reasonably expected to exceed \$2 million, the
6666 institution's decision to undertake such improvements or renovations shall be communicated to
6667 the Governor and to the Chairmen of the Senate Committee on Finance and the House
6668 Committee on Appropriations no later than 60 days prior to ~~the~~ (i) commencement of
6669 construction or renovation or (ii) issuance of bonds, notes, or other obligations to finance such
6670 construction or renovation.

6671 ~~D. A-E. Each~~ covered institution ~~shall have the authority to may~~ designate its own
6672 building official who ~~shall be is~~ a full-time employee ~~and who is hereby authorized to and may~~
6673 determine the suitability for occupancy of, and ~~to~~ issue certifications for building occupancy for,
6674 all capital projects undertaken at ~~that such~~ institution, ~~and who, prior to issuing any such~~
6675 ~~certification.~~ Such building official shall ensure:

6676 1. Ensure that the Virginia Uniform Statewide Building Code (§ 36-97 et seq.)
6677 requirements are met for that capital project and that such project has been inspected by the
6678 State Fire Marshal or his designee prior to issuing any such certification. ~~When serving as the~~
6679 ~~building official, such individual shall report;~~

6680 2. Report directly and exclusively to the ~~Board of Visitors governing board~~ of the
6681 institution and ~~shall~~ be subject to review by the appropriate personnel in the Department of
6682 General Services. ~~The designated official shall be;~~

6683 3. Be certified by the Department of Housing and Community Development to perform
6684 this function. ~~The individual employed or contracted to serve in such capacity shall have; and~~

6685 4. Have adequate resources and staff who are certified by the Department of Housing
6686 and Community Development in accordance with § 36-137 for such purpose; and who shall
6687 review plans, specifications, and documents for compliance with codes and standards and
6688 perform required inspections of the work in progress and the completed project.

6689 F. No individual licensed professional architect or engineer hired or contracted to
6690 perform ~~these the~~ functions set forth in subsection E shall also perform other code-related
6691 design, construction, facilities-related project management, or facilities management functions
6692 for the institution on the same project.

6693 **Drafting note: Technical changes are made, including striking the superfluous**
6694 **phrase "from time to time" in proposed subdivision D 2 as per Code Commission policy.**

6695 § ~~23-38.110~~ 23.1-1017. ~~Procurement; discrimination prohibited; participation of small,~~
6696 ~~women-owned, and minority-owned business enterprises~~ Covered institutions; operational
6697 authority; procurement.

6698 A. Subject to the express provisions of the management agreement ~~described in § 23-~~
6699 ~~38.88,~~ each covered ~~institutions~~ institution may be exempt from the provisions of the Virginia
6700 Public Procurement Act (§ 2.2-4300 et seq.), except for § 2.2-4342-~~(, which~~ ~~section~~ shall not be
6701 construed to require compliance with the prequalification application procedures of subsection
6702 B of § 2.2-4317);; provided, however, that (i) any deviations from the Virginia Public
6703 Procurement Act approved in a Management Agreement in the management agreement shall be
6704 uniform across all covered institutions; and ~~provided further that~~ (ii) the governing ~~body~~ board
6705 of ~~a the~~ covered institution shall adopt, and the covered institution shall comply with, policies
6706 for the procurement of goods and services, including professional services, that shall (a) be

6707 based upon competitive principles ~~and shall, (b)~~ in each instance seek competition to the
6708 maximum practical degree. ~~The policies shall, (c)~~ implement a system of competitive
6709 negotiation for professional services pursuant to §§ 2.2-4303.1 and ~~subsections A, B, and C of §~~
6710 2.2-4302.2, ~~shall (d)~~ prohibit discrimination ~~because of in the solicitation and award of contracts~~
6711 ~~based on the bidder's or offeror's~~ race, religion, color, sex ~~or,~~ national origin ~~of the bidder or~~
6712 ~~offeror in the solicitation or award of contracts, shall, age, or disability or on any other basis~~
6713 ~~prohibited by state or federal law, (e)~~ incorporate the prompt payment principles of §§ 2.2-4350
6714 and 2.2-4354, ~~and shall (f)~~ consider the impact on correctional enterprises under § 53.1-47, ~~and~~
6715 ~~(g) provide that whenever solicitations are made seeking competitive procurement of goods or~~
6716 ~~services, it shall be a priority of the institution to provide for fair and reasonable consideration~~
6717 ~~of small, women-owned, and minority-owned businesses and to promote and encourage a~~
6718 ~~diversity of suppliers.~~

6719 B. Such policies may, ~~among other things,~~ (i) provide for consideration of the dollar
6720 amount of the intended procurement, the term of the anticipated contract, and the likely extent
6721 of competition; (ii) implement a prequalification procedure for contractors or products; and (iii)
6722 include provisions for cooperative arrangements with other covered institutions, other public or
6723 private educational institutions, ~~or~~ other public or private organizations or entities, including
6724 public-private partnerships, public bodies, charitable organizations, health care provider
6725 alliances or purchasing organizations or entities, state agencies or institutions of the
6726 Commonwealth or the several states, the District of Columbia, the territories ~~and, or~~ the United
6727 States, and any combination ~~thereof of such organizations and entities.~~

6728 C. Nothing in this section shall preclude a covered institution from requesting and
6729 utilizing, ~~and covered institutions are hereby encouraged to utilize,~~ the assistance of the Virginia
6730 Information Technologies Agency ~~in for~~ information technology procurements ~~and covered~~
6731 ~~institutions are encouraged to utilize such assistance.~~

6732 C. ~~In the solicitation and awarding of contracts, no covered institution shall discriminate~~
6733 ~~against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or~~

6734 ~~any other basis prohibited by state or federal law. The procurement policies of a covered~~
6735 ~~institution shall provide that, whenever solicitations are made seeking competitive procurement~~
6736 ~~of goods or services, it shall be a priority of the institution to provide for fair and reasonable~~
6737 ~~consideration of small, women-owned, and minority-owned businesses and to promote and~~
6738 ~~encourage a diversity of suppliers. The~~ D. Each covered institution shall post on the Department
6739 of General Services' central electronic procurement website all Invitations to Bid, Requests for
6740 Proposal, sole source award notices, and emergency award notices to ensure visibility and
6741 access to the Commonwealth's procurement opportunities on one website.

6742 ~~D.~~ E. As part of any procurement provisions of ~~a~~ the management agreement, the
6743 governing board of a covered institution shall identify the public, educational, and operational
6744 interests served by any procurement rule ~~or rules~~ that ~~deviate~~ deviates from ~~those~~ procurement
6745 rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

6746 **Drafting note: Technical changes.**

6747 ~~§ 23-38.111~~ 23.1-1018. ~~Information Covered institutions; operational authority;~~
6748 information technology.

6749 Subject to the terms of the management agreement, ~~covered institutions~~ each covered
6750 institution may be exempt from the provisions governing the Virginia Information Technologies
6751 Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2, and the provisions governing the
6752 Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of
6753 Title 2.2; ~~provided, however, that, if~~ the governing ~~body board~~ of ~~a~~ such covered institution
6754 ~~shall adopt, adopts~~ and the covered institution ~~shall comply~~ complies with: (i) policies for the
6755 procurement of information technology goods and services, including professional services, that
6756 are consistent with the requirements of ~~§ 23-38.110~~ 23.1-1017 and ~~that~~ include provisions
6757 addressing cooperative arrangements for such procurement as described in ~~§ 23-38.110, 23.1-~~
6758 1017 and ~~shall adopt and comply with~~ (ii) institutional policies and professional best practices
6759 regarding strategic planning for information technology, project management, security,
6760 budgeting, infrastructure, and ongoing operations.

6761 **Drafting note: Technical changes.**

6762 § ~~23-38.112~~ 23.1-1019. ~~Acquisition, possession, operation, and disposition of~~ Covered
6763 institutions; operational authority; property; ~~acceptance of~~, grants, and loans.

6764 A. Nothing in this ~~subsection~~ section shall limit or reduce the authority granted to a
6765 covered institution in §§ ~~23-38.109 and 23-38.113, which shall govern~~ 23.1-1016 and 23.1-1028
6766 concerning the planning, design, construction, and implementation of capital projects and leases
6767 ~~by covered institutions. In order to continue its mission as a public institution of higher~~
6768 education:

6769 ~~1. A-B.~~ Each covered institution may continue to hold, possess, operate, and dispose of
6770 any real, personal, tangible, or intangible property; ~~real or personal, tangible or intangible~~, that
6771 such covered institution held, possessed, or operated prior to ~~its~~ the effective date of ~~the~~ its
6772 initial ~~Management Agreement~~ management agreement as follows:

6773 ~~a. If the property is~~ 1. For real property, including land, buildings, and any
6774 improvements to land or buildings, ~~and it was~~ acquired or constructed in whole or in part with
6775 general fund appropriations or proceeds from a general obligation bond issue under Article X,
6776 Section 9_(a) or 9_(b) of the Constitution of Virginia, the covered institution ~~(i)~~ shall (i) hold,
6777 possess, and operate such property in accordance with the institution's enabling ~~legislation~~
6778 statutes, ~~with~~ this ~~subchapter~~ article, and ~~with~~ any policies adopted by the governing ~~body~~ board
6779 of the institution pursuant ~~thereto, to this article~~ and (ii) ~~shall~~ dispose of such property in
6780 accordance with general law applicable to state-owned property and ~~with~~ the institution's
6781 enabling ~~legislation~~ statutes.

6782 ~~b. If the property is~~ 2. For real property, including land, buildings, and any
6783 improvements to land or buildings, ~~and it was~~ acquired or constructed either (i) entirely with
6784 nongeneral fund appropriations or proceeds from a nongeneral fund revenue bond issue under
6785 Article X, Section 9_(c) or 9_(d) of the Constitution of Virginia; or (ii) entirely with funds other
6786 than funds appropriated by the General Assembly or proceeds from a general obligation bond
6787 issue under Article X, Section 9_(a) or 9_(b) of the Constitution of Virginia, the covered

6788 institution shall hold, possess, operate, and dispose of such property in accordance with the
6789 institution's enabling ~~legislation~~ statutes, notwithstanding the approval requirements of
6790 subdivision B 1 of § 23-77.1, with 23.1-1301; this ~~subchapter, article~~; and ~~with~~ any policies
6791 adopted by the governing ~~body~~ board of the institution pursuant ~~thereto~~ to this article.

6792 ~~c. If the property is~~ 3. For personal property, the covered institution shall hold, possess,
6793 operate, and dispose of such property in accordance with the institution's enabling ~~legislation~~
6794 statutes, with this subchapter article, and ~~with~~ any policies adopted by the governing ~~body~~ board
6795 of the institution pursuant ~~thereto~~ to this article.

6796 ~~2.C.~~ After the effective date of the initial ~~Management Agreement as provided in § 23-~~
6797 ~~38.88~~ management agreement, a covered institution may acquire any real property, construct
6798 improvements ~~thereon in accordance with § 23-38.109, on real property pursuant to § 23.1-~~
6799 1016, and acquire any personal property, tangible or intangible, and hold, possess, operate, and
6800 dispose of such real and personal property as follows:

6801 ~~a. If the property is~~ 1. For real property, including land, buildings, and improvements to
6802 land ~~or and~~ buildings, ~~and it is~~ acquired or constructed with funds appropriated by the General
6803 Assembly for that purpose or with proceeds from a general obligation bond issue under Article
6804 X, Section 9_(a) or 9_(b) of the Constitution of Virginia, the covered institution ~~(+)~~ shall (i) hold,
6805 possess, and operate such property in accordance with the institution's enabling ~~legislation~~
6806 statutes, with this subchapter article, and ~~with~~ any policies adopted by the governing ~~body~~ board
6807 of the institution pursuant ~~thereto~~ to this article, and (ii) ~~shall~~ dispose of such property in
6808 accordance with general law applicable to state-owned property and with the covered
6809 institution's enabling ~~legislation~~ statutes.

6810 ~~b. If the property is~~ 2. For real property, including land, buildings, and improvements to
6811 land or buildings, ~~and the property is~~ acquired with any funds in the covered institution's
6812 possession; other than ~~any~~ funds appropriated by the General Assembly or proceeds from a
6813 general obligation bond issue under Article X, Section 9_(a) or 9_(b) of the Constitution of
6814 Virginia, the institution shall hold, possess, operate, dispose of, and otherwise deal with such

6815 property, or any right, easement, estate, or interest ~~therein in such property~~, acquired by
6816 purchase, exchange, gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of
6817 law, or other means, in accordance with the covered institution's enabling ~~legislation statutes~~,
6818 notwithstanding the approval requirements of ~~subdivision B 1 of § 23-77.1, with 23.1-1301~~; this
6819 ~~subchapter, article~~; and ~~with~~ any policies adopted by the governing ~~body board~~ of the institution
6820 pursuant ~~thereto to this article~~.

6821 ~~e. If the property is~~ 3. For personal property, the institution shall hold, possess, operate,
6822 and dispose of such property in accordance with the institution's enabling ~~legislation statutes~~,
6823 ~~with this subchapter article~~, and ~~with~~ any policies adopted by the governing ~~body board~~ of the
6824 institution pursuant ~~thereto to this article~~.

6825 ~~3-D.~~ 3-D. With the approval of the Governor or as otherwise provided by law, and consistent
6826 with ~~the provisions of subdivisions 1 and 2 of this subsection~~ subsections B and C, a covered
6827 institution may (i) sell, assign, encumber, mortgage, demolish, or otherwise dispose of any
6828 project ~~or~~, any other real, personal, tangible, or intangible property, ~~real or personal, tangible or~~
6829 intangible, or any right, easement, estate, or interest ~~therein in any such project or property~~, or
6830 any deed of trust or mortgage lien interest owned by it, under its control or custody or in its
6831 possession, and may release or relinquish any right, title, claim, lien, interest, easement, or
6832 demand however acquired, including any equity or right of redemption in property foreclosed
6833 by it; and

6834 ~~4. May (ii)~~ 4. May (ii) do any of the foregoing by public or private transaction.

6835 ~~B-E.~~ B-E. A covered institution may accept loans, grants, contributions, or other assistance
6836 from the federal government, the Commonwealth ~~or~~, any political subdivision ~~thereof of the~~
6837 Commonwealth, or ~~from~~ any other public or private source to carry out its mission as a public
6838 institution of higher education ~~of the Commonwealth~~ and any of the purposes of this ~~subchapter~~
6839 article. A covered institution may enter into any agreement or contract regarding ~~or relating to~~
6840 the acceptance, use, or repayment of any such loan, grant, contribution, or assistance; and may

6841 enter into ~~such~~ other agreements with any such entity in furtherance of the purposes of this
6842 ~~subchapter article~~.

6843 ~~Counties, cities, and towns are hereby authorized to~~ F. Localities may lend or donate
6844 money or other property to a covered institution for any of ~~its~~ the institution's purposes. Any
6845 local government making ~~the a~~ grant or loan may restrict the use of the grant or loan to a
6846 specific project, within or ~~without that~~ outside such locality.

6847 ~~C.G.~~ Notwithstanding ~~the provisions any other provision~~ of this chapter, no covered
6848 institution shall take action with regard to any real or personal property, ~~real or personal~~, if such
6849 action would be deemed to be in violation of any requirement or covenant contained in any
6850 outstanding bonds, notes, or other ~~evidences of indebtedness obligations~~.

6851 **Drafting note: Technical changes.**

6852 ~~Article 6.~~

6853 ~~Human Resources.~~

6854 **Drafting note: The article structure of existing Subchapter 3 is not retained in**
6855 **proposed Chapter 10.**

6856 ~~§ 23-38.114 23.1-1020. General; definition Covered institutions; operational authority;~~
6857 ~~human resources; covered employees generally.~~

6858 ~~A. Covered Employees are state employees of a covered institution of the~~
6859 ~~Commonwealth of Virginia. Notwithstanding subsections B and C of this section, the state~~
6860 ~~retirement system, state health insurance program, state workers' compensation coverage~~
6861 ~~program, and state grievance procedure, as they may be amended from time to time, shall~~
6862 ~~continue to apply to and govern all eligible Covered Employees. If, however, a covered~~
6863 ~~institution has been or is permitted by law other than in this chapter to establish an alternative~~
6864 ~~health insurance plan or an alternative faculty or University of Virginia Medical Center~~
6865 ~~retirement plan or plans, such alternative health insurance or faculty or University of Virginia~~
6866 ~~Medical Center retirement plan or plans shall apply to and govern the Covered Employees~~
6867 ~~included in such plan or plans. Each Covered Employee~~ covered employee shall continue to be

6868 a state employee who is governed by and ~~be~~ eligible to participate in the human resources and
6869 benefits programs ~~which that~~ governed him and in which he was eligible to participate
6870 immediately prior to the effective date of the initial ~~Management Agreement~~ management
6871 agreement for the covered institution by which he is employed ~~unless and, including the state~~
6872 retirement system, state health insurance program, state workers' compensation coverage
6873 program, and state grievance procedure, until the covered institution establishes a human
6874 resources program or programs, plan, or procedure applicable to him ~~is established by that~~
6875 ~~covered institution~~ pursuant to ~~§§ 23-38.116, 23-38.118, 23-38.119 and 23-38.120~~ this article in
6876 any such human resources or benefits program area. If, however, a covered institution is
6877 permitted by law other than in this chapter to establish an alternative health insurance plan or an
6878 alternative faculty or University of Virginia Medical Center retirement plan, such alternative
6879 health insurance or faculty or University of Virginia Medical Center retirement plan shall apply
6880 to and govern the covered employees included in such plan.

6881 B. ~~Even if a covered institution establishes a human resources program or programs,~~
6882 ~~plan, or procedure pursuant to §§ 23-38.116, 23-38.118, 23-38.119 and 23-38.120, a salaried~~
6883 ~~nonfaculty Covered Employee who was in the employment of that covered institution as of the~~
6884 ~~day prior to the effective date of the initial Management Agreement, except employees of the~~
6885 ~~University of Virginia Medical Center, may elect pursuant to § 23-38.115 to continue to~~
6886 ~~participate in and be governed by the state human resources program set forth in Chapters 28 (§~~
6887 ~~2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 and administered by the Department of~~
6888 ~~Human Resources Management. In such case, in addition to the state human resources plans,~~
6889 ~~programs, policies and procedures set forth in subsection A, all other state human resources and~~
6890 ~~benefit plans, programs, policies and procedures that apply to and govern state employees shall~~
6891 ~~continue to apply to and govern such salaried nonfaculty Covered Employees.~~

6892 C. Any All human resources ~~program or~~ programs, plans, policies ~~or, and~~ procedures
6893 established by the governing body board of a covered institution pursuant to ~~§§ 23-38.116, 23-~~
6894 ~~38.118, 23-38.119, and 23-38.120~~ this article shall apply to and govern ~~(i) all salaried~~

6895 ~~nonfaculty Covered Employees of that covered institution who were in its employment as of the~~
6896 ~~day prior to the effective date of the initial Management Agreement and who elect pursuant to §~~
6897 ~~23-38.115 to participate in and be governed by such program or programs, plans, policies, and~~
6898 ~~procedures, (ii) all salaried nonfaculty Covered Employees of that covered institution who are~~
6899 ~~employed by that institution on or after the effective date of the initial Management Agreement,~~
6900 ~~(iii) all non-salaried nonfaculty Covered Employees of that covered institution without regard to~~
6901 ~~when they were hired, (iv) all faculty Covered Employees of that covered institution without~~
6902 ~~regard to when they were hired, and (v) all employees of the University of Virginia Medical~~
6903 ~~Center without regard to when they were hired. For purposes of this article, "participating~~
6904 ~~Covered Employee" means a Covered Employee described in subdivisions (i) through (v) of this~~
6905 ~~subsection all participating covered employees, except as provided in § 23.1-1022.~~

6906 ~~D.C.~~ All covered institutions ~~shall be~~ are responsible for meeting the human resource
6907 reporting requirements established by the Governor ~~or~~ and General Assembly.

6908 **Drafting note: The first sentence of existing subsection A of § 23-38.114 is stricken**
6909 **as duplicative of the second sentence of such subsection. The first sentence of existing**
6910 **subsection B of § 23-38.114 is stricken as duplicative of proposed subsection A of § 23.1-**
6911 **1022. The second sentence of existing subsection B of § 23-38.114 is stricken here and**
6912 **incorporated instead into proposed subsection B of § 23.1-1022. Technical changes are**
6913 **made.**

6914 ~~§ 23-38.116 23.1-1021. Human resources programs Covered institutions; operational~~
6915 ~~authority; human resources; establishment of a human resources program.~~

6916 A. As used in this section, "active military duty" means federally funded military duty as
6917 (i) a member of the Armed Forces of the United States on active duty pursuant to Title 10 of the
6918 United States Code or (ii) a member of the Virginia National Guard on active duty pursuant to
6919 either Title 10 or Title 32 of the United States Code.

6920 B. The governing ~~body~~ board of each covered institution may elect to adopt for its
6921 nonfaculty participating ~~Covered Employees~~ covered employees either (i) one or more human

6922 resources programs that is or are generally consistent with the provisions of Chapters 28 (§ 2.2-
6923 2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2, pertaining generally to state employees, or
6924 (ii) such other human resources program or programs as it determines to be appropriate. The
6925 covered institution may administer such human resources program or programs itself or ~~may~~
6926 contract with another covered institution or ~~with~~ the Department of Human Resources
6927 Management to administer some or all of its human resources programs, subject to the execution
6928 of any participation or operating agreement as the parties to that agreement may deem necessary
6929 and appropriate.

6930 ~~B.C.~~ Each covered institution may (i) establish a human resources program or programs
6931 for participating ~~Covered Employees covered employees who are~~ not ~~included in~~ subject to a
6932 human resources program established pursuant to subsection ~~A.B.~~, including a program or
6933 programs relating to ~~those other personnel such employees~~ that its enabling ~~legislation statutes~~
6934 authorizes it to employ. ~~In addition, such institution may, in its discretion, and~~ (ii) contract for
6935 such consultants, attorneys, accountants, ~~and~~ financial experts, and ~~such~~ independent providers
6936 of expert advice and consultation as ~~may be~~ such institution deems necessary or desirable ~~in the~~
6937 judgment of the covered institution to assist in the establishment of such program.

6938 ~~C.D.~~ Any human resources program adopted by the governing ~~body board~~ of a covered
6939 institution for participating ~~Covered Employees covered employees~~ shall be based on merit
6940 principles and objective methods of appointment, promotion, transfer, layoff, removal,
6941 severance, and discipline, and shall include other appropriate topics ~~included in such a human~~
6942 ~~resources program~~ based on such principles and methods.

6943 E. The human resources program adopted by the governing board of a covered
6944 institution shall, consistent with applicable federal law, address (i) the employment of
6945 participating covered employees who leave the service of a covered institution for service in any
6946 of the Armed Forces of the United States, (ii) the employment of veterans who have served in
6947 any of the Armed Forces of the United States following the termination of their military service,
6948 and (iii) leave and other policies affecting the employment of participating covered employees

6949 who have been ordered to active military duty in the Armed Forces of the United States or the
6950 organized reserve forces of any of the armed services of the United States or the Virginia
6951 National Guard.

6952 **Drafting note: Proposed subsections A and E incorporate the provisions of existing**
6953 **subsection D of § 23-38.118. Technical changes are made.**

6954 § ~~23-38.115~~ 23.1-1022. ~~Election~~ Covered institutions; operational authority; human
6955 resources; election by certain ~~Covered Employees~~ covered employees.

6956 A. If the governing ~~body board~~ of a covered institution establishes a human resources
6957 program or programs pursuant to § ~~23-38.116~~ 23.1-1021, a salaried nonfaculty ~~Covered~~
6958 ~~Employee of that covered institution who was in its employment as of~~ covered employee who
6959 was employed by the covered institution on the day prior to the effective date of the initial
6960 ~~Management Agreement~~ management agreement, except employees of the University of
6961 Virginia Medical Center, ~~shall be permitted to~~ may elect within a prescribed period of the
6962 establishment of the human resources program to participate in and be governed by either (i) the
6963 state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900
6964 et seq.) of Title 2.2; or (ii) the human resources program or programs established by the
6965 governing ~~body board~~ of ~~that the~~ covered institution pursuant to § ~~23-38.116~~ 23.1-1021. If the
6966 salaried nonfaculty covered employee does not make an election within such prescribed period,
6967 he shall be deemed to have elected to participate in and be governed by the state human
6968 resources program. Elections to participate in the human resources program established by the
6969 covered institution are irrevocable. At least once every two years, each covered institution that
6970 establishes a human resources program pursuant to § 23.1-1021 shall provide salaried
6971 nonfaculty employees who elected to participate and be governed by the state human resources
6972 program with (i) a comparison of the state program and the institution's program, including an
6973 assessment of compensation and benefits, and (ii) an opportunity participate in and be governed
6974 by the institution's human resources program.

6975 B. A salaried nonfaculty covered employee who elects to participate in and be governed
6976 by the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§
6977 2.2-2900 et seq.) of Title 2.2 shall continue to be governed by all state human resources and
6978 benefit plans, programs, policies, and procedures that apply to and govern state employees.

6979 C. A salaried nonfaculty ~~Covered Employee~~ covered employee who elects to participate
6980 in and be governed by the human resources program or programs established by the governing
6981 body board of ~~that the~~ covered institution pursuant to § ~~23-38.116~~ also, by that election, 23.1-
6982 1021 shall be deemed to have elected to be eligible to participate in and ~~to~~ be governed by the
6983 human resources plans, programs, policies, and procedures ~~that are or may be~~ adopted by ~~that~~
6984 the covered institution for his employment classification ~~of employees~~ pursuant to §§ ~~23-~~
6985 38.118, ~~23-38.119~~, and ~~23-38.120~~ 23.1-1024, 23.1-1025, and 23.1-1026.

6986 ~~B. If the governing body of a covered institution establishes a human resources program~~
6987 ~~or programs pursuant to § 23-38.116, the covered institution shall provide each of its salaried~~
6988 ~~nonfaculty Covered Employees who was in its employment as of the day prior to the effective~~
6989 ~~date of the initial Management Agreement, except employees of the University of Virginia~~
6990 ~~Medical Center, with a period of at least 90 days after the effective date of the institution's~~
6991 ~~human resource program for his classification of employees to make the election required by~~
6992 ~~subsection A. If such a salaried nonfaculty Covered Employee does not make an election by the~~
6993 ~~end of that 90-day period, he shall be deemed not to have elected to participate in the human~~
6994 ~~resources program or programs established by the covered institution pursuant to § 23-38.116. If~~
6995 ~~such a salaried nonfaculty Covered Employee elects to participate in the human resources~~
6996 ~~program or programs established by the covered institution pursuant to § 23-38.116, that~~
6997 ~~election shall be irrevocable. At least every two years, a covered institution shall offer to~~
6998 ~~salaried nonfaculty Covered Employees who have elected to continue to participate in the state~~
6999 ~~human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et~~
7000 ~~seq.) of Title 2.2 an opportunity to elect to participate in the human resources program or~~
7001 ~~programs established by the covered institution pursuant to § 23-38.116; provided that, each~~

7002 ~~time prior to offering such opportunity to such salaried nonfaculty Covered Employees, and at~~
7003 ~~least once every two years after the effective date of the human resources program or programs~~
7004 ~~established pursuant to § 23-38.116, the covered institution shall make available to each of its~~
7005 ~~salaried nonfaculty Covered Employees a comparison of its human resources program for that~~
7006 ~~classification of salaried nonfaculty Covered Employee with the state human resources program~~
7007 ~~for comparable state employees, including but not limited to a comparability assessment of~~
7008 ~~compensation and benefits.~~

7009 **Drafting note: Proposed subsection B incorporates the provisions of the second**
7010 **sentence of existing subsection B of § 23-38.114. The 90-day election period is updated to a**
7011 **"prescribed period" to more accurately reflect current practice and current management**
7012 **agreements. Technical changes are made.**

7013 ~~§ 23-38.117 23.1-1023. Grievance Covered institutions; operational authority; human~~
7014 ~~resources; grievance~~ procedures.

7015 A. No covered institution ~~shall be is~~ exempt from the State Grievance Procedure (§ 2.2-
7016 3000 et seq.), which shall continue to apply to all eligible nonfaculty ~~Covered Employees~~
7017 ~~covered employees~~ of a covered institution. The governing ~~body board~~ of each covered
7018 institution shall adopt policies that encourage the resolution of employment-related problems
7019 and complaints of its nonfaculty ~~Covered Employees covered employees~~. Such policies shall
7020 provide that nonfaculty ~~Covered Employees covered employees~~ of the institution ~~shall be able~~
7021 ~~to may~~ discuss their concerns with their immediate supervisors and management freely and
7022 without retaliation. To the extent that such concerns cannot be resolved informally, the State
7023 Grievance Procedure (§ 2.2-3000 et seq.) ~~of Title 2.2~~ shall apply (i) to the covered institution's
7024 ~~nonfaculty participating nonfaculty Covered Employees covered employees~~ to the same extent
7025 that it applied to the same classifications of nonfaculty employees prior to the institution's
7026 effective date of the initial ~~Management Agreement management agreement~~ and (ii) to the
7027 covered institution's salaried nonfaculty ~~Covered Employees covered employees~~ who have
7028 elected pursuant to § ~~23-38.115 23.1-1022~~ to continue to participate in the state human

7029 resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of
7030 Title 2.2.

7031 B. ~~A covered institution shall continue to make~~ The grievance policies ~~available to~~
7032 ~~faculty Covered Employees to the extent~~ that ~~such policies~~ were applicable to faculty ~~Covered~~
7033 ~~Employees covered employees~~ prior to ~~its~~ the effective date of the initial ~~Management~~
7034 ~~Agreement, and may amend any such policies~~ management agreement shall continue in effect
7035 but may be amended by the covered institution.

7036 C. A covered institution ~~is not required to adopt grievance policies governing Covered~~
7037 ~~Employees not included in subsections A and B, but it may, in its discretion, do so for some or~~
7038 ~~all such Covered Employees, and such~~ may adopt grievance policies that are applicable to some
7039 or all other employees not subject to grievance policies pursuant to subsection A or B. Such
7040 grievance policies may be the same as ~~or different from~~ the grievance policies adopted pursuant
7041 to subsection A.

7042 **Drafting note: Technical changes.**

7043 § ~~23-38.118~~ 23.1-1024. ~~Miscellaneous~~ Covered institutions; operational authority;
7044 human resources; miscellaneous personnel matters.

7045 A. ~~All~~ Each covered institution shall base all appointments ~~to, and~~ promotions, and
7046 tenure ~~in, positions in the service of a covered institution shall be based~~ decisions upon merit
7047 and fitness, to be ascertained, as far as possible, by the competitive rating of qualifications by
7048 that institution.

7049 B. No establishment of a position or rate of pay, ~~and no~~ or change in rate of pay, shall
7050 become effective except on order of the appointing covered institution.

7051 C. No ~~participating Covered Employee of, or applicant for employment with, current or~~
7052 prospective participating covered employee of any covered institution shall be required, as a
7053 condition of employment, to smoke or use tobacco products on the job, ~~or to~~ abstain from
7054 smoking or using tobacco products outside the course of his employment, provided that this

7055 ~~section subsection~~ shall not apply to those classes of employees to which § 27-40.1 or 51.1-813
7056 is applicable.

7057 ~~D. The human resources policies adopted by the governing body of a covered institution~~
7058 ~~shall, consistent with applicable federal law, address (i) employment of participating Covered~~
7059 ~~Employees who leave the service of a covered institution for service in any of the armed forces~~
7060 ~~of the United States, and the employment of other veterans of such military service, following~~
7061 ~~the termination of their military service; and (ii) leave and other policies affecting the~~
7062 ~~employment of participating Covered Employees who have been ordered to active military~~
7063 ~~service in the armed forces of the United States, or in the organized reserve forces of any of the~~
7064 ~~armed services of the United States, or of the Virginia National Guard. "Active military duty,"~~
7065 ~~as used in this subsection, means federally funded military duty as (i) a member of the armed~~
7066 ~~forces of the United States on active duty pursuant to Title 10 of the United States Code or (ii) a~~
7067 ~~member of the Virginia National Guard on active duty pursuant to either Title 10 or Title 32 of~~
7068 ~~the United States Code.~~

7069 **Drafting note: Existing subsection D is stricken here and incorporated instead into**
7070 **proposed subsections A and E of § 23.1-1021. Technical changes are made.**

7071 ~~§ 23-38.119 23.1-1025. Certain Covered institutions; operational authority; human~~
7072 ~~resources; certain insurance plans; legal process and assignment.~~

7073 A. Insurance plans provided under this article and all proceeds ~~therefrom shall be from~~
7074 such plans are subject to the same provisions regarding exemption from levy, garnishment, and
7075 other legal process as is provided to Virginia Retirement System plans under § 51.1-510;,
7076 provided, however, that (i) permitted assignments shall be ~~effected~~ made through completion of
7077 forms provided by the covered institution or its vendor; and ~~provided further, that (ii)~~ for
7078 insurance plans established by a covered institution, the covered institution shall exercise the
7079 authority granted to the Board of the Virginia Retirement System in § 51.1-510 ~~is hereby~~
7080 ~~granted to and shall be exercised by the covered institution.~~

7081 B. Each covered institution (i) shall purchase or make available group life and accidental
7082 death and dismemberment insurance ~~policies~~ plans covering in whole or in part those of its
7083 participating ~~Covered Employees~~ covered employees eligible to participate in the Virginia
7084 Retirement System; and (ii) may purchase or make available such additional insurance ~~policies~~
7085 plans covering its participating ~~Covered Employees~~ covered employees as it deems appropriate.
7086 Participating ~~Covered Employees~~ covered employees shall not be required to present evidence
7087 of insurability satisfactory to an insurance company for basic group life insurance coverage. ~~All~~
7088 Each covered institution shall offer all salaried participating ~~Covered Employees~~ shall be
7089 offered covered employees basic group life insurance at a level of coverage determined by ~~such~~
7090 the institution's governing ~~body board~~. A covered institution may require participating ~~Covered~~
7091 Employees covered employees to pay all or a portion of the cost of the insurance coverage
7092 offered pursuant to this subsection, which may be collected through a payroll deduction
7093 program. If the institution's governing ~~body board~~ so elects, and subject to the execution of such
7094 participation agreements as the Virginia Retirement System may require, the covered
7095 institution's participating ~~Covered Employees~~ covered employees may be covered by the
7096 Virginia Retirement System's group insurance programs established pursuant to Chapter 5 (§
7097 51.1-500 et seq.) of Title 51.1 ~~under with~~ the same terms, costs, ~~and~~ conditions ~~that apply to,~~
7098 and with the same, and benefits ~~that are available to, as~~ other state employees.

7099 C. For those of its participating ~~Covered Employees~~ covered employees eligible to
7100 participate in the Virginia Retirement System, a covered institution shall (i) purchase disability
7101 insurance; (ii) subject to the execution of such participation agreements as may be necessary,
7102 appropriate, and in the best interests of the Commonwealth, continue to participate in the
7103 disability insurance program established for state agencies; (iii) establish a self-insured
7104 disability insurance program; or (iv) perform any combination of clauses (i) ~~through, (ii), and~~
7105 (iii). A covered institution may require participating ~~Covered Employees~~ covered employees to
7106 pay all or a portion of the cost of the insurance coverage offered pursuant to ~~clauses~~ clause (i),
7107 (iii), or (iv) ~~of this subsection~~, which may be collected through a payroll deduction program.

7108 However, ~~the no such~~ covered institution shall ~~not~~ be required to contribute to the program
7109 established for state agencies on behalf of participating ~~Covered Employees~~ covered employees
7110 who do not participate in that program.

7111 D. If a covered institution's governing body board so elects, and subject to the execution
7112 of such participation agreements as may be necessary, appropriate, and in the best interests of
7113 the Commonwealth, each such institution or its participating ~~Covered Employees~~ covered
7114 employees, or both, may participate in any future insurance programs established for state
7115 employees under with the same terms ~~and~~, conditions ~~that apply to, and with the same benefits~~
7116 ~~that are available to,~~ and benefits as other state employees.

7117 **Drafting note: Technical changes.**

7118 § ~~23-38.120~~ 23.1-1026. ~~Severance Covered institutions; operational authority; human~~
7119 resources; severance policies.

7120 A. Each covered institution shall adopt ~~one or more a~~ severance ~~policies~~ policy for its
7121 eligible participating ~~Covered Employees~~, covered employees that is applicable to voluntary ~~or~~
7122 and involuntary separations, including reductions in workforce. The provisions of the
7123 Workforce Transition Act (§ 2.2-3200 et seq.) shall not apply to participating ~~Covered~~
7124 Employees covered employees.

7125 B. The terms and conditions of a covered institution's severance policy ~~or policies~~ for
7126 eligible participating ~~Covered Employees~~ covered employees shall be determined by the
7127 institution's governing ~~body board~~. The covered institution and the Board of the Virginia
7128 Retirement System shall negotiate a formula according to which cash severance benefits may be
7129 converted to years of age or creditable service for participating ~~Covered Employees~~ covered
7130 employees who participate in the Virginia Retirement System.

7131 C. Covered ~~Employees~~ employees who (i) were employees of a covered institution and
7132 were covered by the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 prior to ~~its the~~
7133 effective date of the initial ~~Management Agreement~~ management agreement, ~~who otherwise~~ (ii)
7134 would otherwise be eligible for severance benefits under the Workforce Transition Act (§ 2.2-

7135 3200 et seq.), and ~~who (iii)~~ are separated by a covered institution because of a reduction in
7136 workforce ~~shall~~ have the same preferential hiring rights with state agencies and other executive
7137 branch institutions as other state employees have under § 2.2-3201. ~~Conversely, a A~~ covered
7138 institution shall recognize the hiring preference conferred by § 2.2-3201 on state employees who
7139 were (a) hired by a state agency or executive branch institution before the covered institution's
7140 effective date of the initial ~~Management Agreement~~ management agreement and ~~who were (b)~~
7141 separated after that date by that state agency or executive branch institution because of a
7142 reduction in workforce. If a covered institution has adopted a classification system pursuant to §
7143 ~~23-38.116~~ 23.1-1021 that differs from the classification system administered by the Department
7144 of Human Resource Management, the covered institution shall classify the separated employee
7145 according to its classification system and shall place the separated employee appropriately. Any
7146 such separated employee who is hired by a covered institution ~~shall be is~~ a participating
7147 Covered Employee covered employee for purposes of this article. Classification decisions that
7148 are made ~~under pursuant to~~ this subsection and ~~applying apply~~ to employees transferring
7149 between state agencies ~~or, between~~ other executive branch institutions and covered institutions;
7150 ~~or and~~ between covered institutions; as a result of a reduction in force and with the preferential
7151 hiring rights provided in this subsection and in § 2.2-3201 ~~shall be are~~ presumed appropriate,
7152 and a separated employee who grieves the classification decision ~~shall bear~~ bears the burden of
7153 demonstrating that the classification violates the separated employee's preferential hiring rights.

7154 D. An employee's transition ~~on the effective date of a covered institution's initial~~
7155 ~~Management Agreement~~ from being an employee of a public institution of higher education to
7156 being a Covered Employee covered employee of a covered institution on the effective date of a
7157 covered institution's initial management agreement shall not, in and of itself, constitute a
7158 severance of that employee or a reduction in force that would make either the covered
7159 institution's severance policy ~~or policies~~ adopted pursuant to subsection A or the Workforce
7160 Transition Act (§ 2.2-3200 et seq.) applicable to that employee.

7161 **Drafting note: Technical changes are made, including removing "or policies" in**
 7162 **subsections B and D because § 1-227 provides that throughout the Code any word used in**
 7163 **the singular includes the plural and vice versa.**

7164 [Article 7.](#)

7165 [Additional Authority Subject to Management Agreement.](#)

7166 **Drafting note: The article structure of existing Subchapter 3 is not retained in**
 7167 **proposed Chapter 10.**

7168 [§ 23-38.121. Restructured authority subject to management agreement.](#)

7169 [As provided in subsection D of § 23-38.88, no restructured financial or operational](#)
 7170 [authority set forth in Subchapter 3 \(§ 23-38.91 et seq.\) of this chapter or any other provision of](#)
 7171 [such chapter shall become effective unless and until the authority or provision is expressly](#)
 7172 [included in a management agreement and all other conditions of subdivisions D 1 and D 2 of §](#)
 7173 [23-38.88 have been met.](#)

7174 **Drafting note: This section is stricken as duplicative of provisions contained in**
 7175 **proposed subsection B of § 23.1-1006.**

7176 [§ 23-38.103 23.1-1027. Tuition Covered institutions; duties; tuition](#), fees, rentals, and
 7177 other charges; ~~moneys~~.

7178 [A Each](#) covered institution shall fix, revise ~~from time to time~~, charge₂ and collect tuition,
 7179 rates, rentals, fees₂ and other charges for the services, goods, or facilities furnished by or on
 7180 behalf of such institution₇, and may adopt policies regarding any such service rendered or the
 7181 use, occupancy, or operation of any such facility.

7182 **Drafting note: Technical changes are made, including striking the superfluous**
 7183 **phrase "from time to time" per Code Commission policy.**

7184 [§ 23-38.113 23.1-1028. Leases Covered institutions; duties; leases](#) of property.

7185 The governing ~~body board~~ of [a each](#) covered institution shall adopt such policies relating
 7186 to the leasing of real property, including capital or operating/income leases, that reasonably
 7187 ensure that such leases are efficiently procured on appropriate terms and for appropriate

7188 purposes. With respect to capital or operating/income leases for real property to be used for
 7189 academic purposes, or for real property owned by the institution or a foundation related to the
 7190 institution to be used for non-academic purposes in accordance with the institution's land use
 7191 plan pursuant to § 2.2-1153, other than applicable policies adopted by a covered institution's
 7192 governing board ~~of visitors~~ and provisions of general law that expressly apply to covered
 7193 institutions, such institutions ~~shall be~~ are exempt from any state or local statutes ~~or~~, ordinances,
 7194 rules, regulations, and guidelines relating to (i) operating/income leases of real property by
 7195 public entities and, (ii) except as otherwise provided in §§ ~~23-38.109~~ 23.1-1016 and ~~23-38.112,~~
 7196 ~~to~~ 23.1-1019, capital leases.

7197 **Drafting note: Technical changes.**

7198 CHAPTER ~~3~~ 11.

7199 BONDS AND OTHER OBLIGATIONS.

7200 **Drafting note: Existing Chapter 3 is reorganized as proposed Chapter 11 and**
 7201 **technical changes are made throughout to modernize, simplify, and clarify language**
 7202 **related to bonds of public institutions of higher education and certain other entities.**

7203 § ~~23-15~~ 23.1-1100. Definitions.

7204 ~~Whenever as As~~ used in this chapter, unless ~~a different meaning clearly appears from~~ the
 7205 context requires a different meaning:

7206 ~~"Institution" means any educational institution referred to in § 23-14 hereof.~~

7207 "Board" means the members of the board of visitors, board of trustees, or other
 7208 governing ~~body, by whatever name known,~~ board of an institution.

7209 "Bonds" means any ~~bonds~~ bond, ~~notes~~ note or other ~~evidences~~ evidence of indebtedness,
 7210 or other ~~obligations~~ obligation of an institution issued by an institution pursuant to this chapter.

7211 ~~"Governor" means the Governor of the Commonwealth of Virginia.~~

7212 "Erect" includes building, constructing, reconstructing, erecting, demolishing, extending,
 7213 bettering, equipping, installing, modifying, and improving.

7214 "Institution" means each public institution of higher education, as that term is defined in
7215 § 23.1-100; the Eastern Virginia Medical School; the Institute for Advanced Learning and
7216 Research; the New College Institute; the Roanoke Higher Education Authority; the Southern
7217 Virginia Higher Education Center; the Southwest Virginia Higher Education Center;; the
7218 Virginia School for the Deaf and the Blind; and the Wilson Workforce and Rehabilitation
7219 Center.

7220 "Project" means (i) any (a) building, facility, addition, extension, or improvement of a
7221 capital nature ~~required by that is necessary~~ or convenient ~~for to carry out~~ the purposes of an
7222 ~~educational~~ institution, including, ~~without limitation,~~ administration, and teaching facilities,
7223 lecture and exhibition halls, libraries, dormitories, student apartments, faculty dwellings, dining
7224 halls, cafeterias, snack bars, laundries, hospitals, laboratories, research centers, infirmaries, field
7225 houses, gymnasiums, auditoriums, student unions, recreation centers, stadiums, athletic
7226 facilities, garages, parking facilities, warehouses and storage buildings, and book and student
7227 supplies centers ~~and all buildings, or (b) building, lands and any other appurtenances land,~~
7228 ~~appurtenance, furnishings and furnishing, or~~ equipment necessary or desirable in connection
7229 ~~therewith or incidental thereto and with or incidental to a project or~~ (ii) any personal property at
7230 ~~the institutions~~ an institution.

7231 ~~"To erect" or "erection" includes building, constructing, reconstructing, erecting,~~
7232 ~~demolishing, extending, bettering, equipping, installing, modifying, and improving.~~

7233 **Drafting note: The definition of institution is revised to incorporate existing § 23-14**
7234 **by referring to the new title-wide definition for public institution of higher education in**
7235 **proposed § 23.1-100 and listing exceptions rather than listing individual entities. The**
7236 **definition of Governor is stricken because in each instance in which the term is used in this**
7237 **proposed chapter, the meaning is clearly understood from the context. The definition of To**
7238 **erect or erection is revised to "Erect" and moved to alphabetical order and changes are**
7239 **made throughout the chapter to reflect the change. Technical changes are made, including**

7240 removing the phrase "without limitation" after "including" on the basis of § 1-218, which
7241 states, "'Includes' means includes, but not limited to."

7242 § ~~23-14~~ 23.1-1101. ~~Certain educational Powers of~~ institutions ~~declared governmental~~
7243 ~~instrumentalities; powers~~ vested in majority of members of board; quorum.

7244 ~~The College of William and Mary in Virginia, at Williamsburg; Richard Bland College~~
7245 ~~of the College of William and Mary at Dinwiddie and Prince George; the rector and visitors of~~
7246 ~~Christopher Newport University, at Newport News; Longwood University, at Farmville; the~~
7247 ~~University of Mary Washington, at Fredericksburg; George Mason University, at Fairfax; the~~
7248 ~~James Madison University, at Harrisonburg; Old Dominion University, at Norfolk; the State~~
7249 ~~Board for Community Colleges, at Richmond; the Virginia Commonwealth University, at~~
7250 ~~Richmond; the Radford University, at Radford; the Roanoke Higher Education Authority and~~
7251 ~~Center; the rector and visitors of the University of Virginia, at Charlottesville; the University of~~
7252 ~~Virginia's College at Wise; the Virginia Military Institute, at Lexington; the Virginia~~
7253 ~~Polytechnic Institute and State University, at Blacksburg; the Virginia Schools for the Deaf and~~
7254 ~~the Blind; the Virginia State University, at Petersburg; Norfolk State University, at Norfolk; the~~
7255 ~~Wilson Workforce and Rehabilitation Center, at Fishersville; the Eastern Virginia Medical~~
7256 ~~School; the Southern Virginia Higher Education Center; the Southwest Virginia Higher~~
7257 ~~Education Center; the Institute for Advanced Learning and Research; and the New College~~
7258 ~~Institute are hereby classified as educational institutions and are declared to be public bodies~~
7259 ~~and constituted as governmental instrumentalities for the dissemination of education. The~~
7260 powers of ~~every such~~ each institution derived directly or indirectly from this chapter ~~shall be~~ are
7261 vested in and may be exercised by a majority of the members of its board, and a majority of
7262 such board ~~shall be~~ constitutes a quorum for the transaction of any business authorized by this
7263 chapter. ~~Wherever the word "board" is used in this chapter, it shall be deemed to include the~~
7264 ~~members of a governing body designated by another title.~~

7265 **Drafting note: Provisions of existing § 23-14 are stricken here and incorporated**
7266 **into the definition of "institution" in proposed § 23.1-1100. Technical changes are made.**

7267 § ~~23-17~~ 23.1-1102. ~~Purposes~~ Purpose of institutions ~~to acquire, install, modify, and erect~~
7268 ~~projects.~~

7269 In addition to any other purposes provided by law or otherwise, the purpose of every
7270 institution ~~shall be~~ is to acquire, install, modify, and erect ~~any project as defined in § 23-15~~
7271 ~~projects.~~

7272 **Drafting note: Technical changes.**

7273 § ~~23-16~~ 23.1-1103. ~~Powers of institutions~~ Institutions; powers generally.

7274 ~~In addition to any powers to sue and be sued heretofore conferred upon it, every~~
7275 ~~institution shall have power, in its proper corporate name and style, if any, to sue, and also~~
7276 ~~power to be sued on any bonds, agreements or other contractual or quasi-contractual obligations~~
7277 ~~issued, made or incurred pursuant to this chapter and for the enforcement thereof and of any~~
7278 ~~duty in connection therewith and of any debt thereon or evidence thereby and of any terms,~~
7279 ~~provisions, conditions, or covenants contained therein or made in connection with the issuance,~~
7280 ~~making or procuring thereof, and for the enforcement of any contract or agreement with or~~
7281 ~~liability of any nature to a federal agency or the holders of any bonds or any trustee therefor or~~
7282 ~~representative thereof.~~

7283 ~~In addition to the powers now enjoyed by it, every~~ Any institution ~~shall have power~~ may,
7284 in its proper corporate name and style, ~~if any:~~

7285 1. Sue and be sued (i) on any bond, agreement, or other contractual or quasi-contractual
7286 obligation issued, made, or incurred pursuant to this chapter; (ii) on any duty, debt, evidence of
7287 debt, term, provision, condition, or covenant related to any bond, agreement, or other
7288 contractual or quasi-contractual obligation issued, made, or incurred pursuant to this chapter;
7289 (iii) for the enforcement of any bond, agreement, or other contractual or quasi-contractual
7290 obligations issued, made, or incurred pursuant to this chapter; or (iv) for the enforcement of any
7291 contract or agreement with or liability to any federal agency or bondholder or any trustee or
7292 representative of such bondholder.

7293 ~~(a) To have~~ 2. Adopt and alter a common seal ~~and alter the same at pleasure.~~

7294 ~~(b) To acquire and~~ 3. Acquire and hold real or personal property or interests ~~therein in~~
7295 such property in its own name.

7296 ~~(c) To execute all instruments~~ 4. Execute any instrument that it deems necessary or
7297 convenient ~~for to carry out~~ the purposes of this chapter.

7298 ~~(d)~~ 5. With the consent of the Governor, ~~to~~ issue bonds and ~~to~~ provide for and secure the
7299 rights of the ~~holders thereof and to secure the same, all as hereinafter provided~~ bondholders.

7300 ~~(e) To perform~~ 6. Perform any ~~acts and do any things~~ act authorized by this chapter
7301 under, through ~~or by means of~~ its own officers, agents, or employees, or by contracts with
7302 private corporations, firms, or individuals.

7303 ~~(f) To do all acts and things~~ 7. Perform any act that it deems necessary or convenient to
7304 carry out the powers and purposes expressly given provided in this chapter.

7305 **Drafting note: Technical changes.**

7306 § ~~23-18~~ 23.1-1104. ~~Consent of Governor to acquisition, erection or refinancing of~~
7307 ~~project; borrowing money and issuing bonds; securing grants or loans under acts of Congress or~~
7308 ~~of Commonwealth Institutions; powers; projects and bonds.~~

7309 ~~The~~ With the prior consent of the Governor ~~being first had and obtained, every~~ any
7310 institution ~~shall have power and is hereby authorized and empowered to~~ may acquire any project
7311 by purchase, gift, or otherwise, ~~any project or to erect the same~~ any project, or ~~to~~ refinance the
7312 cost of ~~acquisition~~ acquiring or ~~erection of~~ erecting any project, and in connection ~~therewith to~~
7313 with any such acquisition, erection, or refinancing, any institution may borrow money, ~~and;~~
7314 make, issue, and sell its bonds as ~~hereinafter~~ provided in this chapter, and to; enter into and
7315 perform all lawful contracts and agreements ~~and,~~ do all lawful acts ~~and things~~ necessary or
7316 proper, and ~~further to~~ make such lawful contracts and agreements and ~~do and~~ perform all such
7317 lawful acts ~~and things~~ as may be necessary, proper, or advisable for the purpose of obtaining
7318 and/or or securing grants, loans ~~and/or, or~~ financial assistance of any kind ~~or sort in connection~~
7319 therewith under any act of Congress or ~~of this the~~ Commonwealth.

7320 **Drafting note: Technical changes.**

7321 § ~~23-30.04~~ 23.1-1105. ~~Borrowing Institutions; powers; borrowing~~ upon endowment and
7322 other investments.

7323 ~~(a) In addition to the powers conferred upon institutions by other provisions of this~~
7324 ~~chapter, any~~ A. Any institution ~~is hereby authorized~~ may, by and with the approval of the
7325 Governor, and upon the affirmative vote of at least two-thirds of its board ~~to~~, borrow ~~from time~~
7326 ~~to time, sums that it deems necessary~~ for and in the name of the institution, ~~such sum or sums as~~
7327 ~~it may determine necessary for its uses and purposes~~ and ~~to~~ secure payment ~~thereof~~ of such
7328 sums by the pledge of any ~~stocks~~ stock, ~~notes~~ note, ~~bonds~~ bond, and other ~~assets~~ asset held by
7329 such institution as a part of its endowment funds or unrestricted gifts from private sources.

7330 ~~(b) Notes~~ B. Any institution may issue notes or bonds ~~issued by an institution~~ pursuant
7331 to this section ~~may be issued~~ in one or more series, and such bonds or notes shall bear such date
7332 ~~or dates~~, mature at such time ~~or times~~, bear interest at such rate or rates not exceeding the rate
7333 specified in § ~~23-30.03~~ 23.1-1112 ~~that is~~ payable at such time ~~or times~~, be in such
7334 ~~denominations~~ denomination, be in such form, either coupon or registered, carry such
7335 registration ~~privileges~~ privilege, be executed in such manner, be payable in such medium of
7336 payment, and at such place ~~or places~~, and be subject to such terms of redemption, with or
7337 without premium, as ~~may be provided by resolution of~~ the board of such institution may provide
7338 by resolution. ~~Notes~~

7339 C. Any notes or bonds ~~so~~ issued pursuant to this section may be sold at public or private
7340 sale for such price or prices as the board ~~shall determine, provided that the~~ determines. ~~The~~
7341 interest cost to maturity of the ~~money~~ moneys received for any such issue of notes or bonds
7342 shall not exceed the rate specified in § ~~23-30.03~~ 23.1-1112. Notes or bonds so issued and the
7343 interest thereon ~~shall be~~ (i) is payable only out of the sale or ~~the~~ liquidation of the endowment
7344 investments, investments of unrestricted gifts from private sources, and interest accruing ~~thereon~~
7345 on such sale, liquidation, or investment that is pledged to secure the notes or bonds so issued,
7346 and ~~shall in no event constitute~~ (ii) is not a general obligation of such institution, the

7347 Commonwealth, the Governor, the members of the board of such institution, ~~nor~~ or any person
7348 executing the notes or bonds so issued.

7349 ~~(e)~~D. All moneys received or derived from the sale of any notes or bonds ~~so~~ issued ~~shall~~
7350 ~~not constitute state funds, but shall be and constitute~~ pursuant to this section are a part of the
7351 local funds of ~~such~~ the institution and are not state funds.

7352 ~~(d)~~E. Each institution ~~shall have power out of any funds~~ may use funds available
7353 ~~therefor for such purpose~~ to purchase any ~~notes~~ note or ~~bonds so~~ bond issued, ~~but pursuant to~~
7354 this section at a price not more than the sum of the principal amount ~~thereof of such note or~~
7355 bond and accrued interest thereon, ~~and any.~~ Any note or bond so purchased shall be canceled
7356 unless purchased as an endowment fund investment. This subsection shall not apply to the
7357 redemption of bonds.

7358 ~~(e)~~G. Any ~~notes~~ note or ~~bonds so~~ bond issued ~~are hereby made securities pursuant to~~
7359 this section is a security in which all public officers and bodies of ~~this the~~ Commonwealth and
7360 ~~all its~~ political subdivisions ~~thereof~~, ~~all~~ insurance companies and associations, ~~all~~ and savings
7361 banks and savings institutions, including savings and loan associations, in ~~this the~~
7362 Commonwealth, may properly and legally invest funds under their control; ~~and all notes~~.

7363 H. Any note or ~~bonds so~~ bond issued pursuant to this section, ~~their the~~ transfer of such
7364 note or bond, and the income ~~therefrom~~ from such note or bond, including any profit derived
7365 from the sale ~~thereof of such note or bond~~, ~~shall at all times be free and is~~ exempt from taxation
7366 by ~~this the~~ Commonwealth, ~~and or~~ by any ~~municipality, county or any locality or~~ political
7367 subdivision ~~hereof of the Commonwealth~~.

7368 ~~(f)~~I. Any resolution ~~or resolutions~~ of the board authorizing the issuance of notes or
7369 bonds ~~to be issued~~ pursuant to this section may, ~~at the discretion of the board~~, contain any
7370 provision ~~or provisions, which shall be a part of the contract with the holders of notes or bonds~~
7371 ~~so issued, as are~~ that is authorized ~~by any other section of~~ pursuant to this chapter in connection
7372 with the issuance of bonds by institutions. Such provision shall be part of the contract with the
7373 holders of such notes or bonds.

7374 **Drafting note: Technical changes are made, including striking the superfluous**
7375 **phrase "from time to time" in proposed subsection A per Code Commission policy. In**
7376 **addition, "or dates," "or times," and "or places" are stricken in proposed subsections B**
7377 **and C and "or resolutions" and "or provisions" are stricken in proposed subsection I**
7378 **because § 1-227 provides that throughout the Code any word in the singular includes the**
7379 **plural and vice versa. The term "locality" is used to replace "municipality, county" in**
7380 **proposed subsection H as a more broad term that conforms to §§ 1-221 and 1-224, which**
7381 **respectively state that throughout the Code "locality" means a county, city, or town and**
7382 **"municipality" means a city or town.**

7383 ~~§ 23-19 23.1-1106. Amount of bonds; purposes; resolutions; Treasury Board to be~~
7384 ~~paying agent and to approve terms and structure; payment or purchase by institution; no~~
7385 ~~personal liability Bonds generally.~~

7386 ~~(a) Every A. The Treasury Board is designated as the paying agent of institutions for the~~
7387 ~~purposes of this chapter and shall approve the terms and structure of bonds executed pursuant to~~
7388 ~~this chapter.~~

7389 ~~B. Any institution shall have power and is hereby authorized and empowered from time~~
7390 ~~to time to may~~ execute its bonds in ~~such an~~ aggregate principal amount ~~as may be~~ determined
7391 ~~upon~~ by its board ~~and~~, approved by the Governor. ~~All such bonds shall be, and~~ approved by the
7392 Treasury Board pursuant to § 2.2-2416, ~~and the Treasury Board is hereby designated the paying~~
7393 ~~agent of such institutions under this chapter. The Treasury Board's duties shall include the~~
7394 ~~approval of the terms and structure of such bonds.~~ Such aggregate principal amount may include
7395 ~~without limitation~~ any ~~costs~~ cost associated with the development and management of the
7396 project ~~or~~, legal or accounting expenses incurred by the institution in connection with the project
7397 for ~~the erection of~~ which such bonds are issued, and the cost of ~~issuance of~~ issuing the bonds,
7398 including printing, engraving, advertising, legal, and other similar expenses.

7399 ~~(b) Such bonds~~ C. Bonds issued pursuant to this chapter shall ~~be authorized;~~

7400 1. Be subject to approval by the Governor and authorization by resolution of the board,
7401 ~~approved by the Governor, and may be issued in one or more series, shall bear such date or~~
7402 ~~dates, mature at such time or times, bear interest at such rate not exceeding the rate specified in~~
7403 ~~§ 23-30.03 payable at such time or times, be in such denominations, be in such form, either~~
7404 ~~coupon or registered, carry such registration privileges, be executed in such manner, be payable~~
7405 ~~in such medium of payment, at such place or places, be subject to such terms of redemption,~~
7406 ~~with or without premium, as such resolution or resolutions may provide. Such bonds may be~~
7407 ~~sold at public or private sale for such price or prices as the board with the approval of the~~
7408 ~~Governor shall determine, provided that the interest cost to maturity of the money received for~~
7409 ~~any issue of such bonds shall not exceed the rate specified in § 23-30.03; however, prior to the~~
7410 ~~issuance of bonds to finance any "project," the approval of the General Assembly must be~~
7411 ~~obtained; and provided further, that biennially on or before the first day of September in the~~
7412 ~~odd-numbered years, each educational institution shall submit to the Governor any project or~~
7413 ~~projects and the estimated cost of each separate project such educational institution desires to~~
7414 ~~have financed under the provisions of this chapter, and the Governor shall consider such~~
7415 ~~projects and make his recommendation to the General Assembly in the budget submitted in~~
7416 ~~accordance with the provisions of § 2.2-1508. Each educational institution is authorized to~~
7417 ~~finance only those projects approved by the General Assembly in the appropriations act for the~~
7418 ~~biennium covered by such appropriations act, which projects need not be limited to the projects~~
7419 ~~recommended by the Governor.~~

7420 (e) ~~Such bonds may be issued to finance all or a portion of the cost of any project plus~~
7421 ~~amounts to fund issuance costs, reserve funds, capitalized interest for a period not to exceed one~~
7422 ~~year following completion of the project and for the corporate purpose or purposes of the~~
7423 ~~institution specified by § 23-17 hereof or to carry out the powers conferred on the institution by~~
7424 ~~§ 23-18 hereof.~~

7425 ~~(d) Any~~ any such resolution ~~or resolutions authorizing such bonds~~ may contain ~~a~~
7426 ~~provision or~~ provisions, which shall be part of the contract with the ~~holders of such bonds as~~
7427 bondholders, related to:

7428 ~~(1) a.~~ Fixing, revising, charging, and collecting fees, rents, and charges for or in
7429 connection with the use, occupation, or services of the project ~~and or~~ pledging ~~the same and~~
7430 such fees, rents, and charges and any ~~increases~~ increase in revenues ~~to be~~ derived from any
7431 existing facilities at such institution resulting from any increase in ~~the such~~ fees, rents, or
7432 charges ~~for or in connection with the use, occupation or services of any such existing facilities~~
7433 to the payment of the principal of and the interest on such bonds;

7434 ~~(2) b.~~ Fixing, revising, charging, and collecting fees, rents, and charges for or in
7435 connection with the use, occupation, or services of any existing ~~facilities~~ facility at such
7436 institution and pledging ~~the same~~ such fees, rents, and charges to the payment of the principal of
7437 and the interest on such bonds;

7438 ~~(3) c.~~ Fixing, revising, charging, and collecting student building fees and other student
7439 fees from students enrolled at such institution and pledging ~~the same in whole or in part~~ all or
7440 part of such fees to the payment of the principal of and the interest on such bonds;

7441 ~~(4) d.~~ Pledging to the payment of the principal of and the interest on such bonds any
7442 moneys available for the use of such institution, including, ~~but not limited to, and subject to~~
7443 ~~Treasury Board guidelines and approval pursuant to § 2.2-2416,~~ moneys appropriated to such
7444 institution from the general fund of the Commonwealth or from nongeneral funds, ~~without~~
7445 ~~regard to the source of such moneys, and which~~ that are not required by law or by previous
7446 binding contract to be devoted to some other purpose, without regard to the source of such
7447 moneys but subject to Treasury Board guidelines and approval pursuant to § 2.2-2416;

7448 ~~(5) e.~~ Paying the cost of operating and maintaining any project and any such existing
7449 facilities from any ~~one or more of the~~ revenue ~~sources~~ source mentioned in ~~subdivisions (1), (2),~~
7450 ~~(3) and (4) of this subsection~~ subdivision a, b, c, or d, creating reserves for such purposes, and
7451 providing for the use and application ~~thereof~~ of such reserves;

7452 ~~(6)~~f. Creating sinking funds for the payment of the principal of and the interest on such
7453 bonds, creating reserves for such purposes, and providing for the use and application ~~thereof of~~
7454 such reserves;

7455 ~~(7)~~g. Limiting the right of the institution to restrict and regulate the use, occupation, and
7456 services of the project and such other existing facilities or the services rendered ~~therein in such~~
7457 project or other existing facilities;

7458 ~~(8)~~h. Limiting the purposes to which the proceeds of sale of any issue of bonds ~~then or~~
7459 thereafter to be issued may be applied;

7460 ~~(9)~~i. Limiting the issuance of additional bonds;

7461 ~~(10)~~j. Setting forth the procedure, ~~if any,~~ by which the terms of any contract with the
7462 holders of such bonds bondholders may be amended or abrogated and the manner in which such
7463 bondholders may give consent ~~of such holders~~ to any such amendment or abrogation ~~may be~~
7464 given; and

7465 ~~(11)~~k. Setting forth such other ~~condition or~~ conditions precedent as may be required by
7466 the United States ~~of America~~ or any federal agency ~~as a condition precedent to or a requirement~~
7467 ~~in connection with the obtaining of~~ to obtain a direct grant ~~or grants of money for or in aid of~~
7468 ~~the erection of or loan to erect or defray the cost of labor and material to erect~~ any project, ~~or to~~
7469 ~~defray or to partially defray the cost of labor and material employed in the erection of any~~
7470 ~~project, or to obtain a loan or loans of money for or in aid of the erection of any project~~ from the
7471 United States ~~of America~~ or any federal agency, ~~provided that such other condition or~~
7472 ~~conditions are approved by~~ subject to the approval of the Governor.;

7473 2. Bear such date, mature at such time, bear interest at such rate not exceeding the rate
7474 specified in § 23.1-1112 payable at such times, be in such denomination, be in such form, either
7475 coupon or registered, carry such registration privilege, be executed in such manner, be payable
7476 in such medium of payment and at such place, and be subject to such terms of redemption, with
7477 or without premium, as the resolution of the board provides;

7478 3. Be issued to finance only those projects approved by the General Assembly in the
7479 biennial general appropriation act;

7480 4. Be pledged pursuant to a resolution of the board and payable only from the revenue
7481 sources set forth in subdivision 1 a, b, c, or d;

7482 5. Not constitute an indebtedness of the institution, except to the extent of the collection
7483 of such revenues. Institutions are not liable to pay such bonds or the interest on such bonds from
7484 any other funds. No contract entered into by an institution pursuant to this chapter shall be
7485 construed to require the costs or expenses to operate and maintain a project for which bonds are
7486 issued and any other existing facilities to be paid out of any funds other than the revenues
7487 derived and pledged from the sources set forth in subdivisions 1 a, b, c, and d; and

7488 6. Be fully negotiable within the meaning and for all the purposes set forth in Title 8.3A.

7489 D. Bonds issued pursuant to this chapter may be:

7490 1. Sold at public or private sale for such price or prices as the board determines and the
7491 Governor approves, provided that (i) the interest cost to maturity of the money received for any
7492 issue of such bonds shall not exceed the rate specified in § 23.1-1112; (ii) the General Assembly
7493 shall approve the issuance of bonds to finance projects; and (iii) biennially, on or before
7494 September 1 of each odd-numbered year, each institution shall submit to the Governor each
7495 proposed project and the estimated cost of each such project that the institution desires to have
7496 financed under the provisions of this chapter, and the Governor shall consider such projects and
7497 make his recommendation to the General Assembly in the budget submitted in accordance with
7498 the provisions of § 2.2-1508;

7499 2. Issued to finance only those projects approved by the General Assembly in the
7500 biennial general appropriation act, which projects need not be limited to the projects
7501 recommended by the Governor;

7502 3. Issued to finance all or a portion of the cost of any project plus amounts to fund
7503 issuance costs, reserve funds, and capitalized interest for a period not to exceed one year
7504 following completion of the project; and

7505 4. Issued for the purpose set forth in § 23.1-1102 or to carry out the powers conferred on
7506 the institution by § 23.1-1104.

7507 ~~(e) The power and obligation of an institution to pay any bonds issued under this chapter~~
7508 ~~shall be limited. Such bonds shall be payable only from any one or more of the revenue sources~~
7509 ~~mentioned in subdivisions (1), (2), (3) and (4) of subsection (d) of this section and pledged~~
7510 ~~therefor pursuant to a resolution adopted under said subsection (d). Such bonds shall in no event~~
7511 ~~constitute an indebtedness of the institution, except to the extent of the collection of such~~
7512 ~~revenues and such institution shall not be liable to pay such bonds or the interest thereon from~~
7513 ~~any other funds; and no contract entered into by the institution pursuant to subsection (b) of this~~
7514 ~~section shall be construed to require the costs or expenses of operation and maintenance of the~~
7515 ~~project for the erection of which the bonds are issued and any such other existing facilities to be~~
7516 ~~paid out of any funds other than the revenues derived from the sources mentioned in~~
7517 ~~subdivisions (1), (2), (3) and (4) of subsection (d) of this section and pledged therefor. Any~~
7518 ~~provision of the general laws to the contrary notwithstanding, any bonds issued pursuant to the~~
7519 ~~authority of this chapter shall be fully negotiable within the meaning and for all the purposes of~~
7520 Title 8.3A.

7521 ~~(f)~~E. Neither the Governor nor the members of the board nor any person executing ~~such~~
7522 ~~bonds shall be pursuant to this chapter are~~ liable personally on the bonds or ~~be~~ subject to any
7523 personal liability or accountability by reason of the issuance ~~thereof of such bonds.~~

7524 ~~(g)~~F. Any institution ~~shall have power out of any funds available therefor to may~~
7525 ~~purchase with funds available for such purchase any bonds bond that it has~~ issued ~~by it~~ at a price
7526 not more than the sum of the principal amount ~~thereof~~ and ~~the~~ accrued interest. All bonds so
7527 purchased shall be cancelled unless purchased as an endowment fund investment. ~~This~~
7528 ~~paragraph~~ Nothing in this subsection shall ~~not be construed to~~ apply to the redemption of bonds.

7529 ~~(h)~~G. In any case in which an institution ~~shall have obtained~~ obtains a loan ~~for or in aid~~
7530 ~~of the erection of any project~~ from the United States ~~of America~~ or any federal agency, ~~which~~
7531 ~~loan to erect any project that~~ requires the establishment of a debt service reserve, the institution,

7532 with the consent of the Governor, may deposit securities in a separate collateral account in an
7533 amount equal to the required debt service reserve, ~~which securities shall be pledged and pledge~~
7534 ~~such securities~~ to meet the debt service requirements ~~only~~ if the revenues derived from any ~~one~~
7535 ~~or more of the sources mentioned source set forth~~ in ~~subdivisions (1), (2), (3) and (4) of~~
7536 ~~subsection (d) of this section~~ subdivision C 1 a, b, c, or d and pledged for the payment of such
7537 loan become insufficient for such purpose. The face value of United States government
7538 securities and the market value of all other securities ~~shall be deemed to be~~ is the value of any
7539 securities so deposited. Nothing ~~herein in this subsection~~ shall be construed ~~as prohibiting to~~
7540 prohibit repayment of any portion of such loan from income derived from the securities so
7541 deposited. No securities shall be deposited in any such collateral account unless ~~the same shall~~
7542 have been such securities are purchased with funds, ~~the whose use of which~~ is in ~~nowise no way~~
7543 limited or restricted or ~~shall have been are~~ donated to such institution for the purpose of
7544 establishing such debt service reserve.

7545 **Drafting note: Requirements for bonds issued pursuant to this chapter are grouped**
7546 **in proposed subsection C, and permissive provisions related to such bonds are grouped in**
7547 **proposed subsection D. Technical changes are made, including (i) in proposed subsection**
7548 **B, striking the term "from time to time" as unnecessary; (ii) in proposed subsection B,**
7549 **removing the phrase "without limitation" used in conjunction with "include" on the basis**
7550 **of the Code-wide application of § 1-218, which states, "'Includes' means includes, but not**
7551 **limited to"; and (iii) in proposed subsections C and D, changing the use of both singular**
7552 **and plural phrases such as "date or dates" and "provision or provisions" to one or the**
7553 **other based on § 1-227, which provides that throughout the Code any word in the singular**
7554 **includes the plural and vice versa.**

7555 § 23-20 23.1-1107. Remedies of holders of bonds; powers of trustee representing holders
7556 Bondholders; remedies and trustees.

7557 (a) A. The provisions of this section shall ~~be applicable~~ apply to an ~~issue~~ issuance of
7558 bonds only if the resolution ~~or resolutions~~ authorizing such bonds ~~shall provide in substance~~

7559 provides that the ~~holders of such bonds~~ bondholders are entitled to all the benefits of and subject
7560 to the provisions of this section.

7561 ~~(b) In the event that B. If~~ any institution ~~shall default in (i) defaults on~~ the payment of
7562 principal of or interest on any series of its bonds after the ~~same shall become~~ payment becomes
7563 due, whether at maturity or upon call for redemption, and such default ~~shall continue~~ continues
7564 for a period of ~~thirty~~ 30 days, ~~or in the event that such institution shall fail; (ii) fails~~ or ~~refuse~~
7565 refuses to comply with the provisions of this chapter; ~~or shall default in (iii) defaults on~~ any
7566 agreement made with the ~~holders of its bonds~~ bondholders of any series, the holders of ~~twenty-~~
7567 five per centum in 25 percent of the aggregate principal amount of the bonds of such series then
7568 outstanding, by instrument ~~or instruments~~ filed with the Governor and proved or acknowledged
7569 in the same manner as a deed to be recorded, may appoint a trustee to represent the ~~holders~~
7570 bondholders of such series for the purposes ~~herein~~ provided in this section.

7571 ~~(c) Such C. The~~ trustee may, and upon written request of the holders of ~~twenty five per~~
7572 centum in 25 percent of the aggregate principal amount of the bonds of such series then
7573 outstanding shall, in his ~~or its~~ own name:

7574 ~~(1) 1.~~ By mandamus or other suit, action, or proceeding at law or in equity, enforce all
7575 rights of the ~~holders of bonds~~ bondholders of such series, including the right to require such
7576 institution and its board to (i) collect fees, rents, charges, or other revenues adequate to carry out
7577 any agreement as to, or pledge of, such revenues, ~~and to require such institution and board to or~~
7578 (ii) carry out and perform any other agreements with the ~~holders of the bonds~~ bondholders of
7579 such series ~~and to perform it~~ and their duties under this chapter;

7580 ~~(2) 2.~~ Bring suit upon such bonds;

7581 ~~(3) 3.~~ By action or suit in equity, require such institution to account as if it were the
7582 ~~trustees~~ trustee of an express trust for the ~~holders of such bonds~~ bondholders; and

7583 ~~(4) 4.~~ By action or suit in equity, enjoin any acts ~~or things which that~~ may be unlawful or
7584 in violation of the rights of the ~~holders of such bonds~~ bondholders.

7585 ~~(d) D.~~ If the resolution ~~or resolutions which authorize~~ that authorizes any ~~bonds contain~~
7586 bond contains the provision ~~authorized required~~ by subsection ~~(a) of this section A~~ and ~~further~~
7587 provide in substance provides that any trustee appointed by the ~~holders of the bonds~~
7588 bondholders pursuant to this section ~~shall have~~ has the powers provided by this subsection, then
7589 any such trustee, whether or not all such bonds have been declared due and payable, ~~shall be is~~
7590 entitled ~~as of right~~ to the appointment of a receiver who may (i) enter and take possession of any
7591 property of the institution ~~any of the revenues~~ from which any of the revenues are pledged for
7592 the security of the bonds of the holders of which are that are represented by such trustee ~~and, (ii)~~
7593 operate and maintain ~~the same and such property, and (iii)~~ collect and receive all fees, rents,
7594 charges, and other revenues ~~thereafter~~ arising ~~therefrom~~ from such property in the same manner
7595 as the institution ~~itself might~~ is permitted to do and shall deposit all such moneys in a separate
7596 account and apply ~~the same all such moneys~~ in such manner as the court ~~shall direct~~ directs. In
7597 any suit, action, or proceeding by the trustee ~~the, any~~ fees, counsel fees, and expenses of the
7598 trustee and ~~of the~~ receiver, ~~if any,~~ shall constitute taxable costs and disbursements and all costs
7599 and disbursements allowed by the court shall be a first charge on any fees, rents, charges, and
7600 other revenues of the institution that are pledged for the security of the bonds.

7601 ~~(e) Such trustee shall, in addition to the foregoing, have and possess~~ E. Each trustee
7602 appointed pursuant to subsection B has all of the powers necessary or appropriate for the
7603 exercise of any functions specifically set forth ~~herein in this section~~ or incident to the general
7604 representation of the ~~holders of bonds represented by such trustee~~ bondholders he represents in
7605 the enforcement and protection of their rights.

7606 **Drafting note: Technical changes are made, including removing "or resolutions" in**
7607 **proposed subsections A and D and "or instruments" in proposed subsection B based on §**
7608 **1-227, which provides that throughout the Code any word in the singular includes the**
7609 **plural and vice versa.**

7610 § ~~23-20-1~~ 23.1-1108. Bonds mutilated, lost, or destroyed.

7611 ~~Should-If~~ any bond issued by an institution ~~become is~~ mutilated ~~or be~~, lost, or destroyed,
7612 the board may ~~cause~~ execute and deliver a new bond of like date, number, and tenor ~~to be~~
7613 ~~executed and delivered~~ in exchange and substitution for, and upon cancellation of, ~~such a~~
7614 mutilated bond and its interest coupons, or in lieu of and in substitution for ~~such a~~ lost or
7615 destroyed bond and its unmatured interest coupons. Such new bond or coupon shall not be
7616 executed or delivered until the holder of the mutilated, lost, or destroyed bond ~~(1) (i)~~ has paid
7617 the reasonable expense and charges in connection ~~therewith and (2)~~ with the execution and
7618 delivery; (ii) in the case of a lost or destroyed bond, has filed with the board and the State
7619 Treasurer satisfactory evidence that such bond was lost or destroyed and that the ~~holder~~
7620 bondholder was the owner ~~thereof of the bond;~~ and ~~(3) (iii)~~ has furnished indemnity satisfactory
7621 to the State Treasurer.

7622 **Drafting note: Technical changes.**

7623 § ~~23-24~~ 23.1-1109. ~~Proceeds of bonds and revenues to be paid into state treasury Bonds~~
7624 and revenues; disposition.

7625 All moneys derived from the sale of bonds pursuant to § ~~23-19~~ 23.1-1106 and all
7626 revenues derived from any ~~one or more of the sources mentioned~~ source set forth in
7627 ~~subdivisions (1), (2) and (3) of subsection (d)~~ subdivision C 1 a, b, or c of § ~~23-19~~ 23.1-1106,
7628 except those moneys that are exempt from deposit into the state treasury, shall be paid into the
7629 state treasury ~~and any such moneys and revenues so paid into the state treasury shall be~~, set
7630 aside in special funds, and devoted solely to the payment of (i) the cost of erecting the project
7631 for which such bonds ~~shall~~ have been issued ~~and to the payment of~~, (ii) the principal of and the
7632 interest on such bonds, and ~~of (iii)~~ the cost of maintenance and operation of such project and ~~of~~
7633 any other existing facilities ~~the revenues of for~~ which are any revenue is pledged either in whole
7634 or in part to the payment of the principal of and the interest on such bonds, respectively, and are
7635 hereby (ii) specifically appropriated for ~~those such~~ purposes to be paid out by the State
7636 Treasurer on warrants of the Comptroller to be issued on vouchers of the treasurer or other fiscal
7637 officer of the board of such institution.

7638 **Drafting note: Technical changes.**

7639 § ~~23-23~~ 23.1-1110. Bonds as legal investments.

7640 Any bonds issued pursuant to ~~the authority of~~ this chapter are ~~hereby made~~ securities in
7641 which all public officers and bodies of ~~this the~~ Commonwealth and ~~all its~~ political subdivisions
7642 ~~thereof, all~~ insurance companies and associations, ~~all and~~ savings banks and savings institutions,
7643 including savings and loan associations, in the Commonwealth may properly and legally invest
7644 funds in their control.

7645 **Drafting note: Technical changes.**

7646 § ~~23-24~~ 23.1-1111. ~~Prohibition Bonds; prohibition~~ against obligating Commonwealth.

7647 The bonds and other obligations of an institution ~~shall are~~ not ~~be in any way~~ a debt of the
7648 Commonwealth ~~and shall, do~~ not create or constitute any indebtedness or obligation of the
7649 Commonwealth, either legal, moral, or otherwise, ~~nor shall they be and are not~~ payable out of
7650 any funds other than those of the institution ~~and nothing. Nothing~~ in this chapter ~~contained~~ shall
7651 be construed to authorize any institution to incur any indebtedness on behalf of the
7652 Commonwealth or in any way to obligate the Commonwealth.

7653 **Drafting note: Technical changes.**

7654 § ~~23-30.03~~ 23.1-1112. ~~Interest Bonds; interest~~.

7655 No bond issued by institutions pursuant to this chapter ~~(a)~~ shall (i) bear interest at ~~a per~~
7656 ~~centum per annum an annual percentage~~ rate exceeding the greater of the rates authorized under
7657 § 6.2-303 or ~~under §~~ 15.2-2612, or ~~(b) shall (ii)~~ be sold at public or private sale such that the
7658 interest cost to maturity ~~shall exceed exceeds~~ the greater of such ~~per centum per annum annual~~
7659 ~~percentage~~ rates ~~as is~~ authorized under § 6.2-303 or ~~under §~~ 15.2-2612.

7660 **Drafting note: Technical changes.**

7661 § ~~23-28~~ 23.1-1113. ~~Surplus Bonds; surplus~~ to be paid into state treasury.

7662 When any institution ~~shall have~~ fully ~~met meets~~ and ~~discharged discharges~~ its bonds,
7663 ~~together with~~ interest thereon, ~~with~~ interest on any unpaid installments of interest on its bonds,
7664 and all costs and expenses in connection with any action or proceedings by or on behalf of the

7665 ~~holders of such bonds~~ bondholders and ~~shall have paid~~ pays in full or otherwise ~~discharged~~
 7666 discharges all of its liabilities incurred pursuant to this chapter, such institution shall pay into the
 7667 state treasury ~~as now required by general law~~ all such ~~sum or~~ sums of money ~~received by~~ it
 7668 receives pursuant to the provisions of this chapter or that are derived from any project erected
 7669 pursuant to this chapter as may ~~then remain be~~ in its possession or control.

7670 **Drafting note: Technical changes, including removing "sum or" on the basis of § 1-**
 7671 **227, which provides that throughout the Code any word in the singular includes the plural**
 7672 **and vice versa.**

7673 § ~~23-22~~ 23.1-1114. ~~Accounts~~ Projects; accounts to be kept by boards.

7674 The board of ~~every~~ each institution shall keep and preserve complete and accurate
 7675 accounts of all sums of money received and disbursed ~~in connection with the acquisition to~~
 7676 acquire, erection erect, lease, ~~operation and maintenance of~~ operate, or maintain any project and
 7677 any ~~such~~ other existing facilities, including ~~without limitation~~ a complete and accurate record of
 7678 all revenues derived from any ~~one or more of the sources mentioned~~ source set forth in
 7679 subdivisions (1), (2), (3) and (4) of subsection (d) subdivision C 1 a, b, c, or d of § ~~23-19~~ 23.1-
 7680 1106 and all sums disbursed for the payment of the principal of or interest on or other debt
 7681 service with respect to any bonds issued pursuant to ~~the authority of~~ this chapter ~~and such~~. The
 7682 annual portion of such revenues ~~as shall~~ that are not ~~be~~ required to discharge ~~in due course~~ any
 7683 obligation, liability, or debt of the institution incurred in connection with the project or ~~such~~
 7684 other existing facilities, including the creation of reserves for such purposes, shall be paid into
 7685 the state treasury; as provided in § ~~23-21~~ 23.1-1109.

7686 **Drafting note: Technical changes, including removing "without limitation" used in**
 7687 **conjunction with "including" on the basis of the Code-wide application of § 1-218, which**
 7688 **states, "'Includes' means includes, but not limited to."**

7689 § ~~23-25~~ 23.1-1115. ~~Exemptions~~ Projects; exemption from taxation.

7690 The acquisition, erection, leasing, operation, and maintenance of any project authorized
 7691 by this chapter are ~~in all respects~~ for the benefit of the ~~people~~ citizens of the Commonwealth ~~of~~

7692 Virginia, for the increase of their pleasure, knowledge, and welfare, and for the dissemination of
7693 education among them, ~~and every. Each~~ institution ~~shall be regarded as performing performs~~ a
7694 governmental function and ~~shall be deemed to be is~~ an incorporated institution of learning in
7695 carrying out its purposes and exercising its powers ~~derived from pursuant to~~ this chapter and, so
7696 far as may be consistent with the Constitution of Virginia, ~~shall be is not~~ required to pay ~~no~~
7697 taxes or assessments of any kind ~~whatsoever~~ upon any project ~~acquired, erected or leased and~~
7698 ~~operated and maintained by it and that it acquires, erects, or leases and operates and maintains.~~
7699 Any such project ~~shall be is~~ exempt from taxation, and, insofar as may be permitted under the
7700 Constitution of Virginia, the bonds of such institution ~~shall be are~~ exempt from taxation except
7701 for inheritance taxes.

7702 **Drafting note: Technical changes.**

7703 § ~~23-26~~ 23.1-1116. Commonwealth not to limit revenues of institutions.

7704 The Commonwealth ~~of Virginia does pledge to and agree with the holders of the bonds~~
7705 ~~issued by any institution that the Commonwealth will~~ shall not (i) limit or alter the rights ~~hereby~~
7706 vested in ~~such any~~ institution to establish ~~and~~, collect ~~the, and pledge~~ fees, rents, and charges,
7707 including student building fees and other student fees ~~and to pledge the same, all~~ as provided for
7708 in ~~subdivisions (1), (2), (3) and (4) of subsection (d) subdivision C 1 a, b, c, or d~~ of § ~~23-19~~ as
7709 ~~may be convenient or~~ 23.1-1106 that the institution deems necessary or convenient to produce
7710 sufficient revenues to meet the expense of maintenance and operation of such project and such
7711 other existing facilities and ~~to~~ fulfill the terms of any ~~agreements~~ agreement made with the
7712 ~~holders of the bonds~~ bondholders or (ii) in any way ~~to~~ impair the rights and remedies of such
7713 ~~holders, bondholders~~ until the bonds, ~~together with the~~ interest thereon, ~~with the~~ interest on any
7714 unpaid installments of interest on the bonds, and all costs and expenses in connection with any
7715 action or proceedings by or on behalf of such ~~holders~~ bondholders are fully met and discharged.

7716 **Drafting note: Technical changes.**

7717 § ~~23-30.02~~ 23.1-1117. Borrowing to purchase real estate.

7718 ~~(a) In addition to the powers conferred upon institutions by other provisions of this~~
7719 ~~chapter, and notwithstanding any other provision of this title, any~~ A. Any institution ~~is hereby~~
7720 ~~authorized by and may,~~ with the approval of the Governor; and upon the affirmative vote of at
7721 least ~~two-thirds~~ two-thirds of its board, ~~to (i) borrow from time to time,~~ for and in the name of
7722 the institution; such ~~sum or~~ sums as it ~~may determine~~ determines necessary for the acquisition of
7723 improved or unimproved real estate; ~~improved or unimproved,~~ whether ~~or not~~ such acquisition
7724 is ~~in pursuance for the purpose of the erection of erecting~~ a project; and ~~to (ii) secure payment~~
7725 ~~thereof of such debts~~ by a lien on such real estate; ~~provided that interest upon the notes or bonds~~
7726 ~~issued by an institution pursuant to this section may be further secured by or~~ the pledge of any
7727 endowment funds or unrestricted gifts from private sources available for the use of such
7728 institution ~~and which that~~ are not required by law or by previous binding contract to be devoted
7729 to some other purpose.

7730 ~~(b) B.~~ Notes or bonds issued by an institution pursuant to this section and the interest
7731 thereon shall ~~be required to~~ be paid only from the real estate, endowment funds, or unrestricted
7732 gifts from private sources; ~~including interest thereon,~~ pledged to secure the notes or bonds so
7733 issued; or the proceeds from the sale or liquidation ~~thereof of such real estate, funds, or gifts,~~
7734 and shall ~~in no event not~~ constitute a general obligation of such institution, the Commonwealth,
7735 the Governor, the members of the board, ~~nor or~~ any person executing the notes or bonds so
7736 issued.

7737 ~~(e) C.~~ Any notes or bonds ~~so~~ issued by an institution pursuant to this section are ~~hereby~~
7738 made securities in which all public officers and bodies of ~~this the~~ Commonwealth and ~~all its~~
7739 political subdivisions ~~thereof,~~ all insurance companies and associations, ~~all and~~ savings banks
7740 and savings institutions, including savings and loan associations, in this the Commonwealth;
7741 may properly and legally invest funds under their control; ~~and all.~~

7742 D. Any notes or bonds ~~so~~ issued; ~~their transfer and the income therefrom pursuant to this~~
7743 section, the transfer of such notes or bonds, or the income from such notes or bonds, including
7744 any profit derived from the sale ~~thereof of such notes or bonds,~~ shall at all times be free and is

7745 exempt from taxation by ~~this the~~ Commonwealth, ~~and by any municipality, county or any~~
7746 ~~locality~~ or ~~any~~ political subdivision ~~thereof of the Commonwealth.~~

7747 (d) ~~E.~~ Any ~~board~~ resolution ~~or resolutions of the board~~ authorizing ~~the issuance of~~ notes
7748 or bonds ~~to be issued~~ pursuant to this section may, ~~at the discretion of the board,~~ contain any
7749 provision ~~or provisions which shall be a part of the contract with the holders of notes or bonds~~
7750 ~~so issued as are~~ authorized by ~~any other section of~~ this chapter in connection with the issuance
7751 of bonds by institutions. ~~Such provision shall be part of the contract with the holders of such~~
7752 ~~notes or bonds.~~

7753 **Drafting note: Technical changes are made, including striking the superfluous**
7754 **phrase "from time to time" in subsection A per Code Commission policy. The term**
7755 **"locality" is used to replace "municipality, county" in proposed subsection D as a more**
7756 **broad term that conforms to §§ 1-221 and 1-224, which state respectively that throughout**
7757 **the Code "locality" means a county, city, or town and "municipality" means a city or**
7758 **town.**

7759 § ~~23-27~~ 23.1-1118. Discretion of Governor in granting or withholding consent or
7760 approval.

7761 The Governor is ~~hereby~~ vested with absolute discretion ~~in with~~ respect to ~~the~~
7762 withholding or granting ~~of~~ any consent or approval ~~required in connection with any act or thing~~
7763 ~~authorized by made pursuant to~~ this chapter.

7764 **Drafting note: Technical changes.**

7765 § ~~23-5~~ 23.1-1119. Payment of interest on bonds of ~~State the Commonwealth~~ held by
7766 ~~colleges, etc~~ public institutions of higher education and private institutions of higher education.

7767 The Comptroller ~~is authorized and directed to~~ shall draw upon the state treasury in favor
7768 of the proper authorities of any ~~incorporated college, public~~ institution, ~~or seminary of learning,~~
7769 ~~or manual labor school, in this Commonwealth, of higher education or private institution of~~
7770 higher education for all accrued interest ~~which has accrued, or may hereafter accrue, and as the~~
7771 ~~same may fall due,~~ upon all obligations of the Commonwealth, or ~~of~~ the James River and

7772 Kanawha Company, guaranteed by the Commonwealth, that are held by or for such ~~college,~~
7773 institution, ~~or seminary of learning, or manual labor school, or to which they were entitled, on~~
7774 ~~the first day of January, 1882, so long as they may continue to hold the same; provided, that no.~~
7775 No interest shall be paid upon any such bonds, ~~the payment of which is forbidden by the~~
7776 Constitution.

7777 **Drafting note: Technical changes.**

7778 § ~~23-6~~ 23.1-1120. Exchange and cancellation of consol coupon bonds of ~~State the~~
7779 Commonwealth.

7780 The following sections of the Code of Virginia of 1919 are continued in effect:

7781 ~~(1)~~1. Section 991, relating to the exchange of consol coupon bonds held by colleges, etc.,
7782 for funded registered consol bonds; and

7783 ~~(2)~~2. Section 992, relating to the cancellation of such bonds surrendered in exchange.

7784 **Drafting note: Technical changes.**

7785 § ~~23-30~~ 23.1-1121. Certificates of indebtedness.

7786 Chapter 489 of the Acts of Assembly of 1926, approved March 25, 1926, and codified as
7787 §§ 992(1)-992(13) of Michie Code 1942, authorizing the governing boards of certain ~~state~~
7788 educational public institutions of higher education to issue certificates of indebtedness to raise
7789 funds for dormitory construction purposes, and Chapter 61 of the Acts of Assembly of 1928,
7790 approved February 28, 1928, relating to similar certificates, are continued in effect.

7791 **Drafting note: Technical changes.**

7792 § ~~23-29~~ 23.1-1122. Provisions of chapter to control.

7793 Insofar as the provisions of this chapter are inconsistent with the provisions of any other
7794 general or special law, ~~general or special,~~ or ~~of~~ the charter or other organic law of any
7795 institution, the provisions of this chapter ~~shall be controlling control.~~

7796 **Drafting note: Technical changes.**

7797 CHAPTER 3.1.

7798 VIRGINIA COLLEGE BUILDING AUTHORITY.

7799 ~~§§ 23-30.1 through 23-30.22.~~

7800 **Drafting note: Repealed by Acts 1966, c. 685.**

7801 CHAPTER ~~3.2~~ 12.

7802 VIRGINIA COLLEGE BUILDING AUTHORITY.

7803 **Drafting note: Existing Chapters 3.2 and 3.3 are reorganized as Chapter 12 in**
7804 **order to logically combine the provisions of these closely related chapters.**

7805 Article 1.

7806 General Provisions; Powers and Duties.

7807 **Drafting note: Existing Chapter 3.2 is reorganized as proposed Article 1 of Chapter**
7808 **12, consolidating general provisions and provisions related to the Virginia College**
7809 **Building Authority's powers and duties generally.**

7810 ~~§ 23-30.23. Title.~~

7811 ~~This chapter shall be known and may be cited as the "Virginia College Building~~
7812 ~~Authority Act of 1966."~~

7813 **Drafting note: Existing § 23-30.23 is recommended for repeal because of the Code-**
7814 **wide application of § 1-244, which states that the caption of a subtitle, chapter, or article**
7815 **serves as a short title citation.**

7816 ~~§ 23-30.24 23.1-1200. Legislative declaration; definitions~~ Definitions; findings.

7817 ~~It is hereby found, determined and declared that the providing of funds for the~~
7818 ~~construction of projects of capital improvement at educational institutions within this~~
7819 ~~Commonwealth is or may be hindered, impeded and delayed by the high financing costs~~
7820 ~~resulting from the sale of bonds of such educational institutions in the open market, and it is~~
7821 ~~desirable that a state agency be created as hereinafter provided, authorized either (i) to purchase~~
7822 ~~such bonds in order to serve educational institution purposes by financing the construction of~~
7823 ~~projects of capital improvement at less cost, thereby facilitating such construction or (ii) to issue~~
7824 ~~its own revenue bonds for purposes of paying for the costs of such projects.~~

7825 ~~It is hereby further found, determined and declared that there is an urgent need to~~
7826 ~~provide substantial amounts of new scientific, technical and other equipment for teaching,~~
7827 ~~research and related activities at such educational institutions so that they may remain~~
7828 ~~competitive in attracting high quality faculty and obtaining research grants, and it is desirable~~
7829 ~~that a state agency be empowered, as hereinafter provided, to purchase such equipment for lease~~
7830 ~~or sale to such educational institutions in order to provide them with such equipment at the~~
7831 ~~lowest possible cost, thereby facilitating the acquisition and supply of such equipment to~~
7832 ~~educational institutions and increasing the purchasing power of their funds, including funds~~
7833 ~~provided by tuition and fees and by appropriations from the General Assembly.~~

7834 A. ~~As used in this chapter article, the following words and terms shall have the following~~
7835 ~~meanings unless the context shall otherwise indicate requires a different meaning:~~

7836 "Authority" means the Virginia College Building Authority ~~created by § 23-30.25, or, if~~
7837 ~~said Authority shall be abolished, the board, body, commission, department or officer~~
7838 ~~succeeding to the principal functions thereof or to whom the powers given by this chapter to the~~
7839 ~~Authority shall be given by law.~~

7840 "Bonds" means bonds, notes, or other evidences of indebtedness or ~~other~~ obligations of
7841 the Authority pursuant to this ~~chapter article~~.

7842 "Educational Eligible institution" means ~~those public~~ institutions ~~enumerated in § 23-14,~~
7843 ~~area career and technical schools established under Chapter 16 (§ 23-214 et seq.) of this title,~~
7844 ~~and all other schools owned and operated by the Commonwealth in which a college education is~~
7845 ~~taught for less than four years of higher education, as that term is defined in § 23.1-100; the~~
7846 Eastern Virginia Medical School; the Institute for Advanced Learning and Research; the New
7847 College Institute; the Roanoke Higher Education Authority; the Southern Virginia Higher
7848 Education Center; the Southwest Virginia Higher Education Center; the Virginia School for the
7849 Deaf and the Blind; and the Wilson Workforce and Rehabilitation Center.

7850 "Equipment" means any personal property, including, ~~but without limitation,~~ computer
7851 hardware and software, and any other improvements ~~of all types,~~ including infrastructure

7852 improvements related to equipment, ~~to be~~ used to support academic instruction and research, at
7853 educational eligible institutions.

7854 "Project" has the same meaning as ~~it is defined in set forth in~~ § ~~23-15~~ 23.1-1100.

7855 B. Providing funds for the construction of projects at eligible institutions is or may be
7856 hindered, impeded, and delayed by the high financing costs resulting from the sale of bonds of
7857 such eligible institutions in the open market, and it is desirable that the Authority may (i) serve
7858 the purposes of eligible institution by purchasing such bonds and financing the construction of
7859 projects at a lower cost, which facilitates such construction and (ii) issue its own revenue bonds
7860 for the purpose of paying the costs of such projects.

7861 C. There is an urgent need to provide substantial amounts of new scientific, technical,
7862 and other equipment for academic instruction, research, and related activities at eligible
7863 institutions so that they may remain competitive in attracting high-quality faculty and obtaining
7864 research grants, and it is desirable that the Authority may finance the purchase of such
7865 equipment to provide eligible institutions with such equipment at the lowest possible cost,
7866 which facilitates the acquisition and supply of such equipment to eligible institutions and
7867 increases the purchasing power of their funds, including funds provided by tuition and fees and
7868 appropriations from the General Assembly.

7869 **Drafting note: The definition of eligible institution is revised to incorporate existing**
7870 **§ 23-14. Technical changes are made, including removing "but without limitation" used in**
7871 **conjunction with "including" in the definition of equipment on the basis of the Code-wide**
7872 **application of § 1-218, which states, "'Includes' means includes, but not limited to."**

7873 § ~~23-30.25~~ 23.1-1201. ~~Creation and organization of Virginia College Building~~
7874 ~~Authority; surety bonds established.~~

7875 A. The Virginia College Building Authority is ~~hereby created~~ established as a public
7876 body corporate and ~~as~~ a political subdivision ~~and an~~, agency, and instrumentality of the
7877 Commonwealth ~~of Virginia, and as such, shall have and~~. The Authority is ~~hereby~~ vested with
7878 the powers, rights, and duties hereinafter conferred in this ~~chapter~~ article.

7879 B. The ~~Virginia College Building~~ Authority shall consist of the State Treasurer, the State
7880 Comptroller, the Director of the Department of Planning and Budget, and the Director of the
7881 State Council of Higher Education for Virginia, all of whom shall serve ex officio, and seven
7882 additional members appointed by the Governor, subject to confirmation by the General
7883 Assembly, ~~if in session when such appointments are made, and if not in session, at its first~~
7884 ~~session subsequent to such appointment, who~~ Each member shall serve at the pleasure of the
7885 Governor. ~~The initial members shall be the members of the Authority heretofore appointed~~
7886 ~~under the Virginia College Building Authority Act of 1964 for the terms appointed pursuant to~~
7887 ~~that act and until their successors shall be appointed and qualified. The successors of each of the~~
7888 ~~appointed members~~ Appointed members shall ~~be appointed~~ serve for a term of four years,
7889 ~~except that appointments to fill vacancies. Ex officio members shall serve terms coincident with~~
7890 their terms of office. Vacancies occurring other than by expiration of a term shall be ~~made filled~~
7891 for the unexpired ~~terms~~ term. ~~Such members~~ No appointed member shall serve ~~no~~ more than
7892 two consecutive terms. ~~The secretary and the assistant secretary may receive such compensation~~
7893 ~~as the Authority may provide.~~

7894 C. The Governor shall appoint one member as chairman who shall serve a two-year
7895 term. No member ~~shall be~~ is eligible to serve more than two consecutive terms as chairman. The
7896 chairman shall be the chief executive officer of the Authority and shall receive such
7897 compensation as the Governor ~~shall fix~~ determines. ~~Neither the State Treasurer, the State~~
7898 ~~Comptroller, the Director of the State Council of Higher Education for Virginia nor the Director~~
7899 ~~of Planning and Budget shall be~~ No ex officio member is eligible to serve as chairman. ~~Six~~
7900 ~~members of the Authority shall constitute a quorum for the transaction of all business of the~~
7901 Authority.

7902 D. The Authority shall elect one appointed member ~~from the group of seven members~~
7903 ~~appointed by the Governor~~ as vice-chairman, who shall exercise the powers of the chairman in
7904 the absence of the chairman.

7905 E. The Authority shall elect a treasurer, a secretary, and an assistant secretary, ~~each of~~
7906 ~~whom may to~~ perform the duties and functions commonly performed by such officers. All such
7907 officers, except the secretary and the assistant secretary, shall be selected from members of the
7908 Authority. The secretary and the assistant secretary may receive such compensation as the
7909 Authority provides.

7910 F. Each appointed member of the Authority ~~hereafter appointed~~ and the secretary and the
7911 assistant secretary ~~of the Authority~~ shall execute a surety bond in such penal sum as shall be
7912 determined by the Attorney General, ~~each such surety bond~~ to be (i) conditioned upon the
7913 faithful performance of the duties of his office, ~~to be~~ (ii) executed by a surety company
7914 authorized to transact business in the Commonwealth ~~of Virginia~~ as surety ~~and to be~~, (iii)
7915 approved by the Attorney General, and (iv) filed in the office of the Secretary of the
7916 Commonwealth.

7917 G. Six members of the Authority shall constitute a quorum for the transaction of all
7918 business of the Authority.

7919 **Drafting note: Provisions related to Authority membership in this proposed section**
7920 **are updated to conform to the provisions of proposed § 23.1-1300, to the extent feasible.**
7921 **Obsolete provisions related to initial appointments to the Authority are recommended for**
7922 **repeal. Technical changes are made.**

7923 § ~~23-30.35~~ 23.1-1202. Action by Authority may be authorized by resolution.

7924 ~~Any~~ The Authority may authorize any action taken by the Authority ~~under~~ pursuant to
7925 the provisions of this ~~chapter may be authorized~~ article by resolution at any regular or special
7926 meeting, and each such resolution shall take effect immediately and need not be published or
7927 posted.

7928 **Drafting note: Technical changes.**

7929 § ~~23-30.31~~ 23.1-1203. Powers of Authority generally.

7930 ~~In order to~~ To enable the Authority to carry out the purposes for which it is established,
7931 the Authority ~~is vested with the powers of a public body corporate, including the power to sue~~
7932 ~~and may:~~

7933 1. Sue and be sued, ~~to make;~~

7934 2. Make contracts, ~~and to adopt and;~~

7935 3. Adopt, use, and alter a common seal ~~and to alter the same, and is authorized and~~
7936 ~~empowered;~~

7937 ~~1. To have~~ 4. Have perpetual succession as a public body corporate, ~~and to adopt;~~

7938 5. Adopt bylaws and regulations for the conduct of its affairs;

7939 ~~2. To maintain~~ 6. Maintain an office at such place ~~or places~~ as it may designate;

7940 ~~3. To collect,~~ 7. Collect, or ~~to~~ authorize the trustee under any trust indenture securing
7941 any bonds of the Authority to collect, ~~as the same shall become due,~~ (i) the principal of and the
7942 interest on all obligations transferred to the Authority by the General Assembly and (ii) other
7943 assets or moneys transferred to the Authority by the General Assembly or educational eligible
7944 institutions, including lease payments and other sources of revenue, as such principal, interest,
7945 and other assets or moneys become due;

7946 ~~4. To conduct~~ 8. Conduct a program of purchasing equipment for ~~lease or sale to~~
7947 educational eligible institutions as authorized by this ~~chapter~~ article;

7948 ~~5. To collect,~~ 9. Collect, or ~~to~~ authorize the trustee under any trust indenture securing
7949 any bonds of the Authority to collect, ~~as the same shall become due,~~ (i) payments due under
7950 leases or agreements of sale of equipment or leases or other obligations of real property by the
7951 Authority to educational eligible institutions, as such payments become due and (ii) the
7952 principal of and the interest on all ~~educational institution~~ bonds of eligible institutions purchased
7953 by the Authority;

7954 ~~6. To repossess and~~ 10. Repossess and sell, or ~~to~~ authorize the trustee under any trust
7955 indenture securing any bonds of the Authority to repossess and sell, any equipment upon any
7956 default under the lease or agreement for the sale of such equipment;

7957 ~~7. To repossess and~~ 11. Repossess and re-lease, or ~~to~~ authorize the trustee under any
7958 trust indenture securing any bonds of the Authority to repossess and re-lease, any project upon
7959 any default under the lease of such project;

7960 ~~8. To assist educational~~ 12. Assist eligible institutions in applying for grants from, or
7961 entering into other agreements with, the federal or state government ~~or,~~ foundations, ~~or others~~
7962 other entities that are designed to provide (i) guarantees of or funds for payments under leases or
7963 contracts of sale or (ii) other benefits ~~and to enter into similar agreements with such entities~~
7964 itself;

7965 13. Enter into agreements with the federal or state government, foundations, or other
7966 entities that are designed to provide (i) guarantees of or funds for payments under leases or
7967 contracts of sale or (ii) other benefits;

7968 ~~9. To select in such manner as it deems fit~~ 14. Select, and ~~to~~ appoint, and employ
7969 financial experts, corporate depositories, trustees, paying agents, attorneys, accountants,
7970 consulting engineers, construction experts ~~and for,~~ and other individuals to perform such other
7971 services as may be necessary in the judgment of the Authority; and ~~to~~ pay their compensation
7972 and reasonable expenses either from moneys received by the Authority under the provisions of
7973 this ~~chapter,~~ article or from appropriations made by the General Assembly for such purposes;

7974 ~~10. To issue~~ 15. Issue bonds of the Authority as authorized by this ~~chapter,~~ and ~~to~~ article
7975 and refund any of such bonds;

7976 ~~11. To receive~~ 16. Receive and accept any grants, aid, or contributions ~~from any source~~
7977 of ~~either~~ money, property, labor, or other things of value; from any source or ~~to~~ reject ~~the same~~
7978 in the judgment of the Authority any such grants, aid, or contributions; and

7979 ~~12. To do~~ 17. Perform any ~~and all~~ other ~~acts and things act~~ necessary, appropriate,
7980 incidental, or convenient to carrying out the powers expressly granted in this ~~chapter~~ article.

7981 **Drafting note: Language vesting the Authority with the powers of a public body**
7982 **corporate are removed in this section because such powers are given in the previous**
7983 **section in existing language and retained in that proposed section. Technical changes are**

7984 made, including removing "or places" in proposed subdivision 6 because § 1-227 provides
7985 that throughout the Code any word in the singular includes the plural and vice versa.

7986 § ~~23-30.26~~ 23.1-1204. ~~Administration Duties; administration~~ of assets, moneys, or
7987 obligations.

7988 The Authority shall manage and administer ~~as hereinafter provided~~ all assets, moneys, or
7989 obligations ~~that may be~~ set aside and transferred to it by the General Assembly or ~~educational~~
7990 ~~eligible~~ institutions ~~as provided in this article~~.

7991 **Drafting note: Technical changes.**

7992 § ~~23-30.27~~ 23.1-1205. ~~Purchase and Powers; purchase or~~ sale of bonds or other
7993 obligations of ~~educational eligible~~ institutions.

7994 A. The Authority ~~is authorized to~~ may purchase, with any funds of the Authority
7995 available for such purpose, at public or private sale and for such price and on such terms as it
7996 ~~shall determine~~ determines, bonds or other obligations issued by ~~educational eligible~~ institutions
7997 pursuant to Chapter ~~3 11~~ (§ ~~23-14~~ 23.1-1100 et seq.) ~~of this title~~.

7998 B. The Authority may pledge to the payment of the interest on and the principal of any
7999 bonds of the Authority all or any part of the ~~educational institution~~ bonds of eligible institutions
8000 so purchased, including payments of principal and interest thereon, as ~~they shall~~ such payments
8001 become due. The Authority may ~~also~~, subject to any such pledge, sell any such ~~educational~~
8002 ~~institution~~ bonds so purchased and apply the proceeds of such sale ~~in the (i) to purchase of other~~
8003 like ~~educational institution~~ bonds of other eligible institutions or (ii) for ~~such the~~ purpose and in
8004 ~~such the~~ manner ~~as shall be~~ provided by any resolution authorizing the issuance of bonds of the
8005 Authority.

8006 **Drafting note: Technical changes, including replacing "is authorized to" with its**
8007 **simpler equivalent "may."**

8008 § ~~23-30.27:1~~ 23.1-1206. ~~Acquisition and Powers; acquisition or~~ disposition of
8009 equipment.

8010 A. The Authority ~~is authorized to~~ may (i) acquire equipment or any interest ~~therein in~~
8011 equipment by purchase, exchange, gift, lease, or otherwise, ~~to~~; (ii) sell, exchange, donate,
8012 convey, lease, and dispose of ~~the same, such equipment~~ or any portion ~~thereof of~~ or interest
8013 ~~therein in such equipment~~, including security interests ~~therein, and to in such equipment; and~~
8014 (iii) retain or receive security interests in such equipment.

8015 B. ~~Without regard to the requirements, restrictions, limitations or Notwithstanding any~~
8016 other ~~provisions contained in any other general, special or local law~~ provision of law to the
8017 contrary, educational eligible institutions ~~are authorized to may~~ grant security interests in or
8018 other liens on equipment held or acquired by the educational eligible institution under any lease
8019 or agreement of sale with the Authority.

8020 C. The Authority ~~is authorized to~~ may acquire equipment with any funds of the
8021 Authority available for such purpose. Acquisition and disposition of equipment may be at public
8022 or private sale and for such price and on such terms as the Authority ~~shall determine~~ determines,
8023 provided that the Authority ~~shall acquire~~ finances the acquisition of equipment for, ~~and shall~~
8024 ~~lease or sell the same sale~~ to, educational eligible institutions only pursuant to standards and
8025 procedures ~~as~~ approved through the Commonwealth's budget and appropriation process. The
8026 budget document shall present ~~the any~~ lease payments and the corresponding total value of
8027 equipment to be acquired by each institution. Each institution shall make available such
8028 additional detail on specific equipment to be purchased as may be requested by the Governor or
8029 the General Assembly. If emergency acquisitions and leases are necessary when the General
8030 Assembly is not in session, the Governor may approve such acquisitions and leases. Prior to
8031 such acquisitions and leases, the Governor shall submit such proposed acquisitions and leases to
8032 the House Appropriations Committee and the Senate Finance Committee for their review and
8033 approval.

8034 D. The Authority ~~is authorized to~~ may establish and maintain such ~~funds~~ accounts as it
8035 ~~may deem~~ deems appropriate ~~from time to time~~ to provide funds for acquisition of equipment on
8036 a continuing basis. The Authority may deposit ~~therein in~~ such accounts such funds as it deems

8037 appropriate, including, ~~but without limitation,~~ the proceeds of any Authority bonds issued to
 8038 finance the purchase of equipment and payments made to the Authority under equipment ~~leases~~
 8039 ~~and lease or~~ sale agreements with educational eligible institutions ~~and others or other entities.~~
 8040 Any moneys held in such ~~funds accounts~~ may ~~also~~ be (i) used ~~in the Authority's discretion~~ to
 8041 secure payment of principal of and interest on any Authority bonds, whether issued to finance
 8042 the purchase of equipment, ~~or to issued to~~ pay administrative costs of the authority, ~~whether or~~
 8043 incurred in connection with the purchase, lease, or sale of equipment, or ~~may be~~ (ii) transferred
 8044 by the Authority to be used in connection with any other program of the Authority. ~~However, no~~
 8045 No funds of the Authority derived from the equipment program authorized under this section
 8046 may be used in connection with the issuance or securing of indebtedness for the benefit of
 8047 private institutions ~~for of~~ higher education pursuant to Chapter 3.3 Article 2 (§ ~~23-30.39~~ 23.1-
 8048 1220 et seq.) ~~of this title.~~

8049 E. The Authority ~~is authorized to~~ may (i) determine and charge rent or determine sale
 8050 prices for equipment ~~leased or sold by the Authority that it leases or sells~~ to educational eligible
 8051 institutions and terminate such ~~leases~~ lease or sale agreements upon the failure of an educational
 8052 eligible institution to comply with any ~~of the obligations thereof, and may obligations contains~~
 8053 in such agreements or (ii) include in such ~~leases, lease agreements~~ options for the educational
 8054 eligible institution to renew ~~such leases, the lease~~ or ~~to~~ purchase any or all of the leased
 8055 equipment and provisions for the Authority to repossess and sell equipment leased or sold upon
 8056 any default under the lease or sale agreement ~~for the sale of such equipment.~~

8057 **Drafting note: The term superfluous term "from time to time" in subsection D is**
 8058 **stricken per Code Commission policy. Technical changes are made, including replacing "is**
 8059 **authorized to" with its simpler equivalent "may" and removing "but without limitation"**
 8060 **used in conjunction with "including" in subsection D on the basis of the Code-wide**
 8061 **application of § 1-218, which states, "'Includes' means includes, but not limited to."**

8062 § ~~23-30.28~~ 23.1-1207. Bonds Powers; bonds of Authority generally.

8063 ~~In order to~~ A. To provide funds for the purchase of ~~educational institution~~ bonds of
8064 eligible institutions as authorized by § ~~23-30.27~~ 23.1-1205, ~~to provide funds for~~ the acquisition
8065 of equipment as authorized by § ~~23-30.27:1~~ 23.1-1206, ~~to provide funds for~~ the reimbursement
8066 of the Central Capital Planning Fund; established ~~under~~ pursuant to § 2.2-1520, ~~for payments~~
8067 ~~made for the payment of~~ pre-planning or detailed planning ~~of expenses for~~ all projects that have
8068 been approved for construction by the General Assembly, ~~and to provide funds for or~~ the
8069 purpose payment of ~~paying~~ all or any part of the cost of any ~~one or more projects~~ project or ~~of~~
8070 any portion ~~or portions thereof of a project~~, the Authority ~~is hereby authorized to~~ may provide
8071 by resolution, ~~at one time or from time to time~~, for the issuance of bonds of the Authority in
8072 such amount ~~or amounts~~ as the Authority ~~shall determine~~ determines. Such bonds of the
8073 Authority ~~shall be~~ are payable solely from funds of the Authority, including, ~~but without~~
8074 ~~limitation, any one or more of the following:~~ (i) payments of principal of and interest on
8075 ~~educational institution~~ bonds of eligible institutions purchased by the Authority; (ii) the
8076 proceeds of the sale of any such ~~educational institution~~ bonds; (iii) payments of principal of and
8077 interest on obligations transferred to the Authority by the General Assembly or from other assets
8078 or moneys transferred to the Authority by the General Assembly or educational eligible
8079 institutions, including lease payments or any other source of revenue; (iv) the proceeds of the
8080 sale of any such obligations or assets; (v) the proceeds from the sale of bonds of the Authority; (vi)
8081 payments made by educational eligible institutions under leases or sales of equipment by
8082 the Authority; (vii) funds realized from the enforcement of security interests or other liens
8083 securing such bonds; (viii) payments due under letters of credit, policies of bond insurance,
8084 bond purchase agreements, or other credit enhancements securing payment of principal of and
8085 interest on bonds of the Authority; (ix) any moneys held in funds established by the Authority
8086 pursuant to § ~~23-30.27:1~~, 23.1-1206; (x) any reserve or sinking ~~funds fund~~ created to secure
8087 such payment; and (xi) other available funds of the Authority.

8088 B. Bonds of the Authority issued under the provisions of this ~~chapter shall~~ article do not
8089 ~~be deemed to~~ constitute a debt of the Commonwealth or a pledge of the faith or credit of the

8090 Commonwealth, and all bonds of the Authority shall contain on ~~the~~ their face ~~thereof~~ a
8091 statement to the effect that neither the faith and credit, nor the taxing power of the
8092 Commonwealth or of any political subdivision ~~thereof is, or of the Commonwealth~~ shall be,
8093 pledged to ~~the payment of pay~~ the principal of or the interest on such bonds.

8094 C. The bonds of each issue shall be dated, ~~shall and~~ mature at such time ~~or times, not~~
8095 ~~exceeding 40 years from their date or dates,~~ as may be determined by the Authority but not to
8096 exceed 40 years from their date, and may be made redeemable before maturity, at the option of
8097 the Authority, at such price or prices and under such terms and conditions as may be fixed by
8098 the Authority prior to the issuance of the bonds. The bonds may bear interest payable at such
8099 time ~~or times and,~~ at such rate or rates, and in such manner as may be determined by the
8100 Authority ~~or as determined in such manner as the Authority may provide,~~ including the
8101 determination by agents designated by the Authority under guidelines established by it. The
8102 principal of and interest ~~of on~~ such bonds may be made payable in any lawful medium. The
8103 Authority shall determine the form ~~of the bonds and the,~~ manner of execution ~~of,~~ denomination,
8104 and place of payment of principal and interest for the bonds, ~~and shall fix the denomination or~~
8105 ~~denominations of the bonds and the place or places of payment of principal and interest thereof,~~
8106 which may be at the office of the State Treasurer or at any bank or trust company within or
8107 without outside the Commonwealth. ~~In case~~

8108 D. If any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears
8109 on any bonds or coupons ~~shall cease~~ ceases to be such officer before the delivery of such bonds,
8110 such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the
8111 same as if he had remained in office until such delivery.

8112 E. All revenue bonds issued under the provisions of this ~~chapter (article,~~ other than
8113 bonds registered as to principal or in registered form) ~~shall have and,~~ are ~~hereby declared to~~
8114 have, as between successive holders, all the qualities and incidents of negotiable instruments
8115 under the law of this Commonwealth. The Revenue bonds shall be in such form, ~~shall and~~ bear
8116 interest at such rate or rates, either fixed rates or rates established by formula or other method,

8117 and may contain such other provisions,~~all~~ as the Authority may determine. The principal of and
8118 premium, if any, and interest on ~~the revenue~~ bonds ~~shall be~~ are payable in ~~lawful money of the~~
8119 United States ~~of America~~ currency. The Authority shall fix the denomination ~~or denominations~~
8120 of ~~the revenue~~ bonds and place ~~or places~~ of ~~payments~~ payment of principal, premium, if any,
8121 and interest at any ~~one or more banks~~ bank or trust ~~companies~~ company within or ~~without~~
8122 outside the Commonwealth.

8123 F. Bonds may be issued under a system of book entry for recording the ownership and
8124 transfer of ownership of rights to receive payments of principal of and premium, if any, and
8125 interest on the bonds.

8126 G. The Authority may sell ~~such~~ bonds issued under the provisions of this article in such
8127 manner, either at public or private sale, and for such price as it ~~may determine~~ determines to be
8128 in ~~the its~~ best ~~interests of the Authority~~ interest. The proceeds of such bonds shall be disbursed
8129 for the purposes for which such bonds ~~shall have been~~ are issued and under such restrictions, if
8130 any, as the resolution authorizing the issuance of such bonds or the trust indenture ~~hereinafter~~
8131 mentioned may provide.

8132 H. Prior to the preparation of definitive bonds, the Authority may under like restrictions
8133 issue temporary bonds, with or without coupons, exchangeable for definitive bonds when such
8134 bonds ~~shall~~ have been executed and are available for delivery. The Authority may also provide
8135 for the replacement of any bond ~~which shall become~~ that becomes mutilated or ~~shall be~~ is
8136 destroyed or lost. Such revenue bonds may be issued without any other proceedings or the
8137 happening of any other conditions or things than the proceedings, conditions, and things ~~which~~
8138 that are specified and required by this ~~chapter~~ article.

8139 I. Neither the members of the Authority nor any person executing any bonds issued
8140 under the provisions of this ~~chapter shall be~~ article is liable personally on such bonds or be
8141 subject to any personal liability or accountability by reason of the issuance thereof.

8142 No J. The Authority shall not undertake a project for an institution ~~listed in as that term~~
8143 is defined in § ~~23-14 shall be undertaken by the Authority~~ 23.1-1100 if such project was not

8144 ~~specifically included in a bill passed by a majority of those elected to each house of~~ approved by
 8145 the General Assembly, ~~authorizing such project or projects. In addition pursuant to a bill, and~~
 8146 any such project to be financed by bonds issued by the Authority secured by a pledge of any ~~one~~
 8147 ~~or more of the revenue sources~~ revenue source cited in ~~subdivisions (1) through (4) of~~
 8148 ~~subsection (d) of § 23-19~~ subdivision C 1 a, b, c, or d of § 23.1-1106 shall ~~have been be~~
 8149 designated by the institution's ~~board of visitors~~ governing board as a project to be undertaken by
 8150 the Authority.

8151 **Drafting note: The superfluous term "from time to time" in proposed subsection A**
 8152 **is stricken per Code Commission policy. Technical changes are made, including (i)**
 8153 **removing "or amounts" in subsection A and "or times" in subsection C because § 1-227**
 8154 **provides that throughout the Code any word in the singular includes the plural and vice**
 8155 **versa and (ii) removing "but without limitation" used in conjunction with "including" in**
 8156 **proposed subsection A on the basis of the Code-wide application of § 1-218, which states,**
 8157 **"'Includes' means includes, but not limited to."**

8158 ~~§ 23-30.29~~ 23.1-1208. Security for bonds.

8159 ~~In the discretion of the A. The~~ Authority; may secure any bonds issued under the
 8160 provisions of this ~~chapter may be secured~~ article by a trust indenture by and between the
 8161 Authority and a corporate trustee, which may be any trust company or bank having the powers
 8162 of a trust company within or ~~without this~~ outside the Commonwealth. Such trust indenture or
 8163 the resolution providing for the issuance of such bonds may ~~pledge~~:

8164 1. Pledge or assign all or ~~any~~ part of the funds of the Authority available for such
 8165 purpose, including, ~~but without limitation,~~ (i) payments of principal of and interest on
 8166 ~~educational institution~~ bonds of eligible institutions purchased by the Authority; (ii) proceeds of
 8167 the sale of any such ~~educational institution~~ bonds; (iii) payments of principal of and interest on
 8168 obligations transferred to the Authority by the General Assembly or from other assets or moneys
 8169 transferred to the Authority by the General Assembly or ~~educational~~ eligible institutions,
 8170 including lease payments and other sources of revenue; (iv) proceeds of the sale of any such

8171 obligations or assets; (v) proceeds from the sale of bonds of the Authority; (vi) security
8172 interests granted by the Authority or any educational eligible institution in, or other liens on,
8173 equipment, whether such equipment has been leased or sold to an educational eligible
8174 institution; (vii) all or ~~any~~ part of the payments due the Authority from educational eligible
8175 institutions under any ~~leases lease~~, sale ~~agreements agreement~~, ~~loans loan~~, or other ~~agreements~~
8176 ~~made by agreement between~~ the Authority ~~with the educational and eligible~~ institutions
8177 pursuant to § ~~23-30.27:1~~ 23.1-1206, and any funds realized from enforcing security for such
8178 payments; (viii) payments due under policies of bond insurance, letters of credit, or other credit
8179 enhancement securing payment of principal of and interest on bonds of the Authority; (ix) any
8180 moneys in any, ~~or all of the funds as the Authority may from time to time establish fund~~
8181 established pursuant to § ~~23-30.27:1~~, 23.1-1206; (x) any reserve or sinking ~~funds fund~~ created
8182 by the Authority to secure such bonds; and (xi) other available funds of the Authority. ~~Such~~
8183 ~~trust indenture or resolution may also pledge;~~

8184 2. Pledge or assign any other rights of the Authority in equipment owned by, or leases or
8185 sales of equipment made by, the Authority. ~~Such trust indenture or resolution providing for the~~
8186 ~~issuance of such bonds may contain;~~

8187 3. Contain such provisions for protecting and enforcing the rights and remedies of the
8188 bondholders as may be reasonable and proper and not in violation of law. ~~Such trust indenture~~
8189 ~~or resolution providing for the issuance of such bonds may provide;~~

8190 4. Provide for the creation and maintenance of such reserves as the Authority ~~shall~~
8191 ~~determine~~ determines to be proper, ~~and may include;~~

8192 5. Include covenants setting forth the duties of the Authority in relation to the acquisition
8193 of any equipment or ~~educational institution~~ bonds of eligible institutions; the care, leasing, or
8194 sale of equipment to educational eligible institutions; the substitution of any ~~educational~~
8195 ~~institution~~ bonds of eligible institutions, equipment, ~~leases lease~~, security interest, or other
8196 security as security for the payment of the bonds of the Authority; the care, use, and insurance
8197 of equipment; the repossession and sale of leased or sold equipment by the Authority or the

8198 trustee under any trust indenture upon any default under the lease or sale of such equipment; and
 8199 the collection of (i) payments due the Authority under leases or agreements of sale of equipment
 8200 and (ii) payments of principal and interest on any ~~educational institution~~ bonds ~~and on any of~~
 8201 eligible institutions or obligations or other assets held by the Authority. ~~It shall be lawful for any~~
 8202 Any bank or trust company incorporated under the laws of the Commonwealth ~~which may act~~
 8203 that acts as depository of the proceeds of bonds or ~~of~~ revenues ~~to~~ may furnish such
 8204 indemnifying bonds or ~~to~~ pledge such securities as may be required by the Authority. ~~Any such~~
 8205 trust indenture may set;

8206 6. Set forth the rights and remedies of the bondholders and the trustee, ~~and may restrict;~~
 8207 7. Restrict the individual right of action by bondholders. ~~In addition to the foregoing, any~~
 8208 such trust indenture or resolution may contain; and
 8209 8. Contain such other provisions as the Authority ~~may deem~~ deems reasonable and
 8210 proper for the security of the bondholders.

8211 B. All expenses incurred in carrying out the provisions of any such trust indenture or
 8212 resolution may be treated as a part of the administration costs of the Authority.

8213 C. Neither the resolution nor any trust indenture by which a pledge is created need be
 8214 filed or recorded except in the records of the Authority.

8215 **Drafting note: The superfluous term "from time to time" in proposed subdivision**
 8216 **A 1 is stricken per Code Commission policy. Technical changes are made, including**
 8217 **removing "but without limitation" used in conjunction with "including" in proposed**
 8218 **subdivision A 1 on the basis of the Code-wide application of § 1-218, which states,**
 8219 **"'Includes' means includes, but not limited to."**

8220 ~~§ 23-30.29-1~~ 23.1-1209. Reserve fund; limitations.

8221 A. If the Authority deems it proper to create a reserve fund ~~or funds~~ from its bond
 8222 proceeds or other funds ~~of the Authority~~ to support an issuance of bonds in accordance with the
 8223 provisions of this section, all moneys held in such reserve fund, except as ~~hereinafter~~ otherwise
 8224 provided in this section, shall be pledged solely for the payment of the principal of and interest

8225 | on the bonds secured in whole or in part by such a fund. ~~Any~~ The Authority may transfer
8226 | income or interest earned on, or increment to, any reserve fund ~~may be transferred by the~~
8227 | Authority to its other funds or accounts ~~of the Authority to the extent it if such transfer~~ does not
8228 | reduce the amount of the reserve fund below its minimum requirement.

8229 | B. ~~In order to assure~~ To ensure further the maintenance of reserve funds established in
8230 | accordance with the provisions of this section, the chairman of the Authority shall annually, on
8231 | or before November 15, make and deliver to the Governor and the Secretary of Finance a
8232 | certificate stating the sum, if any, required to restore each reserve fund to its minimum
8233 | requirement. The Governor shall submit to the presiding officer of each house of the General
8234 | Assembly printed copies of a budget including the sum, if any, required to restore each reserve
8235 | fund to its minimum requirement; ~~such~~. Such submission shall be made at the time the Governor
8236 | presents his budget and budget bill to the General Assembly pursuant to §§ 2.2-1508 and 2.2-
8237 | 1509. All sums, if any, ~~which that~~ may be appropriated by the General Assembly for any
8238 | restoration and paid to the Authority shall be deposited by the Authority in the applicable
8239 | reserve fund. All sums paid to the Authority pursuant to this section shall constitute and be
8240 | accounted for as advances by the Commonwealth to the Authority and, subject to the rights of
8241 | the holders of any bonds of the Authority, shall be repaid to the Commonwealth without interest
8242 | from available revenues of the Authority in excess of the amounts required for payment of
8243 | bonds or other obligations of the Authority, maintenance of reserve funds, and operating
8244 | expenses.

8245 | C. The Authority shall not at any time issue bonds secured in whole or in part by any
8246 | reserve fund referred to in subsection A if, upon the issuance of the bonds, the amount in the
8247 | reserve fund will be less than its minimum requirement unless the Authority, at the time of the
8248 | issuance of the bonds, deposits in the fund an amount ~~which that~~, together with the amount then
8249 | in the fund, will not be less than the fund's minimum reserve requirement.

8250 D. The total principal amount of bonds outstanding at any one time, secured by a reserve
 8251 fund in accordance with the provisions of this section, shall not exceed the sum of \$300 million
 8252 without the prior approval of the General Assembly.

8253 E. Nothing in this section shall be construed as limiting the power of the Authority to
 8254 issue bonds (i) not secured by a reserve fund or (ii) secured by a reserve fund not described in
 8255 this section.

8256 **Drafting note: Technical changes are made, including removing "or funds" in**
 8257 **subsection A because § 1-227 provides that throughout the Code any word in the singular**
 8258 **includes the plural and vice versa.**

8259 § ~~23-30.29:2~~ 23.1-1210. ~~Educational institutions' pledge of tuition, fees, etc~~ Payment on
 8260 bonds; pledge of revenues.

8261 ~~In order to~~ To provide funds for the repayment of bonds issued by the Authority ~~either to~~
 8262 (i) ~~for the~~ purchase ~~of~~ any educational eligible institution's bonds or (ii) ~~to~~ provide funds ~~for the~~
 8263 purpose of paying to pay all or ~~any~~ part of the cost of any ~~one or more projects~~ project or ~~of~~ any
 8264 portion ~~or portions thereof of a project~~, each educational eligible institution ~~is authorized to may~~
 8265 agree to pledge and transfer to the Authority all or ~~a~~ part of the educational eligible institution's
 8266 revenues derived from any ~~one or more of the sources~~ source mentioned in ~~subdivisions (1)~~
 8267 ~~through (4) of subsection (d)~~ subdivision C 1 a, b, c, or d of § ~~23-19~~ 23.1-1106. Any agreement
 8268 related to such transfer may contain ~~such~~ other provisions that the Authority and educational
 8269 eligible institution deem reasonable and proper and are not in violation of law. ~~Any~~ No such
 8270 agreement shall ~~not be deemed to~~ constitute a debt of the Commonwealth or a pledge of the full
 8271 faith and credit of the Commonwealth. Neither the full faith and credit of the Commonwealth
 8272 nor the taxing power of the Commonwealth or any political subdivision ~~thereof is or of the~~
 8273 Commonwealth shall be pledged to the payment of the principal of and interest on bonds so
 8274 secured by such agreement. Prior to execution, any such agreement shall be approved by ~~(i)~~ the
 8275 Secretary of Finance and ~~(ii)~~ the Secretary of Education.

8276 **Drafting note: Technical changes.**

8277 § ~~23-30.29:3~~ 23.1-1211. ~~Investigation by Governor of alleged defaults; withholding of~~
8278 ~~state funds from defaulting institution; payment of funds withheld; receipts, reports, etc~~ Default
8279 on payments.

8280 A. Whenever it appears to the Governor from an affidavit filed with him by the paying
8281 agent for the bonds issued by the Authority that ~~the~~ an eligible institution has defaulted in the
8282 payment of the principal of or premium, if any, or interest on its bonds pursuant to this ~~chapter~~
8283 article, the Governor shall immediately make a summary investigation into the facts set forth in
8284 the affidavit. If it is established to the satisfaction of the Governor that the institution is in
8285 default in the payment of the principal of or premium, if any, or interest on its bonds ~~or the~~
8286 interest thereon, the Governor immediately shall make an order directing the State Comptroller
8287 to make payment immediately to the owners or paying agent of the bonds in default, ~~or the~~
8288 paying agent for the bonds, on behalf of the institution from any appropriation available to the
8289 institution in the amount due and remaining unpaid by the institution on its bonds.

8290 B. Any payment so made by the State Comptroller to the owners or paying agent of the
8291 bonds in default, ~~or to the paying agent of the bonds for the bonds~~, shall be credited as if made
8292 directly by the institution and ~~shall be~~ charged by the State Comptroller against the
8293 appropriations of the institution. The owners or paying agent of the bonds in default, ~~or the~~
8294 paying agent for the bonds, at the time of payment ~~or at the time of each payment~~ shall deliver
8295 to the State Comptroller, in a form satisfactory to the State Comptroller, a receipt for payment of
8296 the principal, premium, or interest satisfied by the payment. The State Comptroller shall report
8297 each payment made to the governing body of the defaulting institution under the provisions of
8298 this section.

8299 C. ~~In addition, for any institution which defaulted on its bonds pursuant to this section,~~
8300 ~~the~~ The Governor shall direct the State Comptroller to (i) charge against the appropriations
8301 available to ~~such any~~ institution that has defaulted on its bonds pursuant to this section all future
8302 payments of principal of and interest on the institution's bonds when due and payable and ~~to~~ (ii)
8303 make such payments to the owners or paying agent of the bonds, ~~or the paying agent for the~~

8304 ~~bonds~~, on behalf of the institution ~~so as~~ to ensure that no future default will occur on such
8305 bonds. The charge and payment shall be made upon receipt of ~~such~~ documentation ~~as in the~~
8306 ~~opinion of that~~ the State Comptroller ~~provides~~ deems to be satisfactory evidence of the claim.
8307 The owners or paying agent of the bonds, ~~or the paying agent for the bonds~~, at the time of each
8308 payment shall deliver to the State Comptroller, in a form satisfactory to the State Comptroller, a
8309 receipt for payment of the principal or interest satisfied by the payment.

8310 D. Nothing in this section shall be construed to create any obligation on the part of the
8311 State Comptroller or the Commonwealth to make any payment on behalf of the defaulting
8312 institution other than from funds appropriated to the defaulting institution.

8313 **Drafting note: Technical changes are made, including removing the phrase "in**
8314 **addition" in subsection C as unnecessary.**

8315 § ~~23-30.30~~ 23.1-1212. Investment of funds.

8316 Any moneys or funds held by the Authority or ~~by~~ the trustee under any trust indenture
8317 under the provisions of this ~~chapter article~~ may be invested and reinvested in securities that are
8318 legal investments under the laws of the Commonwealth for moneys or funds held by fiduciaries.

8319 **Drafting note: Technical changes.**

8320 § ~~23-30.32~~ 23.1-1213. Enforcement of rights and duties by bondholder or trustee under
8321 trust indenture.

8322 Any (i) holder of bonds issued under the provisions of this ~~chapter article~~ or any of the
8323 coupons appertaining ~~thereto, and the to such bonds and (ii)~~ trustee under any trust indenture,
8324 ~~except to the extent the rights herein given may be restricted by such trust indenture or the~~
8325 ~~resolution authorizing the issuance of such bonds~~, may, either at law or in equity, by suit, action,
8326 mandamus, or other proceeding, (a) protect and enforce any and all rights under the laws of the
8327 Commonwealth ~~of Virginia or granted hereunder or under such, the~~ trust indenture, or the
8328 resolution authorizing the issuance of such bonds, ~~and may and (b)~~ enforce and compel the
8329 performance of all duties required by this ~~chapter article~~ or ~~by~~ such trust indenture or resolution

8330 to be performed by the Authority or by any officer thereof, except to the extent that such rights
8331 are restricted by the trust indenture or the resolution authorizing the issuance of such bonds.

8332 **Drafting note: Technical changes.**

8333 § ~~23-30.33~~ 23.1-1214. Exemption of bonds from taxation.

8334 The bonds issued by the Authority under the provisions of this ~~chapter article~~, ~~their the~~
8335 transfer of such bonds, and the income ~~therefrom from such bonds~~, including any profit made on
8336 the sale ~~thereof of such bonds~~, ~~shall at all times be free and is~~ exempt from taxation by the
8337 Commonwealth and ~~by any municipality, county, locality or any other~~ political subdivision
8338 thereof of the Commonwealth.

8339 **Drafting note: Technical changes are made, including replacing references to**
8340 **"municipality" and "county" with "locality," which encompasses both municipalities and**
8341 **counties.**

8342 § ~~23-30.34~~ 23.1-1215. Bonds made lawful investments.

8343 All bonds issued by the Authority under the provisions of this ~~chapter article~~ are ~~hereby~~
8344 ~~made~~ securities (i) in which all public officers and bodies of the Commonwealth, and ~~all~~
8345 ~~counties, cities and towns, its localities~~ and municipal political subdivisions, and all insurance
8346 companies and associations, ~~all~~ savings banks and savings institutions, including savings and
8347 loan associations, commercial banks and trust companies, beneficial and benevolent
8348 associations, administrators, guardians, executors, trustees, and other fiduciaries in the
8349 Commonwealth may properly and legally invest funds under their control. ~~Such bonds are~~
8350 ~~hereby made securities which~~ and (ii) that may properly and legally be deposited with and
8351 received by any state ~~or municipal~~ officer or officer of a locality or any agency or political
8352 subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations
8353 is ~~now or may hereafter [after June 27, 1966] be~~ authorized by law.

8354 **Drafting note: An obsolete reference to June 27, 1966, is deleted. A reference to**
8355 **"municipal subdivisions" is replaced with "political subdivisions." A reference to**
8356 **"municipal officer" is replaced with "officer of a locality." Technical changes are made.**

8357 § ~~23-30.36~~ 23.1-1216. Annual report; examination of records, books, and accounts.

8358 A. The Authority shall submit ~~an annual report~~ to the Governor and General Assembly
8359 an annual report of the interim activity and work of the Authority on or before November 1 of
8360 each year. Such report shall be submitted as a report document as provided in the procedures of
8361 the Division of Legislative Automated Systems for the processing of legislative documents and
8362 reports and shall be posted on the General Assembly's website. Such report shall contain, at a
8363 minimum, the annual financial statements of the Authority for the year ending the preceding
8364 June 30.

8365 B. The records, books, and accounts of the Authority ~~shall be~~ are subject to examination
8366 and inspection by duly authorized representatives of the General Assembly and any bondholder
8367 ~~or bondholders~~ at any reasonable time, provided that such examination and inspection do not
8368 unduly interrupt or interfere with the business of the Authority ~~is not unduly interrupted or~~
8369 ~~interfered with thereby.~~

8370 **Drafting note: Standard DLAS procedures for submitting reports are incorporated**
8371 **into this section on the Authority's reporting requirement. Technical changes are made,**
8372 **including removing "or bondholders" because § 1-227 provides that throughout the Code**
8373 **any word in the singular includes the plural and vice versa.**

8374 § ~~23-30.36+1~~ 23.1-1217. Annual audit.

8375 The Auditor of Public Accounts, or his legally authorized representatives, shall annually
8376 audit the accounts of the Authority, and the cost of such audit ~~services as shall be required~~ shall
8377 be borne by the Authority.

8378 **Drafting note: Technical changes.**

8379 § ~~23-30.37~~ 23.1-1218. ~~Chapter Article~~ liberally construed; powers of Authority not
8380 subject to supervision by ~~municipalities, etc~~ certain entities.

8381 A. This ~~chapter article~~, being necessary for the welfare of the Commonwealth and its
8382 inhabitants, shall be liberally construed to effect the purpose ~~thereof~~ of this article.

8383 Except as otherwise expressly provided in this ~~chapter article~~, none of the powers
8384 granted to the Authority under the provisions of this ~~chapter shall be~~ article are subject to the
8385 supervision or regulation or require the approval or consent of (i) any ~~municipality locality~~ or
8386 political subdivision of the Commonwealth or (ii) any commission, board, bureau, official, or
8387 agency ~~thereof or~~ of (a) any such locality or political subdivision or (b) the Commonwealth.

8388 **Drafting note: A reference to "municipality" is replaced with "locality." Technical**
8389 **changes.**

8390 § ~~23-30.38~~ 23.1-1219. Jurisdiction of suits against Authority; service of process.

8391 The Circuit Court of the City of Richmond ~~shall have~~ has exclusive jurisdiction ~~of over~~
8392 any suit brought in ~~Virginia~~ the Commonwealth against the Authority, and process in such suit
8393 shall be served either on the State Comptroller or on the chairman of the Authority.

8394 **Drafting note: Technical changes.**

8395 ~~CHAPTER 3.3.~~

8396 ~~EDUCATIONAL FACILITIES AUTHORITY ACT.~~

8397 ~~Article 2.~~

8398 ~~Nonprofit Private Institutions of Higher Education; Projects.~~

8399 **Drafting note: Existing Chapter 3.3, the Educational Facilities Authority Act, is**
8400 **reorganized as proposed Article 2 of Chapter 12, and the name is changed to "Nonprofit**
8401 **Private Institutions of Higher Education; Projects" to more accurately reflect its contents.**

8402 ~~§ 23-30.40. Title of chapter.~~

8403 ~~This chapter may be cited as the "Educational Facilities Authority Act."~~

8404 **Drafting note: Existing § 23-30.40 is recommended for repeal because of the Code-**
8405 **wide application of § 1-244, which states that the caption of a subtitle, chapter, or article**
8406 **serves as a short title citation.**

8407 § ~~23-30.41~~ 23.1-1220. Definitions.

8408 ~~In As used in this chapter article, the following words and terms shall,~~ unless the context
8409 ~~otherwise~~ requires, have the following meanings a different meaning:

8410 (a) "Authority," means the Virginia College Building Authority ~~created by established in~~
8411 ~~§ 23-30.25~~ 23.1-1200.

8412 (d) "Bonds" or "revenue bonds," means revenue bonds of the Authority issued under the
8413 provisions of this ~~chapter article~~, including revenue refunding bonds, notes, and other
8414 obligations, ~~notwithstanding that the same that~~ may be secured by a mortgage ~~or by~~, the full
8415 faith and credit, ~~or by~~ any other lawfully pledged security of ~~either one or more a~~ participating
8416 ~~institutions for higher education~~ institution.

8417 (e) "Costs," ~~as applied to a project or any portion thereof financed under the provisions~~
8418 ~~of this chapter embraces~~ means (i) all or any part of the cost of construction, acquisition,
8419 alteration, enlargement, reconstruction, and remodeling of a project, including all lands,
8420 structures, real or personal property, rights, rights-of-way, air rights, franchises, easements, and
8421 interests acquired or used ~~for or~~ in connection with a project; (ii) the cost of demolishing or
8422 removing any ~~buildings building~~ or ~~structures structure~~ on land ~~so~~ acquired in connection with a
8423 project, including the cost of acquiring any lands to which such ~~buildings building~~ or ~~structures~~
8424 structure may be moved, the cost of all machinery and equipment, financing charges, interest
8425 prior to, during, and for a period after completion of such construction and acquisition,
8426 provisions for reserves for principal and interest, and provisions for extensions, enlargements,
8427 additions, replacements, renovations, and improvements; (iii) the cost of architectural,
8428 engineering, financial, and legal services, plans, specifications, studies, surveys, estimates of
8429 cost and ~~of~~ revenues; (iv) administrative expenses; (v) expenses necessary or incident to
8430 determining the feasibility or practicability of constructing the project; and (vi) such other
8431 expenses as may be necessary or incident to ~~the construction and acquisition of constructing and~~
8432 acquiring the project, ~~the financing of such construction and acquisition and the, acquiring the~~
8433 project, and placing ~~of~~ the project in operation.

8434 (e) ~~"Institution for higher education," a nonprofit educational institution within the~~
8435 ~~Commonwealth whose primary purpose is to provide collegiate or graduate education and not to~~
8436 ~~provide religious training or theological education.~~

8437 ~~(f) "Participating institution for higher education,"~~ an means a nonprofit private
8438 institution for of higher education which, pursuant to the provisions of this chapter, undertakes
8439 the financing and construction or acquisition of whose primary purpose is to provide collegiate
8440 or graduate education and not to provide religious training or theological education that (i) (a)
8441 finances and constructs or (b) acquires a project ~~or undertakes the refunding (ii) refunds~~ or
8442 ~~refinancing of refinances~~ obligations ~~or of,~~ a mortgage, ~~or of~~ advances as provided in this
8443 ~~chapter article.~~

8444 ~~(b) "Project," in the case of a participating institution for higher education, means~~ a
8445 ~~structure or structures~~ suitable for use as a dormitory or other multi-unit housing facility for
8446 students, faculty, officers, or employees, a dining hall, student union, administration building,
8447 academic building, library, laboratory, research facility, classroom, athletic facility, health care
8448 facility, maintenance, storage or utility facility ~~and other structures or facilities, any~~ related ~~to~~
8449 ~~any of the foregoing structure or facility,~~ or any other structure or facility required or useful for
8450 ~~the instruction of instructing~~ students ~~or the,~~ conducting ~~of~~ research, ~~or the operation of~~
8451 operating an institution ~~for of~~ higher education, including parking facilities and other facilities
8452 or structures essential or convenient for the orderly conduct of such institution ~~for of~~ higher
8453 education, ~~and shall also include.~~ "Project" includes landscaping, site preparation, furniture,
8454 equipment and machinery, and other similar items necessary or convenient for the ~~operation~~
8455 intended use of a particular facility or structure ~~in the manner for which its use is intended but~~
8456 ~~shall.~~ "Project" does not include ~~such items as~~ books, fuel, supplies, or other items ~~the whose~~
8457 ~~costs of which~~ are customarily deemed to result in a current operating charge, ~~and shall not~~
8458 ~~include~~ any facility used ~~or to be used~~ for sectarian instruction or as a place of religious worship
8459 ~~nor, or~~ any facility ~~which is~~ used ~~or to be used~~ primarily in connection with any part of the
8460 program of a school or department of divinity for any religious denomination.

8461 **Drafting note: Technical changes are made, including (i) moving definitions into**
8462 **alphabetical order without regard to placement in existing language so that changes are**
8463 **clearly shown and (ii) removing "or structures" in the definition of project because § 1-**

8464 227 provides that throughout the Code any word in the singular includes the plural and
8465 vice versa.

8466 § ~~23-30.39~~ 23.1-1221. Declaration of policy and purpose.

8467 ~~It is hereby declared that for~~ A. For the benefit of the people of the Commonwealth, the
8468 increase of their commerce, welfare, and prosperity, and the improvement of their health and
8469 living conditions, it is essential that (i) this and future generations of youth be given the fullest
8470 opportunity to learn and ~~to~~ develop their intellectual and mental capacities; ~~that it is essential~~
8471 ~~that and (ii) participating~~ institutions ~~for higher education within the Commonwealth~~ be
8472 provided with appropriate additional means to assist such youth in achieving the required levels
8473 of learning and development of their intellectual and mental capacities; ~~and that it is the~~.

8474 B. The purpose of this ~~chapter article is~~ to provide a measure of assistance and an
8475 alternative method to enable participating institutions ~~for higher education in the~~
8476 Commonwealth to provide the facilities and structures ~~which that~~ are sorely needed to
8477 accomplish the purposes of this ~~chapter article~~, all to the public benefit and good, to the extent
8478 and manner provided ~~herein in this article~~.

8479 **Drafting note: Technical changes.**

8480 § ~~23-30.43~~ 23.1-1222. Expenses of administering ~~chapter article~~.

8481 All expenses incurred in carrying out the provisions of this ~~chapter article~~ shall be
8482 payable solely from funds provided under the ~~authority provisions~~ of this ~~chapter article~~, and no
8483 liability or obligation shall be incurred by the Authority ~~hereunder pursuant to this article~~
8484 beyond the extent to which moneys ~~shall~~ have been provided under the provisions of this
8485 ~~chapter article~~.

8486 **Drafting note: Technical changes are made, including replacing the broad and**
8487 **general term "hereunder" with the more specific reference to "pursuant to this article."**

8488 § ~~23-30.42~~ 23.1-1223. Powers and duties of Authority.

8489 A. The Authority shall assist institutions ~~for of~~ higher education in the acquisition,
8490 construction, ~~and~~ financing, and ~~the~~ refinancing of projects ~~begun after July 1, 1972, and for this~~

8491 ~~purpose the Authority is authorized and empowered. In addition to such other powers as are~~
8492 ~~granted to the~~

8493 B. The Authority by law, it is further empowered may:

8494 ~~(a) To determine~~ 1. Determine the location and character of any project to be financed
8495 under the provisions of this ~~chapter, and to construct~~ article;

8496 2. Construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair,
8497 operate, lease, as lessee or lessor, and regulate ~~the same, any project to be financed under the~~
8498 provisions of this article;

8499 ~~to enter~~ 3. Enter into contracts for any ~~or all of such purposes, to enter~~ purpose set forth
8500 in subdivision 2;

8501 4. Enter into contracts for the management and operation of ~~a any project, and to~~
8502 ~~designate a participating institution for higher education as its agent to determine the location~~
8503 ~~and character of a project undertaken by such participating institution for higher education under~~
8504 ~~the provisions of this chapter and, as the agent of the Authority, to construct, reconstruct,~~
8505 ~~remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and~~
8506 ~~regulate the same, and, as the agent of the Authority, to enter into contracts for any or all of such~~
8507 ~~purposes, including contracts for the management and operation of such project;~~

8508 ~~(b) To issue~~ 5. Issue bonds, bond anticipation notes, and other obligations of the
8509 Authority for any of its corporate purposes; and ~~to fund or refund the same all such bonds, bond~~
8510 anticipation notes, or other obligations as provided in this ~~chapter~~ article;

8511 ~~(c) Generally, to fix and~~ 6. Fix, revise ~~from time to time and,~~ charge, and collect rates,
8512 rents, fees, and charges for the use of and for the services furnished ~~or to be furnished~~ by a
8513 project or any portion ~~thereof and to contract of a project;~~

8514 7. Contract with any person, partnership, association ~~or,~~ corporation, or other ~~body~~
8515 ~~public or private in respect thereof and to designate~~ entity to fix, revise, charge, and collect
8516 rates, rents, fees, and charges pursuant to subdivision 9;

8517 8. Designate a participating institution ~~for higher education or a participating hospital~~ as
8518 its agent to ~~fix, revise, charge and collect such rates, rents, fees and charges and to make such~~
8519 ~~contracts~~ take actions pursuant to subdivisions 1 through 4, 6, and 7;

8520 ~~(d) To establish rules and~~ 9. Establish regulations for the use of a project or any portion
8521 ~~thereof and to of a project or~~ designate a participating institution ~~for higher education~~ as its
8522 agent to establish ~~rules and~~ regulations for the use of a project in which such ~~participating~~
8523 institution ~~for higher education~~ is participating;

8524 ~~(e) To employ~~ 10. Employ consulting engineers, architects, attorneys, accountants,
8525 construction and financial experts, superintendents, managers, and such other employees and
8526 agents as ~~may be it deems~~ necessary ~~in its judgment,~~ and ~~to fix~~ determine their compensation;

8527 ~~(f) To receive~~ 11. Receive and accept from any public agency loans or grants for or in
8528 aid of the construction of a project or any portion ~~thereof, and to receive of a project;~~

8529 12. Receive and accept from any source loans, grants, aid, or contributions ~~from any~~
8530 ~~source~~ of either money, property, labor, or other things of value to be held, used, and applied
8531 only for the purposes for which such loans, grants, aid, and contributions are made;

8532 ~~(g) To mortgage~~ 13. Mortgage any project and the site ~~thereof of any project~~ for the
8533 benefit of the holders of revenue bonds issued to finance such project;

8534 ~~(h) To make~~ 14. Make loans to any participating institution ~~for higher education~~ for the
8535 cost of a project in accordance with an agreement between the Authority and ~~one or more~~
8536 ~~participating institutions for higher education; provided that such institution, but~~ no such loan
8537 shall exceed the total cost of the project as determined by such ~~participating~~ institution ~~or~~
8538 ~~institutions for higher education~~ and approved by the Authority;

8539 ~~(i) To make~~ 15. Make loans to participating institutions ~~for higher education~~ to refund
8540 outstanding obligations, mortgages, or advances issued, made, or given by such participating
8541 institutions ~~for higher education~~ for the cost of a project;

8542 ~~(j) To charge~~ 16. Charge to and equitably apportion among participating institutions ~~for~~
8543 ~~higher education~~ its administrative costs and expenses incurred in the exercise of the powers and
8544 duties conferred by this ~~chapter article~~; and

8545 ~~(k) To do~~ 17. Do all things necessary or convenient to carry out the purposes of this
8546 ~~chapter article~~.

8547 C. In carrying out the purposes of this ~~chapter article~~, the Authority may undertake a
8548 joint project for two or more participating institutions ~~for higher education~~, and, ~~thereupon~~, all
8549 other provisions of this ~~chapter article~~ shall apply to and for the benefit of the Authority and the
8550 ~~participants institutions of higher education participating~~ in such joint project ~~or projects~~.

8551 **Drafting note: The obsolete reference in proposed subsection A to projects "begun**
8552 **after July 1, 1972," is removed, and the term "from time to time" in proposed subdivision**
8553 **B 6 is removed as unnecessary per Code Commission policy. Technical changes are made,**
8554 **including removing "or projects" in proposed subsection C because § 1-227 provides that**
8555 **throughout the Code any word in the singular includes the plural and vice versa.**

8556 ~~§ 23-30.45 23.1-1224. Execution of deeds and conveyances~~ Duties; conveyance of title
8557 to projects.

8558 When (i) (a) the principal of and interest on revenue bonds of the Authority issued to
8559 finance the cost of a ~~particular project or projects~~ for one or more any participating institutions
8560 ~~for higher education~~, including any revenue refunding bonds issued to refund and refinance such
8561 revenue bonds, have been fully paid and retired or ~~when~~ (b) adequate provision has been made
8562 to fully pay and retire ~~the same, and such bonds~~, (ii) all other conditions of the resolution or
8563 trust agreement authorizing and securing the same have been satisfied, and (iii) the lien of such
8564 resolution or trust agreement has been released in accordance with the provisions ~~thereof of~~
8565 such resolution or trust agreement, the Authority shall ~~promptly do such things and execute such~~
8566 ~~deeds and conveyances as are necessary and required to~~ convey title to such project ~~or projects~~
8567 to such participating institution ~~or institutions for higher education~~, free and clear of all liens

8568 and encumbrances, ~~all to the extent that~~ if title to such project ~~or projects~~ is not, ~~at the time, yet~~
8569 vested in such participating institution ~~or institutions for higher education~~.

8570 **Drafting note: Technical changes are made, including removing "or projects" and**
8571 **"or institutions" because § 1-227 provides that throughout the Code any word in the**
8572 **singular includes the plural and vice versa.**

8573 § ~~23-30.44~~ 23.1-1225. ~~Acquisition Powers; acquisition~~ of property.

8574 The Authority ~~is authorized and empowered~~ may, directly or ~~by and~~ through a
8575 participating institution ~~for higher education~~, as its agent, ~~to~~ acquire by (i) purchase solely from
8576 funds provided under the authority of this ~~chapter, or by gifts or article, (ii) gift, or (iii) devise,~~
8577 such lands, structures, property, real or personal, rights, rights-of-way, air rights, franchises,
8578 easements, and other interests in lands, including lands lying under water and riparian rights,
8579 ~~which that~~ are located within the Commonwealth as it may deem necessary or convenient for
8580 the acquisition, construction, or operation of a project, upon such terms and at such prices as
8581 ~~may be considered by~~ it ~~to be~~ deems reasonable and can be agreed upon between it and the
8582 owner ~~thereof, of the property~~ and ~~to~~ take title ~~thereto to the property~~ in the name of the
8583 Authority or ~~in the name of one or more~~ any participating ~~institutions for higher education~~
8584 institution as its agent.

8585 **Drafting note: Technical changes are made including replacing "which" with**
8586 **"that" as the context requires.**

8587 § ~~23-30.46~~ 23.1-1226. ~~Issuance Powers; issuance~~ of negotiable notes.

8588 The Authority may ~~from time to time~~ issue negotiable notes for any corporate purpose
8589 ~~and may from time to time or~~ renew any notes by the issuance of new notes, whether or not the
8590 notes to be renewed have ~~or have not~~ matured. The Authority may issue notes partly to renew
8591 notes or to discharge other obligations then outstanding and partly for any other purpose. ~~The~~
8592 Such notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any
8593 resolution ~~or resolutions~~ authorizing notes ~~of the Authority~~ or any ~~issue thereof~~ issuance of
8594 notes by the Authority may contain any ~~provisions which~~ provision that the Authority is

8595 authorized to include in any resolution ~~or resolutions~~ authorizing revenue bonds ~~of the Authority~~
8596 or any ~~issue thereof~~ issuance of revenue bonds by the Authority, and the Authority may include
8597 in any ~~notes~~ note any ~~terms~~ term, ~~covenants~~ covenant, or ~~conditions which~~ condition that it ~~is~~
8598 ~~authorized to~~ may include in any ~~bonds~~ bond. All such notes ~~shall be~~ are payable solely from
8599 the revenues of the Authority, subject only to any contractual ~~rights~~ rights of the holders of any
8600 of its notes or other obligations then outstanding.

8601 **Drafting note: Technical changes are made, including striking the superfluous term**
8602 **"from time to time" per Code Commission policy.**

8603 § ~~23-30.47~~ 23.1-1227. ~~Issuance Powers; issuance~~ of revenue bonds.

8604 ~~(a) A.~~ The Authority may ~~from time to time~~ issue revenue bonds for any corporate
8605 purpose, and all such revenue bonds, notes, bond anticipation notes, or other obligations of the
8606 Authority issued pursuant to this ~~chapter shall be and~~ article are ~~hereby declared to be~~
8607 negotiable for all purposes, notwithstanding their payment from a limited source and without
8608 regard to any other law ~~or laws~~.

8609 B. In anticipation of the sale of such revenue bonds, the Authority may issue and renew
8610 negotiable bond anticipation notes ~~and may renew the same from time to time~~, but the
8611 maximum maturity of any such note, including renewals ~~thereof~~, shall not exceed five years
8612 from the date ~~of issue of~~ on which the original note was issued. Such notes shall be paid from
8613 any revenues of the Authority available ~~therefor~~ for such purpose and not otherwise pledged, or
8614 from the proceeds of sale of the Authority's revenue bonds ~~of the Authority issued~~ in
8615 anticipation of ~~which they were issued~~ such sale. ~~The~~ Such notes shall be issued in the same
8616 manner as the revenue bonds. Such notes and the resolution ~~or resolutions~~ authorizing ~~the same~~
8617 such notes may contain any provisions, conditions, or limitations ~~which a bond resolution of~~
8618 that the Authority may ~~contain~~ include in a bond resolution.

8619 ~~(b) C.~~ The revenue bonds and notes of every issue ~~shall be~~ are payable solely out of
8620 revenues to the Authority, subject only to any ~~agreements~~ agreement with (i) the holders of
8621 particular revenue bonds or notes ~~pledging to pledge~~ any particular revenues ~~and subject to any~~

8622 ~~agreements with or (ii) any participating institution for higher education. Notwithstanding that~~
8623 ~~revenue~~

8624 D. Revenue bonds and notes ~~may be payable from a special fund, they shall be and be~~
8625 ~~deemed to be, for all purposes, are~~ negotiable instruments, ~~that are~~ subject only to the provisions
8626 of the revenue bonds and notes for registration but may be payable from a special fund.

8627 ~~(e) The revenue~~ E. Revenue bonds may be issued as serial bonds ~~or as,~~ term bonds, or
8628 ~~the Authority, in its discretion, may issue bonds of both types. The revenue~~ Revenue bonds shall
8629 be authorized by resolution of the members of the Authority and ~~shall~~ bear such date ~~or dates,~~
8630 mature at such time ~~or times,~~ not exceeding fifty 50 years from ~~their respective dates~~ such date,
8631 bear interest at such rate or rates, that is payable at such time ~~or times,~~ be in such ~~denominations~~
8632 denomination, be in such form, either coupon or registered, carry such registration privileges, be
8633 executed in such manner, be payable in lawful ~~money of the~~ United States ~~of America~~ currency
8634 at such place ~~or places,~~ and be subject to such terms of redemption, as such resolution ~~or~~
8635 ~~resolutions may provide~~ provides. ~~The revenue~~ Revenue bonds or notes may be sold at public or
8636 private sale for such price or prices as the Authority ~~shall determine~~ determines. Pending
8637 preparation of the definitive bonds, the Authority may issue interim receipts or certificates
8638 ~~which that~~ shall be exchanged for such definitive bonds.

8639 ~~(d) F.~~ Any resolution ~~or resolutions~~ authorizing ~~any~~ revenue bonds or any issue of
8640 revenue bonds may contain provisions, which shall be a part of the contract with the holders of
8641 the such revenue bonds ~~to be authorized, as related~~ to:

8642 ~~(1) L.~~ Pledging all or any part of the revenues of a project ~~or projects,~~ any ~~revenue~~
8643 ~~producing revenue-producing~~ contract ~~or contracts~~ made by the Authority with any individual,
8644 partnership, corporation ~~or,~~ association, or other public or private body, ~~public or private,~~ to
8645 secure the payment of the revenue bonds or ~~of~~ any particular issue of revenue bonds, subject to
8646 such any existing agreements with bondholders ~~as may then exist;~~

8647 ~~(2) the~~ 2. Charging rentals, fees, and other charges ~~to be charged,~~ and setting forth the
8648 amounts to be raised ~~in each year thereby, annually with such charges~~ and the use and
8649 disposition of the revenues;

8650 ~~(3) the establishment and setting~~ 3. Establishing, setting aside ~~of, regulating, and~~
8651 disposing of reserves or sinking funds, ~~and the regulation and disposition thereof;~~

8652 ~~(4) limitations on~~ 4. Limiting the right of the Authority or its agent to restrict and
8653 regulate the use of the project;

8654 ~~(5) limitations on~~ 5. Limiting the purpose to which the proceeds of the sale of any issue
8655 of revenue bonds ~~then or thereafter~~ to be issued may be applied and pledging such proceeds to
8656 secure the payment of the revenue bonds or any issue of the revenue bonds;

8657 ~~(6) limitations on~~ 6. Limiting the issuance of additional bonds, the terms upon which
8658 additional bonds may be issued and secured, and the refunding of outstanding bonds;

8659 ~~(7) the~~ 7. Establishing a procedure, ~~if any,~~ by which the terms of any contract with
8660 bondholders may be amended or abrogated, that includes the ~~amount of bonds the holders of~~
8661 which must number of bondholders required to consent ~~thereto, to such amendment or~~
8662 abrogation and the manner in which such consent may be given;

8663 ~~(8) limitations on~~ 8. Limiting the amount of moneys derived from the project to be
8664 expended for operating, administrative, or other expenses of the Authority;

8665 ~~(9) defining the~~ 9. Defining the acts or omissions ~~to act which shall~~ that constitute a
8666 default in the duties of the Authority to holders of its obligations and providing the rights and
8667 remedies of such holders in the event of a default;

8668 ~~(10)~~ 10. Setting forth the duties, obligations, and liabilities of any trustee or paying
8669 agent; and

8670 ~~(11) the mortgaging of~~ 11. Mortgaging a project and the site ~~thereof of such project~~ for
8671 the purpose of securing the bondholders.

8672 (e) G. Neither the members of the Authority nor any person executing ~~the~~ revenue bonds
8673 or notes ~~shall be is~~ liable personally on the revenue bonds or notes or be subject to any personal
8674 liability or accountability by reason of the issuance ~~thereof of such revenue bonds or notes.~~

8675 (f) H. The Authority ~~shall have power out of any funds available therefor to~~ may
8676 purchase its bonds or notes with funds available for such purpose. The Authority may hold,
8677 pledge, cancel, or resell such bonds or notes subject to and in accordance with agreements with
8678 bondholders.

8679 **Drafting note: The term "from time to time" in proposed subsections A and B is**
8680 **removed as unnecessary pursuant to Code Commission policy, and the following phrases**
8681 **are removed because § 1-227 provides that throughout the Code any word in the singular**
8682 **includes the plural and vice versa: "or laws," "or resolutions," "or dates," "or times," "or**
8683 **places," and "or contracts." Technical changes are made.**

8684 § ~~23-30.48~~ 23.1-1228. Security Powers; security for revenue bonds.

8685 ~~In the discretion of the A.~~ The Authority may secure any revenue bonds issued under the
8686 provisions of this ~~chapter may be secured~~ article by a trust agreement ~~by and~~ between the
8687 Authority and a corporate trustee ~~or trustees, which that~~ may be any trust company or bank
8688 having the powers of a trust company within or outside the Commonwealth. Such trust
8689 agreement or the resolution providing for the issuance of such revenue bonds may (i) pledge or
8690 assign the revenues to be received or proceeds of any contract ~~or contracts~~ pledged ~~and may,~~ (ii)
8691 convey or mortgage the project or any portion ~~thereof.~~ ~~Such trust agreement or resolution~~
8692 ~~providing for the issuance of such revenue bonds may of the project, or~~ (iii) contain ~~such~~
8693 provisions for protecting and enforcing the rights and remedies of the bondholders ~~as may be~~
8694 that the Authority deems reasonable and proper and are not in violation of law, including
8695 ~~particularly such~~ provisions ~~as have hereinabove been specifically authorized to~~ that may be
8696 included in any resolution ~~or resolutions~~ of the Authority authorizing revenue bonds ~~thereof~~
8697 pursuant to this article.

8698 B. Any bank or trust company incorporated under the laws of the Commonwealth ~~which~~
8699 ~~that~~ may act as depository of the proceeds of bonds ~~or of~~, revenues, or other moneys may
8700 furnish such indemnifying bonds or pledge such securities as may be required by the Authority.

8701 C. Any such trust agreement may set forth the rights and remedies of the bondholders
8702 ~~and of the trustee or trustees,~~ and ~~may~~ restrict the individual right of action by bondholders. ~~In~~
8703 ~~addition to the foregoing, any~~

8704 D. Any such trust agreement or resolution may contain such other provisions as the
8705 Authority ~~may deem~~ deems reasonable and proper for the security of the bondholders.

8706 E. All expenses incurred in carrying out the provisions of such trust agreement or
8707 resolution may be treated as a part of the cost of the operation of a project.

8708 **Drafting note: Technical changes are made, including removing "or contracts" in**
8709 **proposed subsection A and "or trustees" in proposed subsection C because § 1-227**
8710 **provides that throughout the Code any word in the singular includes the plural and vice**
8711 **versa.**

8712 ~~§ 23-30.50 23.1-1229. Rates Powers and duties; rates,~~ rents, fees and charges; sinking
8713 fund.

8714 A. The Authority may fix, revise, charge and collect rates, rents, fees and charges for the
8715 use of and ~~for~~ the services furnished ~~or to be furnished~~ by each project and ~~to~~ contract with any
8716 person, partnership, association ~~or~~, corporation, or other public or private body, ~~public or~~
8717 ~~private, in respect thereof to perform such acts. Such~~ The aggregate of such rates, rents, fees,
8718 and charges shall be fixed and adjusted ~~in respect of the aggregate of rates, rents, fees and~~
8719 ~~charges from such project so as~~ to provide funds that, when combined with other revenues, is
8720 sufficient ~~with other revenues, if any, (1)~~ to (i) pay the uncovered cost of maintaining, repairing,
8721 and operating each portion of the project ~~and each and every portion thereof, to the extent that~~
8722 ~~the payment of such cost has not otherwise been adequately provided for, (2) to;~~ (ii) pay the
8723 principal of and the interest on outstanding revenue bonds of the Authority ~~issued in respect of~~
8724 ~~such project as the same shall become~~ as such principal and interest becomes due and payable;

8725 and ~~(3) to (iii)~~ create and maintain reserves required or provided for in any resolution
8726 authorizing, or trust agreement securing, such revenue bonds of the Authority. ~~Such rates, rents,~~
8727 ~~fees and charges~~ No such rate, rent, fee, or charge shall ~~not~~ be subject to supervision or
8728 regulation by any department, commission, board, body, bureau, or agency of ~~this the~~
8729 Commonwealth other than the Authority.

8730 A-B. The Authority shall set aside in a sinking fund or other similar fund a sufficient
8731 amount of the revenues derived ~~in respect of from~~ a project, except ~~such the~~ part of such
8732 revenues ~~as may be that is~~ necessary to pay the cost of maintenance, repair, and operation ~~and to~~
8733 ~~of the project,~~ provide reserves and for, or make renewals, replacements, extensions,
8734 enlargements, and improvements as ~~may be provided for set forth~~ in the resolution authorizing
8735 the issuance of any revenue bonds of the Authority or in the trust agreement securing ~~the same,~~
8736 ~~shall be set aside at such regular intervals as may be provided in such resolution or trust~~
8737 ~~agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the~~
8738 ~~payment of such revenue bonds. The Authority shall pledge such sinking fund or other similar~~
8739 ~~fund to pay~~ the principal of and the interest on such revenue bonds as ~~the same shall become~~
8740 ~~such principal and interest becomes~~ due; and the redemption or purchase price ~~or the purchase~~
8741 ~~price~~ of bonds retired by call or purchase as ~~therein~~ provided in the resolution authorizing the
8742 issuance of any revenue bonds of the Authority or in the trust agreement securing such revenue
8743 bonds. Such pledge ~~shall be is~~ valid and binding from the time when the pledge is made; ~~the,~~
8744 The rates, rents, fees, and charges and other revenues or ~~other~~ moneys so pledged and ~~thereafter~~
8745 received by the Authority shall immediately be subject to the lien of such pledge without any
8746 physical delivery ~~thereof~~ or further act, ~~and the,~~ The lien of any such pledge ~~shall be is~~ valid and
8747 binding ~~as~~ against all parties having claims of any kind in tort, contract, or otherwise against the
8748 Authority, irrespective of whether such parties have notice ~~thereof of such lien.~~ Neither the No
8749 resolution nor any authorizing the issuance of any revenue bonds of the Authority or trust
8750 agreement by which a pledge is created need be filed or recorded except in the records of the
8751 Authority. The use and disposition of moneys to the credit of such sinking fund or other similar

8752 fund ~~shall be is~~ subject to the provisions of the resolution authorizing the issuance of such bonds
 8753 or of such trust agreement. ~~Except as may otherwise be provided in such resolution or such trust~~
 8754 ~~agreement, such~~ Such sinking fund or other similar fund ~~shall be is~~ a fund for all such revenue
 8755 bonds issued to finance a project ~~or projects~~ at ~~one or more~~ a participating ~~institutions for higher~~
 8756 ~~education institution~~, without distinction or priority of one revenue bond over another; ~~provided,~~
 8757 ~~but~~ the Authority ~~in any such resolution or trust agreement~~ may provide ~~in any such resolution~~
 8758 ~~or trust agreement (i)~~ that such sinking fund or other similar fund ~~shall be is~~ the fund for a
 8759 particular project at an institution ~~for of~~ higher education and ~~for~~ the revenue bonds issued to
 8760 finance a particular project and ~~may, additionally, permit and provide (ii)~~ for the issuance of
 8761 revenue bonds having a subordinate lien ~~in respect of the security herein authorized~~ to other
 8762 revenue bonds of the Authority ~~with respect to the security authorized~~ and, in such case, the
 8763 Authority may create separate or other similar funds ~~in with~~ respect ~~of to~~ such subordinate lien
 8764 bonds.

8765 **Drafting note: Technical changes are made, including referring to "the**
 8766 **Commonwealth" instead of "this Commonwealth" in accordance with Code Commission**
 8767 **policies.**

8768 § ~~23-30.54~~ 23.1-1230. ~~Issuance Powers; issuance~~ of refunding bonds.

8769 ~~(a) A.~~ The Authority ~~is hereby authorized to~~ may provide for the issuance of revenue
 8770 bonds ~~of the Authority for the purpose of refunding to (i) refund~~ any ~~of its outstanding~~ revenue
 8771 bonds ~~of the Authority then outstanding~~, including the payment of any redemption premium
 8772 thereon and any interest accrued or to accrue ~~to on~~ the earliest or any subsequent date of
 8773 redemption, purchase, or maturity of such revenue bonds, ~~and, if deemed advisable by the~~
 8774 ~~Authority, for the additional purpose of paying or (ii) pay~~ all or any part of the cost of
 8775 constructing and acquiring additions, improvements, extensions, or enlargements of a project or
 8776 any portion ~~thereof of a project~~.

8777 ~~(b) B.~~ The Authority may (i) apply the proceeds of any ~~such~~ revenue bonds issued ~~for~~
 8778 ~~the purpose of refunding to refund~~ outstanding revenue bonds ~~may, in the discretion of the~~

8779 ~~Authority, be applied to the purchase or retirement, retire~~ at maturity, ~~or redemption of redeem~~
8780 such outstanding revenue bonds either on their earliest or any subsequent redemption date ~~or,~~
8781 upon ~~the their~~ purchase, or at ~~the their~~ maturity ~~thereof and may, pending such application, be~~
8782 ~~placed and (ii) place the proceeds of revenue bonds issued to refund outstanding revenue bonds~~
8783 in escrow ~~pending such application~~ to be applied to such purchase ~~or,~~ retirement ~~at maturity,~~ or
8784 redemption on ~~such the~~ date ~~as may be determined by the Authority that it determines.~~

8785 ~~(e) Any such escrowed~~ C. The Authority may invest and reinvest proceeds, ~~pending such~~
8786 ~~use, may be invested and reinvested~~ placed in escrow pursuant to subsection B in direct
8787 obligations of the United States ~~of America, or in~~ certificates of deposit, or time deposits
8788 secured by direct obligations of the United States ~~of America, maturing that mature~~ at such time
8789 ~~or times~~ as shall be is appropriate to ~~assure~~ ensure the prompt payment, ~~as to of~~ principal,
8790 interest, and any redemption premium, ~~if any,~~ of the outstanding revenue bonds to be so
8791 refunded, pending the purchase, retirement at maturity, or redemption of such outstanding
8792 revenue bonds. The Authority may apply interest, income, and any profits, ~~if any,~~ earned or
8793 realized on any such investment ~~may also be applied to the payment of pay~~ the outstanding
8794 revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and
8795 carried out, any balance of such proceeds and any interest, income, and profits, ~~if any,~~ earned or
8796 realized on the investments ~~thereof on such proceeds~~ may be returned to the Authority for its
8797 lawful use ~~by it in any lawful manner.~~

8798 ~~(d) D.~~ The Authority may invest or reinvest the portion of the proceeds of any ~~such~~
8799 revenue bonds issued ~~for the additional purpose of paying to pay~~ all or any part of the cost of
8800 constructing and acquiring additions, improvements, extensions, or enlargements of a project
8801 ~~may be invested and reinvested~~ in direct obligations of the United States ~~of America, or in~~
8802 certificates of deposit or time deposits secured by direct obligations of the United States ~~of~~
8803 ~~America, maturing that mature~~ not later than the time ~~or times~~ when such proceeds ~~will be are~~
8804 needed ~~for the purpose of paying to pay~~ all or any part of such cost. The Authority may apply
8805 any interest, income, and profits, ~~if any,~~ earned or realized on such investment ~~may be applied~~

8806 to the payment of all or any part of such cost or ~~may be used by the Authority use such interest,~~
8807 income, and profits in any lawful manner.

8808 ~~(e) E. All such refunding~~ revenue bonds ~~shall be issued pursuant to this section are~~
8809 subject to the provisions of this ~~chapter article~~ in the same manner and to the same extent as
8810 other revenue bonds issued pursuant to this ~~chapter article~~.

8811 **Drafting note: Technical changes are made. The phrase "in the discretion of the**
8812 **Authority," used in conjunction with the phrase "may," is deleted as superfluous.**

8813 ~~§ 23-30.49~~ 23.1-1231. Revenue bonds not obligations of Commonwealth or political
8814 subdivision.

8815 Revenue bonds issued under the provisions of this ~~chapter shall~~ article (i) do not ~~be~~
8816 ~~deemed to~~ constitute a debt ~~or~~, liability, or pledge of the faith and credit of the Commonwealth
8817 ~~or of any political subdivision thereof or a pledge of the faith and credit of the Commonwealth~~
8818 ~~or of any such political subdivision, but shall be~~ of the Commonwealth and (ii) are payable
8819 solely from the funds ~~herein~~ provided ~~therefor~~ from revenues as set forth in this article. ~~All Each~~
8820 such revenue ~~bonds bond~~ shall ~~contain state~~ on ~~the its~~ face ~~thereof a statement to the effect~~ that
8821 (a) neither the Commonwealth of Virginia nor the Authority ~~shall be is~~ obligated to pay ~~the~~
8822 same such revenue bonds or the interest thereon except from revenues of the project ~~or projects~~
8823 or the portion ~~thereof of the project~~ for which they are issued and ~~that (b)~~ neither the faith and
8824 credit nor the taxing power of the Commonwealth ~~of Virginia~~ or ~~of~~ any political subdivision
8825 ~~thereof of the Commonwealth~~ is pledged to the payment of the principal of or the interest on
8826 such bonds. The issuance of revenue bonds under the provisions of this ~~chapter article~~ shall not
8827 directly ~~or~~, indirectly, or contingently obligate the Commonwealth or any political subdivision
8828 ~~thereof of the Commonwealth~~ to levy or ~~to~~ pledge any form of taxation ~~whatever therefor for~~
8829 such bonds or ~~to~~ make any appropriation for their payment.

8830 **Drafting note: Technical changes.**

8831 ~~§ 23-30.51~~ 23.1-1232. Moneys received deemed trust funds.

8832 All moneys ~~received that the Authority receives~~ pursuant to ~~the authority of this chapter~~
8833 ~~article~~, whether as proceeds from the sale of bonds or as revenues, ~~shall be deemed to be~~ are
8834 trust funds to be held and applied solely as provided in this ~~chapter article~~. Any officer with
8835 whom, or any bank or trust company with which, such moneys ~~shall be~~ are deposited shall act as
8836 trustee of such moneys and shall hold and apply the same for the purposes ~~hereof, subject to~~
8837 ~~such regulations as of this chapter and article~~, the resolution authorizing the bonds of any issue,
8838 or the trust agreement securing such bonds ~~may provide~~.

8839 **Drafting note: Technical changes.**

8840 § ~~23-30.52~~ 23.1-1233. Remedies of bondholders, ~~etc or holders of other obligations~~.

8841 Any (i) holder of revenue bonds, notes, bond anticipation notes, other notes, or other
8842 obligations of the Authority, issued under the provisions of this ~~chapter article~~ or any of the
8843 coupons appertaining ~~thereto, and the~~ to any such obligation and (ii) trustee ~~or trustees~~ under
8844 any trust agreement, except to the extent ~~the that such~~ rights ~~herein given may be~~ are restricted
8845 by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds
8846 or other obligations, may, either at law or in equity, by suit, action, mandamus, or other
8847 proceedings, (a) protect and enforce ~~any and~~ all rights under the laws of the Commonwealth ~~or~~
8848 ~~granted hereunder~~ or ~~under~~ such resolution or trust agreement; and ~~may~~ (b) enforce and compel
8849 the performance of all duties required by this ~~chapter article~~ or by such resolution or trust
8850 agreement to be performed by the Authority or any officer, employee, or agent ~~thereof of the~~
8851 Authority, including the fixing, charging, and collecting of the rates, rents, fees, and charges
8852 ~~herein~~ authorized by this article and required by the provisions of such resolution or trust
8853 agreement to be fixed, ~~established and, charged, and~~ collected.

8854 **Drafting note: Technical changes.**

8855 § ~~23-30.53~~ 23.1-1234. Exemption from taxation.

8856 ~~The exercise of the powers granted by this chapter will be in all respects for the benefit~~
8857 ~~of the people of this Commonwealth, for the increase of their commerce, welfare and prosperity,~~
8858 ~~and for the improvement of their health and living conditions, and as the operation and~~

8859 ~~maintenance of a project by the Authority or its agent will constitute the performance of an~~
8860 ~~essential public function, neither~~ Neither the Authority nor its agent ~~shall be~~ are required to pay
8861 any taxes or assessments upon or ~~in respect of~~ with respect to a project ~~or,~~ any property acquired
8862 or used by the Authority or its agent under the provisions of this ~~chapter article,~~ or ~~upon~~ the
8863 income ~~therefrom, and any from any such project or property.~~ Any bonds issued under the
8864 provisions of this ~~chapter article,~~ ~~their~~ the transfer of such bonds, and the income ~~therefrom~~
8865 from such bonds, including any profit made on the sale ~~thereof of such bonds,~~ ~~shall at all times~~
8866 ~~be free~~ are exempt from taxation of ~~every~~ any kind by the Commonwealth and ~~by~~ the
8867 municipalities localities and other political subdivisions ~~in of~~ the Commonwealth.

8868 **Drafting note: Language at the beginning of this section related to the exercise of**
8869 **the powers granted by this section is deleted as duplicative of provisions contained in**
8870 **proposed § 23.1-1221. A reference to "municipalities" in the last sentence is replaced with**
8871 **"localities." Technical changes are made.**

8872 § ~~23-30.55~~ 23.1-1235. Bonds ~~to be~~ as legal investments.

8873 Bonds issued by ~~[the]~~ the Authority under the provisions of this ~~chapter article~~ are
8874 ~~hereby made~~ securities (i) in which all public officers and ~~public~~ bodies of the Commonwealth
8875 and its political subdivisions, ~~all~~ insurance companies, trust companies, banking associations,
8876 investment companies, executors, administrators, trustees, and other fiduciaries may properly
8877 and legally invest funds, including capital in their control or belonging to them. ~~Such bonds are~~
8878 ~~hereby made securities which~~ and (ii) that may properly and legally be deposited with and
8879 received by any ~~Commonwealth or municipal~~ officer of the Commonwealth or any of its
8880 localities or any agency or political subdivision of the Commonwealth for any lawful purpose
8881 ~~for which the deposit of bonds or obligations of the Commonwealth is now or may hereafter be~~
8882 ~~authorized by law.~~

8883 **Drafting note: A reference to "municipal officer" is replaced with officer of a**
8884 **locality. Technical changes are made.**

8885 § ~~23-30.56~~ 23.1-1236. ~~Chapter supplemental; application of other laws; Authority not~~
8886 ~~subject to supervision, etc., by other agencies~~ Nature of article.

8887 ~~The foregoing sections of this chapter shall be deemed to provide a complete, additional~~
8888 ~~and alternative method for the doing of the things authorized thereby and shall be regarded as~~
8889 This article is supplemental and additional to powers conferred by other laws; ~~provided, but~~ the
8890 issuance of revenue bonds and revenue refunding bonds under the provisions of this ~~chapter~~
8891 article need not comply with the requirements of any other law applicable to the issuance of
8892 bonds. Except as otherwise expressly provided in this ~~chapter article~~, ~~none of the powers no~~
8893 power granted to the Authority under the provisions of this ~~chapter shall be~~ article is subject to
8894 the supervision or regulation of or ~~require~~ requires the approval or consent of the
8895 Commonwealth, any ~~municipality~~ locality or political subdivision ~~or any of the Commonwealth,~~
8896 or any department, division, commission, board, body, bureau, official, or agency ~~thereof or of~~
8897 the Commonwealth of any such locality or political subdivision.

8898 **Drafting note: A reference to "municipality" in the last sentence is replaced with**
8899 **"locality." Technical changes are made.**

8900 § ~~23-30.57~~ 23.1-1237. ~~Chapter Article~~ liberally construed.

8901 This ~~chapter article~~, being necessary for the welfare of the Commonwealth and its
8902 inhabitants, shall be liberally construed to effect the purposes hereof of this article.

8903 **Drafting note: Technical changes.**

8904 § ~~23-30.58~~ 23.1-1238. ~~Chapter Article~~ controls inconsistent laws.

8905 To the extent that the provisions of this ~~chapter article~~ are inconsistent with the
8906 provisions of any general statute or special act or parts thereof, the provisions of this ~~chapter~~
8907 shall be deemed controlling article control.

8908 **Drafting note: Technical changes.**

8909 SUBTITLE IV.

8910 PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

8911 CHAPTER 13.

8912 GOVERNING BOARDS OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

8913 **Drafting note: Existing provisions that apply generally to governing boards of**
8914 **public institutions of higher education are consolidated in proposed Chapter 13.**

8915 ~~§ 23-1.~~

8916 **Drafting note: Repealed by Acts 1984, c. 734.**

8917 ~~§ 23-2. Penalty for failure to make report.~~

8918 ~~If the report required by § 23-1.01 is not made from any educational institution which~~
8919 ~~receives any portion of the revenue of the Literary Fund, or to which any loan has been made~~
8920 ~~out of the fund, the Comptroller shall withhold, until the report is made, the payment of such~~
8921 ~~portion of the Literary Fund, or proceed to enforce payment of the loan.~~

8922 **Drafting note: § 23-2 is recommended for repeal as obsolete.**

8923 ~~§ 23-2.06~~ 23.1-1300. Members of governing boards; removal; terms; nonvoting,
8924 advisory representatives.

8925 A. Members appointed by the Governor to the governing boards of public institutions of
8926 higher education shall serve for terms of four years. Vacancies occurring other than by
8927 expiration of a term shall be filled for the unexpired term. No member appointed by the
8928 Governor to such a governing board shall serve for more than two consecutive four-year terms;
8929 however, a member appointed by the Governor to serve an unexpired term is eligible to serve
8930 two consecutive four-year terms immediately succeeding such unexpired term. Except as
8931 otherwise provided in § 23.1-2601, all appointments are subject to confirmation by the General
8932 Assembly. Members appointed by the Governor to the board shall continue to hold office until
8933 their successors have been appointed and confirmed. Ex officio members shall serve a term
8934 coincident with their term of office.

8935 B. No member appointed by the Governor to the governing board of a public institution
8936 of higher education who has served two consecutive four-year terms on such board is eligible to
8937 serve on the same board until at least four years have passed since the end of his second
8938 consecutive four-year term.

8939 C. Notwithstanding the provisions of subsection E or any other provision of law, the
8940 Governor may remove from office for malfeasance, misfeasance, incompetence, or gross
8941 neglect of duty any member of the board of any public institution of higher education and fill
8942 the vacancy resulting from the removal.

8943 D. The Governor shall set forth in a written public statement his reasons for removing
8944 any member pursuant to subsection C at the time the removal occurs. The Governor is the sole
8945 judge of the sufficiency of the cause for removal as set forth in subsection C.

8946 E. If any member of the governing board-of visitors of a-four-year public institution of
8947 higher education-or the State Board for Community Colleges fails to attend (i) the meetings of
8948 the board for one year without sufficient cause, as determined by a majority vote of the board, or
8949 (ii) the educational programs required by §-23-9.14:1 23.1-1304 in his first two years of
8950 membership without sufficient cause, as determined by a majority vote of the board, the
8951 remaining members of the board shall record such failure in the minutes at its next meeting and
8952 notify the Governor, and the office of such member shall be vacated. However, no member
8953 -serving as of January 1, 2015 shall be removed for failing to attend the educational programs
8954 required by § 23-9.14:1 if he attends such training by January 1, 2016.

8955 B. F. The board-of visitors governing board of each four-year public institution of higher
8956 education-and the State Board for Community Colleges shall adopt in its bylaws policies (i) for
8957 removing members pursuant to subsection-A E and (ii) referencing the Governor's power to
8958 remove members described in-§ 2.2-108 subsection C.

8959 C. No person who has served two consecutive four-year terms on the board-of visitors-of
8960 a four-year public institution of higher education-or the State Board for Community Colleges
8961 shall be eligible to serve on the same board until at least four years have passed since the end of
8962 his second consecutive four-year term.

8963 § 23-9.2:4.1. Faculty representatives to the State Board for Community Colleges, local
8964 community college boards, and boards of visitors.

8965 ~~A. The State Board for Community Colleges,~~G. The governing board of each public
8966 institution of higher education and each local community college ~~boards, and the boards of~~
8967 ~~visitors of any four-year state institution of higher education~~ board may appoint one or more
8968 nonvoting, advisory faculty representatives to ~~their~~ its respective ~~boards~~ board. In the case of
8969 local community college boards and boards of visitors, ~~the~~ such representatives ~~appointed by the~~
8970 ~~boards~~ shall be chosen from individuals elected by the faculty or the institution's faculty senate
8971 or ~~other~~ its equivalent ~~group of the relevant institution~~. In the case of the State Board for
8972 Community Colleges, such representatives ~~appointed by the Board~~ shall be chosen from
8973 individuals elected by the Chancellor's Faculty Advisory Committee. Such representatives shall
8974 be appointed to serve ~~terms of not less than one 12-month period~~ (i) at least one term of at least
8975 12 months, which shall be coterminous with the institution's fiscal year, or (ii) for such terms as
8976 may be mutually agreed to by the State Board for Community Colleges and the Chancellor's
8977 Faculty Advisory Committee, or by the local community college board or the board of visitors,
8978 ~~as the case may be~~, and the institution's faculty senate or ~~other~~ its equivalent ~~group~~.

8979 ~~B. Nothing in this section shall prohibit the State Board for Community Colleges, local~~
8980 ~~community college boards, or any boards of visitors from excluding such representatives from~~
8981 ~~discussions of faculty grievances, faculty or staff disciplinary matters, or salaries, or other~~
8982 ~~matters, at the discretion of the relevant board.~~

8983 ~~§ 23-9.2:5. Student representatives to boards of visitors.~~

8984 ~~A. H.~~ A. H. The board of visitors of any ~~four-year state~~ baccalaureate public institution of
8985 higher education shall appoint one or more students as nonvoting, advisory representatives.
8986 Such representatives shall be appointed under such circumstances and serve for such terms as
8987 the board of visitors of the institution shall prescribe.

8988 ~~B. I.~~ B. I. Nothing in ~~this section~~ subsection G and H shall prohibit ~~any board of visitors~~ the
8989 governing board of any public institution of higher education or any local community college
8990 board from excluding such nonvoting, advisory faculty or student representatives from

8991 discussions of faculty grievances, faculty or staff disciplinary matters or salaries, or any other
 8992 ~~matters at the discretion of the board~~ matter.

8993 **Drafting note: Existing provisions relating to the terms and removal of members of**
 8994 **the board of visitors of each public institution of higher education or other educational**
 8995 **institution are incorporated into subsections A and B of this proposed section with**
 8996 **technical changes. Subsections C and D are moved from subsections A and C of § 2.2-108.**
 8997 **Subsections G, H, and I incorporate the provisions of existing §§ 23-9.2:4.1 and 23-9.2:5.**

8998 § 23.1-1301. Governing boards; powers.

8999 A. The board of visitors of each baccalaureate public institution of higher education or
 9000 its designee may:

9001 1. Make regulations and policies concerning the institution;

9002 2. Manage the funds of the institution and approve an annual budget;

9003 3. Appoint the chief executive officer of the institution;

9004 4. Appoint professors and fix their salaries; and

9005 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary
 9006 charges.

9007 B. The governing board of each public institution of higher education or its designee
 9008 may:

9009 ~~§ 23-4.1. Sale or lease of interest in real property granted by purchase, deed or gift;~~
 9010 ~~granting of easements.~~

9011 ~~The boards of visitors or trustees of all State educational institutions, with the approval~~
 9012 ~~of the Governor first obtained, are hereby authorized to lease or~~ 1. In addition to the powers set
 9013 forth in Chapter 10 (§ 23.1-1000 et seq.), lease or sell and convey whatever its interest ~~they may~~
 9014 have in any real property that it has ~~been or may hereafter be~~ acquired by purchase, will, or deed
 9015 of gift, subject to the prior approval of the Governor and any terms and conditions of the will or
 9016 deed of gift, if applicable. The proceeds ~~from such leases, sales and conveyances~~ shall be held,

9017 used, and administered in the same manner as all other gifts and bequests ~~are held, used and~~
9018 ~~administered;~~

9019 ~~Nothing in this section shall be construed as authorizing or empowering the lease, or sale~~
9020 ~~and conveyance of such real property contrary to the terms and conditions of the will or deed of~~
9021 ~~gift.~~

9022 ~~Such boards of visitors or trustees are authorized to grant~~ 2. Grant easements for roads,
9023 streets, sewers, waterlines, electric and other utility lines, or other purposes on any property ~~now~~
9024 ~~owned or hereafter acquired by such boards of visitors or trustees, when, in the discretion of~~
9025 ~~such visitors or trustees it is deemed proper to grant such easements.~~ by the institution;

9026 3. Adopt regulations or institution policies for parking and traffic on property owned,
9027 leased, maintained, or controlled by the institution;

9028 4. Adopt regulations or institution policies for the employment and dismissal of
9029 professors, teachers, instructors, and other employees;

9030 5. Adopt regulations or institution policies for the acceptance and assistance of students
9031 in addition to the regulations or institution policies required pursuant to § 23.1-1303;

9032 6. Adopt regulations or institution policies for the conduct of students in attendance and
9033 for the rescission or restriction of financial aid, suspension, and dismissal of students who fail or
9034 refuse to abide by such regulations or policies;

9035 7. Establish programs, in cooperation with the Council and the Office of the Attorney
9036 General, to promote (i) student compliance with state laws on the use of alcoholic beverages and
9037 (ii) the awareness and prevention of sexual crimes committed upon students;

9038 8. Establish guidelines for the initiation or induction of students into any social fraternity
9039 or sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

9040 9. Assign any interest it possesses in intellectual property or in materials in which the
9041 institution claims an interest, provided such assignment is in accordance with the terms of the
9042 institution's intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior
9043 written approval is required for transfers of such property (i) developed wholly or predominately

9044 through the use of state general funds, exclusive of capital assets and (ii) (a) developed by an
9045 employee of the institution acting within the scope of his assigned duties or (b) for which such
9046 transfer is made to an entity other than (1) the Innovation and Entrepreneurship Investment
9047 Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of
9048 nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit
9049 the respective institutions. The Governor may attach conditions to these transfers as he deems
9050 necessary. In the event the Governor does not approve such transfer, the materials shall remain
9051 the property of the respective institutions and may be used and developed in any manner
9052 permitted by law;

9053 ~~§ 23-2.01. Boards of visitors; public access to information.~~

9054 ~~Notwithstanding § 2.2-4342 and the Virginia Freedom of Information Act (§ 2.2-3700 et~~
9055 ~~seq.), the board of visitors of each public institution of higher education and the State Board for~~
9056 ~~Community Colleges may conduct~~ 10. Conduct closed meetings pursuant to §§ 2.2-3711 and
9057 2.2-3712 and may conduct business as a "state public body" for purposes of subsection B of §
9058 2.2-3708; and

9059 11. Adopt a resolution to require the governing body of a locality that is contiguous to
9060 the institution to enforce state statutes and local ordinances with respect to offenses occurring on
9061 the property of the institution. Upon receipt of such resolution, the governing body of such
9062 locality shall enforce statutes and local ordinances with respect to offenses occurring on the
9063 property of the institution.

9064 **Drafting note: Provisions related to powers of governing boards are consolidated in**
9065 **this proposed section. Subsection A is derived from provisions common to the majority of**
9066 **baccalaureate public institutions of higher education in existing Title 23. Subdivisions B 1**
9067 **and 2 incorporate the provisions of existing § 23-4.1. Subdivisions B 3 through 8 of**
9068 **incorporate the provisions of subsection A of existing § 23-9.2:3. Subdivision B 9**
9069 **incorporates the provisions of subsection A of existing § 23-4.4. Subdivision B 10**

9070 incorporates the provisions of existing § 23-2.01. Subdivision B 11 incorporates the first
9071 sentence of subsection B of existing § 23-9.2:3. Technical changes are made.

9072 § ~~23-9.2:3.1~~ 23.1-1302. ~~Authority to establish incentives for Governing boards;~~
9073 additional powers; voluntary early retirement; ~~eligibility; contents of plans.~~

9074 A. The ~~board of visitors or other~~ governing body board of ~~any each~~ public institution of
9075 higher education may establish a compensation plan designed to provide incentives for
9076 voluntary early retirement of teaching and research staff employed in nonclassified, faculty
9077 positions. Participation in such compensation plan ~~shall be is~~ voluntary for eligible employees
9078 and no employee shall be penalized in any way for not participating.

9079 B. In order to qualify for participation in such compensation plan, an eligible faculty
9080 employee shall (i) be at least 60 years of age; (ii) have completed at least 10 years of full-time
9081 service at the institution offering the plan; (iii) have been awarded tenure or have a contractual
9082 right to continued employment; (iv) agree to withdraw from active membership in the Virginia
9083 Retirement System; and (v) comply with any additional criteria established by the governing
9084 body board of the institution.

9085 C. Any compensation plan established pursuant to this section shall include the
9086 institutional needs and objectives to be served, the kind of incentives to be offered, the sources
9087 of available funding for implementation, and any additional qualifications required of eligible
9088 faculty employees established by the governing ~~body of the institution~~ board. Any such
9089 compensation plan shall explicitly reserve to the governing ~~body of the institution~~ board the
9090 authority to modify, amend, or repeal the plan. However, no such amendment, modification, or
9091 repeal ~~shall be is~~ effective as to any individual who retires under the plan prior to the effective
9092 date of the amendment, modification, or repeal.

9093 D. The cash payments offered under any such compensation plan shall not exceed 150
9094 percent of the employee's base annual salary reflected in the Personnel Management
9095 Information System at the time of election to participate. Any such payment shall be allocated
9096 over at least two years. Such compensation may include payment of insurance benefits by the

9097 institution until the participant reaches the age of 65. The total cost in any fiscal year for any
9098 compensation plan established under this section shall not exceed one percent of the institution's
9099 corresponding fiscal year state general fund appropriation for faculty salaries and associated
9100 benefits.

9101 E. The Governor may establish, with the assistance of the ~~State Council of Higher~~
9102 ~~Education~~, uniform criteria for such compensation plans. Prior to the adoption, modification,
9103 amendment, or repeal of any such compensation plan, the governing board shall obtain the
9104 ~~Governor's approval shall be obtained by the governing body of the institution~~. The Governor
9105 shall provide a copy of each approved plan to the Chairmen of the House Committee on
9106 Appropriations and the Senate Committee on Finance. All compensation plans shall be reviewed
9107 for legal sufficiency by the Office of the Attorney General prior to adoption, modification,
9108 amendment, or repeal.

9109 F. The Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to the
9110 establishment of such compensation plans or any implementing regulations or criteria.

9111 **Drafting note: Technical changes.**

9112 § ~~23-9.2:3~~ 23.1-1303. ~~Power of governing body of educational institution to establish~~
9113 ~~rules and regulations; offenses occurring on property of institution; state direct student financial~~
9114 ~~assistance; release of educational records~~ Governing boards; duties.

9115 A. ~~In addition to the powers now enjoyed by it, the board of visitors or other governing~~
9116 ~~body of every educational institution shall have the power:~~

9117 ~~1. To establish rules and regulations for the acceptance and assistance of students except~~
9118 ~~that (i) individuals who have failed to meet the federal requirement to register for the selective~~
9119 ~~service shall not be eligible to receive any state direct student assistance; (ii) the accreditation~~
9120 ~~status of a Virginia public high school shall not be considered in making admissions~~
9121 ~~determinations for students who have earned a diploma pursuant to the requirements established~~
9122 ~~by the Board of Education; and (iii) the governing boards of the four-year institutions shall~~

9123 ~~establish policies providing for the admission of certain graduates of Virginia community~~
9124 ~~colleges as set forth in § 23-9.2:3.02.~~

9125 ~~2. To establish rules and regulations for the conduct of students while attending such~~
9126 ~~institution.~~

9127 ~~3. To establish programs, in cooperation with the State Council of Higher Education and~~
9128 ~~the Office of the Attorney General, to promote compliance among students with the~~
9129 ~~Commonwealth's laws relating to the use of alcoholic beverages.~~

9130 ~~4. To establish rules and regulations for the rescission or restriction of financial aid,~~
9131 ~~within the discretionary authority provided to the institution by federal or state law and~~
9132 ~~regulations, and the suspension and dismissal of students who fail or refuse to abide by such~~
9133 ~~rules and regulations for the conduct of students.~~

9134 ~~5. To establish rules and regulations for the employment of professors, teachers,~~
9135 ~~instructors and all other employees and provide for their dismissal for failure to abide by such~~
9136 ~~rules and regulations.~~

9137 ~~6. To provide parking and traffic rules and regulations on property owned by such~~
9138 ~~institution.~~

9139 ~~7. To establish guidelines for the initiation or induction into any social fraternity or~~
9140 ~~sorority in accordance with § 18.2-56.~~

9141 ~~8. To establish programs, in cooperation with the State Council of Higher Education for~~
9142 ~~Virginia and the Office of the Attorney General, to promote the awareness and prevention of~~
9143 ~~sexual crimes committed upon students.~~

9144 ~~For purposes of this section, "intellectual property" means (i) a potentially patentable~~
9145 ~~machine, article of manufacture, composition of matter, process, or improvement in any of~~
9146 ~~those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is~~
9147 ~~copyrightable.~~

9148 ~~B. Upon receipt of an appropriate resolution of the board of visitors or other governing~~
9149 ~~body of an educational institution, the governing body of a political subdivision which is~~

9150 ~~contiguous to the institution shall enforce state statutes and local ordinances with respect to~~
9151 ~~offenses occurring on the property of the institution.~~ The governing ~~bodies~~ board of ~~the each~~
9152 public ~~institutions~~ institution of higher education shall ~~assist~~:

9153 ~~§ 23-2.02. Boards of visitors; bylaws.~~

9154 ~~The board of visitors of each public institution of higher education and the State Board~~
9155 ~~for Community Colleges shall adopt bylaws for its own governance. This document shall be~~
9156 ~~posted.~~ 1. Adopt and post conspicuously on ~~the board's~~ its website ~~and shall include bylaws for~~
9157 its own governance, including provisions that: ~~1. Establish~~ (i) establish the requirement of
9158 transparency, to the extent required by law, in all board actions; ~~2. Describe~~ (ii) describe
9159 board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set
9160 forth in § ~~23-2.4~~ subdivision B 10 of § 23.1-1301, including the requirements that: ~~a. The~~ (a) the
9161 board ~~shall~~ record minutes of each open meeting and post the minutes on the board's website, in
9162 accordance with subsection I of § 2.2-3707 and § 2.2-3707.1; ~~b. Discussions,~~ (b) discussions
9163 and actions on any topic not specifically exempted by § 2.2-3711 shall be held in an open
9164 meeting; ~~c. The,~~ (c) the board ~~shall give~~ gives public notice of all meetings, in accordance with
9165 subsection C of § 2.2-3707; ~~and~~ d. Any official (d) any action taken in a closed meeting ~~shall~~ be
9166 approved in an open meeting before it can have any force or effect, in accordance with
9167 subsection B of § 2.2-3711; and ~~3. Require~~ (iii) require that the board notify and invite the
9168 Attorney General's appointee or representative to all meetings of the board, executive
9169 committee, and board committees;

9170 2. Establish regulations or institution policies for the acceptance and assistance of
9171 students that include provisions providing (i) that individuals who have knowingly and willfully
9172 failed to meet the federal requirement to register for the selective service is not eligible to
9173 receive any state direct student assistance, (ii) that the accreditation status of a public high
9174 school in the Commonwealth shall not be considered in making admissions determinations for
9175 students who have earned a diploma pursuant to the requirements established by the Board of

9176 [Education, and \(iii\) for the admission of certain graduates of comprehensive community](#)
9177 [colleges as set forth in 23.1-907;](#)

9178 [3. Assist](#) the ~~State Council of Higher Education~~ in enforcing the provisions related to
9179 eligibility for financial aid.;

9180 ~~C.4.~~ Notwithstanding any other provision of state law, ~~the board of visitors or other~~
9181 ~~governing body of every public institution of higher education in Virginia shall~~ establish
9182 policies and procedures requiring the notification of the parent of a dependent student when
9183 such student receives mental health treatment at the institution's student health or counseling
9184 center and such treatment becomes part of the student's educational record in accordance with
9185 the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and
9186 may be disclosed without prior consent as authorized by the federal Family Educational Rights
9187 and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such
9188 notification shall only be required if it is determined that there exists a substantial likelihood
9189 that, as a result of mental illness the student will, in the near future, (i) cause serious physical
9190 harm to himself or others as evidenced by recent behavior or any other relevant information or
9191 (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for
9192 his basic human needs. However, notification may be withheld if any person licensed to
9193 diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board
9194 within the Department of Health Professions who is treating the student has made a part of the
9195 student's record a written statement that, in the exercise of his professional judgment, the
9196 notification would be reasonably likely to cause substantial harm to the student or another
9197 person. No public institution of higher education or employee of a public institution of higher
9198 education making a disclosure pursuant to this subsection ~~shall be~~ is civilly liable for any harm
9199 resulting from such disclosure unless such disclosure constitutes gross negligence or willful
9200 misconduct by the institution or its employees.;

9201 ~~D. The board of visitors or other governing body of every public institution of higher~~
9202 ~~education in Virginia shall establish~~ 5. Establish policies and procedures requiring the release of

9203 the educational record of a dependent student, as defined by 20 U.S.C. § 1232g, to a parent at
9204 his request.;

9205 ~~E. In order to improve the quality of the Commonwealth's work force and educational~~
9206 ~~programs, the governing bodies of the public institutions of higher education shall establish 6.~~
9207 Establish programs to seek to ensure that all graduates have the technology skills necessary to
9208 compete in the ~~21st-Century~~ twenty-first century and, ~~particularly,~~ that all students matriculating
9209 in teacher-training programs receive instruction in the effective use of educational technology.;

9210 ~~§ 23-2.5. Student-athlete discipline policies.~~

9211 ~~The board of visitors or other governing board of each public institution of higher~~
9212 ~~education in the Commonwealth shall establish 7. Establish~~ policies for the discipline of
9213 students who participate in varsity intercollegiate athletics. ~~Such policies shall include~~ including
9214 a provision requiring an annual report by the administration of the institution to the board of
9215 visitors or other governing board regarding enforcement actions taken pursuant to such policies.;

9216 ~~§ 23-2.03. Boards of visitors; annual meeting with the president of the institution.~~

9217 ~~A. 8.~~ In addition to all meetings prescribed in Chapters ~~5 14~~ (§ ~~23-39~~ 23.1-1400 et seq.)
9218 through ~~16 29~~ (§ ~~23-214~~ 23.1-2900 et seq.), ~~the board of visitors of each public institution of~~
9219 ~~higher education and the State Board for Community Colleges shall~~ meet with the president of
9220 ~~that the~~ institution at least once annually, in a closed meeting pursuant to subdivision A 1 of §
9221 2.2-3711; and deliver an evaluation of the president's performance. ~~B.~~ Any change to the
9222 president's employment contract during any such meeting or any other meeting of the board
9223 shall be made only by a vote of the majority of the board's members.;

9224 ~~§ 23-9.2:3.3. Human research.~~

9225 ~~Each board of visitors or other governing body of any public or private institution of~~
9226 ~~higher education in which 9. If~~ human research, as defined in § 32.1-162.16, is conducted ~~shall~~
9227 promulgate at the institution, adopt regulations pursuant to the Administrative Process Act (§
9228 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1
9229 for human research. ~~The~~ Such regulations shall require the human research committee to submit

9230 to the Governor, the General Assembly, and the president of the institution or his designee at
9231 least annually a report on the human research projects reviewed and approved by the committee
9232 and ~~shall~~ require the committee to report any significant deviations from approved proposals.;

9233 ~~§ 23-1.01. Annual reports required of boards of visitors.~~

9234 ~~The board of visitors of each institution of higher education shall submit~~ 10. Submit the
9235 annual financial statements for the year ending the preceding June 30 and the accounts and
9236 status of any ongoing capital projects to the Auditor of Public Accounts for the audit of such
9237 statements pursuant to § 30-133.;

9238 ~~§ 23-2.05. Boards of Visitors; annual executive summaries.~~

9239 ~~The board of visitors of each public institution of higher education and the State Board~~
9240 ~~for Community Colleges shall submit~~ 11. Submit to the General Assembly and the Governor an
9241 annual executive summary of its interim activity and work no later than the first day of each
9242 regular session of the General Assembly. The executive summary shall be submitted as
9243 provided in the procedures of the Division of Legislative Automated Systems for the processing
9244 of legislative documents and reports and shall be posted on the General Assembly's website.;

9245 ~~§ 23-9.1:1. Reports of certain acts to State Police.~~

9246 ~~The board of visitors or the governing body of any public institution of higher education~~
9247 ~~in Virginia shall make~~ 12. Make available to any interested party upon request a copy of ~~that the~~
9248 portion of the most recent report of the Uniform Crime Reporting Section of the Department of
9249 State Police entitled "Crime in Virginia" pertaining to ~~colleges and universities.~~ institutions of
9250 higher education; and

9251 ~~§ 23-4.3. Adoption of intellectual property policies; employees to be bound by such~~
9252 ~~policies.~~

9253 ~~A. The boards of visitors of state-supported institutions of higher education and the State~~
9254 ~~Board for Community Colleges shall adopt~~ 13. Adopt policies or institution regulations
9255 regarding the ownership, protection, assignment, and use of intellectual property.;

9256 ~~B. All employees of state-supported institutions of higher education, including the~~
9257 ~~Virginia Community College System, as a condition of employment, shall be bound by the~~
9258 ~~intellectual property policies of the institution employing them.~~

9259 ~~C. Upon adoption, the boards of visitors of state-supported institutions of higher~~
9260 ~~education, including the State Board for Community Colleges, shall provide a copy of their~~
9261 ~~intellectual property policies to the Governor and the Joint Commission on Technology and~~
9262 ~~Science.~~

9263 ~~D. For purposes of this section, "intellectual property" means (i) a potentially patentable~~
9264 ~~machine, article of manufacture, composition of matter, process, or improvement in any of~~
9265 ~~those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is~~
9266 ~~copyrightable and provide a copy of such policies to the Governor and the Joint Commission on~~
9267 ~~Technology and Science. All employees of public institutions of higher education are bound by~~
9268 ~~the intellectual property policies of the institution employing them.~~

9269 **Drafting note: Existing duties of governing boards are consolidated in subsection B**
9270 **of this proposed section as follows: subdivision 1, existing § 23-2.02; subdivision 2,**
9271 **subdivision A 1 of existing § 23-9.2:3; subdivision 7, existing § 23-2.5 with the addition of a**
9272 **reference to knowing and willful failure in accordance with the federal Military Selective**
9273 **Service Act (50 U.S.C. § 451 et seq.); subdivision 8, existing § 23-2.03; subdivision 9, the**
9274 **provisions of existing § 23-9.2:3.3 related to public institutions of higher education;**
9275 **subdivision 10, existing § 23-1.01; subdivision 11, existing § 23-2.05; subdivision 12,**
9276 **existing § 23-9.1:1; and subdivision 13, existing § 23-4.3. Technical changes are made.**
9277 **Powers of governing boards located in existing subdivisions A 1 through 8 are moved to §**
9278 **23.1-1301 as subdivisions C 3 through 8. The first sentence of subsection B of this proposed**
9279 **section is moved to subdivision B 12 of proposed § 23.1-1301. The definition of**
9280 **"intellectual property" provided in subsection A is taken from subsection D of existing §**
9281 **23-4.3, with subsections A, B, and C moved to subdivision B 13 of this proposed section.**

9282 § ~~23-9.14:1~~ 23.1-1304. ~~Educational~~ Governing boards; additional duties; educational
9283 programs ~~for governing boards~~.

9284 A. From such funds as are appropriated for such purpose, the Council shall develop, in
9285 consultation with public institutions of higher education and members of their governing boards,
9286 and annually deliver educational programs for the governing boards of such institutions. New
9287 members of such governing boards shall participate, at least once during their first two years of
9288 membership, in the programs, which shall be designed to address the role, duties, and
9289 responsibilities of the governing boards and may include in-service programs on current issues
9290 in higher education. In developing such programs, the Council may consider similar educational
9291 programs for institutional governing boards in other states.

9292 B. Educational programs for the governing boards of public institutions of higher
9293 education shall include presentations related to:

- 9294 1. Board members' duty to the Commonwealth;
- 9295 2. Governing board committee structure and function;
- 9296 3. The duties of the executive committee set forth in § ~~23-2.04~~ 23.1-1306;
- 9297 4. Professional accounting and reporting standards;
- 9298 5. Methods for meeting the statutory, regulatory, and fiduciary obligations of the board;
- 9299 6. The requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.),
9300 developed and delivered in conjunction with the Freedom of Information Advisory Council;
- 9301 7. Institutional ethics and conflicts of interest;
- 9302 8. Creating and implementing ~~institution-wide rules and~~ regulations and institution
9303 policies;
- 9304 9. Business operations, administration, budgeting, financing, financial reporting, and
9305 financial reserves, including a segment on endowment management;
- 9306 10. Fixing student tuition ~~and~~, mandatory fees, and other necessary charges;

9307 11. Overseeing planning, construction, maintenance, expansion, and renovation projects
9308 that impact the ~~University's~~ institution's consolidated infrastructure, physical facilities, and
9309 natural environment, including its lands, improvements, and capital equipment;

9310 12. Workforce planning, strategy, and investment;

9311 13. Institutional advancement, including philanthropic giving, fundraising initiatives,
9312 alumni programming, communications and media, government and public relations, and
9313 community affairs;

9314 14. Student welfare issues, including academic studies; curriculum; residence life;
9315 student governance and activities; and the general physical and psychological well-being of
9316 undergraduate and graduate students;

9317 15. Current national and state issues in higher education;

9318 16. Future national and state issues in higher education;

9319 17. Relations between the governing board ~~of visitors~~ and the ~~president~~ chief executive
9320 officer of the institution, including perspectives from ~~presidents~~ chief executive officers of
9321 public institutions of higher education ~~in the Commonwealth~~;

9322 18. Best practices for board governance, including perspectives from current board
9323 members; and

9324 19. Any other topics that the Council, public institutions of higher education, and
9325 members of their governing boards deem necessary or appropriate.

9326 C. The Council shall submit to the General Assembly and the Governor an annual
9327 executive summary of the interim activity and work of the Council pursuant to this section no
9328 later than the first day of each regular session of the General Assembly. The executive summary
9329 shall be submitted as provided in the procedures of the Division of Legislative Automated
9330 Systems for the processing of legislative documents and reports and shall be posted on the
9331 General Assembly's website.

9332 **Drafting note: Technical changes.**

9333 [§ 23.1-1305. Governing boards; student accounts; collections.](#)

9334 ~~F. The board of visitors or other~~ No governing ~~body of every public institution of higher~~
9335 ~~education board~~ shall ~~not~~ refer a student account to collections for nonpayment before required
9336 by the provisions of § 2.2-4806. This ~~subsection~~ section shall not apply to public institutions of
9337 higher education that have entered into Management Agreements with the Commonwealth.

9338 **Drafting note: Subsection F of existing § 23-9.2:3 is moved into this proposed**
9339 **section and technical changes are made.**

9340 § ~~23-2.04~~ 23.1-1306. ~~Boards of visitors;~~ Governing board executive committee; duties.

9341 The executive committee of ~~the each governing~~ board ~~of visitors of each public~~
9342 ~~institution of higher education and the State Board for Community Colleges~~ shall (i) organize
9343 the working processes of the board ~~and;~~ (ii) recommend best practices for board governance.
9344 ~~The committee shall:~~ 1. Develop; (iii) develop and recommend to the board a statement of
9345 governance setting out the board's role; ~~2. Periodically~~ (iv) periodically review the board's
9346 bylaws and recommend amendments; ~~3. Provide~~ (v) provide advice to the board on committee
9347 structure, appointments, and meetings; ~~4. Develop~~ (vi) develop an orientation and continuing
9348 education process for visitors that includes training on the Virginia Freedom of Information Act
9349 (§ 2.2-3700 et seq.); ~~5. Create~~ (vii) create, monitor, oversee, and review compliance with a code
9350 of ethics for visitors; and ~~6. Develop~~ (viii) develop a set of qualifications and competencies for
9351 membership on the board for approval by the board and recommendation to the Governor.

9352 **Drafting note: Technical changes.**

9353 § ~~23-3~~ 23.1-1307. ~~Expenses~~ Governing boards; expenses of ~~visitors~~ members.

9354 ~~The members of the board of visitors of each educational institution owned and~~
9355 ~~controlled by the Commonwealth shall receive their actual expenses, when properly itemized,~~
9356 ~~incurred in the discharge of their duties in attending the meetings of the board.~~ Members of the
9357 governing board of each public institution of higher education shall be reimbursed for all
9358 reasonable and necessary expenses incurred in the performance of their duties. Funding for the
9359 expenses of the members shall be provided by the institution.

9360 **Drafting note: The language in this proposed section related to expenses of**
9361 **members of governing boards is updated.**

9362 § ~~23-4.3:1~~ 23.1-1308. ~~Policies addressing Governing board procedures;~~ textbook sales
9363 and bookstores.

9364 A. No employee ~~at of a Virginia~~ public ~~college or university~~ institution of higher
9365 education shall demand or receive any payment, loan, subscription, advance, deposit of money,
9366 services, or anything, present or promised, as an inducement for requiring students to purchase a
9367 specific textbook required for coursework or instruction; ~~with the exception that the~~. However,
9368 such employee may receive (i) sample copies, instructor's copies, or instructional material; not
9369 to be sold; and (ii) royalties or other compensation from sales of textbooks that include such
9370 instructor's own writing or work.

9371 B. ~~The~~ Each governing ~~boards~~ board shall implement procedures for making available to
9372 students in a central location and in a standard format on the relevant institutional website
9373 listings of textbooks required or assigned for particular courses at the institution. The lists of
9374 those required or assigned textbooks for each particular course shall include the International
9375 Standard Book Number (ISBN) along with other relevant information.

9376 ~~Institutions~~ C. Public institutions of higher education maintaining a bookstore supported
9377 by auxiliary services or operated by a private contractor shall post the listing of such textbooks
9378 when the relevant instructor or academic department identifies the required textbooks for order
9379 and subsequent student purchase.

9380 ~~C. The~~ D. Each governing ~~boards of public institutions of higher education~~ board shall
9381 implement policies, procedures, and guidelines that encourage efforts to minimize the cost of
9382 textbooks for students ~~at public colleges and universities~~ while maintaining the quality of
9383 education and academic freedom. The guidelines shall ensure ~~the following that~~:

9384 1. ~~That faculty~~ Faculty textbook adoptions are made with sufficient lead time to
9385 ~~university~~ university-managed or contract-managed bookstores so as to confirm availability of

9386 | the requested materials and, ~~where~~ when possible, ensure maximum availability of used
9387 | textbooks;

9388 | 2. ~~That in~~ In the textbook adoption process, the intent to use all items ordered,
9389 | particularly each individual item sold as part of a bundled package, is affirmatively confirmed
9390 | by the faculty member before the adoption is finalized. If the faculty member does not intend to
9391 | use each item in the bundled package, he shall notify the bookstore, and the bookstore shall
9392 | order the individualized items when their procurement is cost effective for both ~~institutions~~ the
9393 | institution and students and such items are made available by the publisher;

9394 | 3. ~~That faculty~~ Faculty members affirmatively acknowledge the bookstore's quoted retail
9395 | price of textbooks selected for use in each course;

9396 | 4. ~~That faculty~~ Faculty members are encouraged to limit their use of new edition
9397 | textbooks when previous editions do not significantly differ in a substantive way as determined
9398 | by the appropriate faculty member; and

9399 | 5. ~~That the establishment of policies shall include provisions for~~ Provisions address the
9400 | availability of required textbooks to students otherwise unable to afford the cost.

9401 | ~~D. E.~~ No funds provided for financial aid from university bookstore revenue shall be
9402 | counted in the calculation for state appropriations for student financial aid.

9403 | **Drafting note: Technical changes.**

9404 | § ~~23-1.2~~ 23.1-1309. Interscholastic Boards of visitors; baccalaureate public institutions
9405 | of higher education; intercollegiate athletics programs.

9406 | A. ~~For the purposes of~~ As used in this section:

9407 | "Athletics revenue" means the total revenue received by an institution that is generated
9408 | by any of the institution's intercollegiate athletics programs. "Athletics revenue" includes
9409 | contributions; game guarantees; income received from endowments and investments; income
9410 | received from the sale of food, game programs, novelties, and other concessions at an
9411 | intercollegiate athletics contest; income received from intercollegiate athletics conferences for
9412 | participation in bowl games, tournaments, and other intercollegiate athletics contests; income

9413 received from the provision of parking at intercollegiate athletics contests or other events
9414 associated with intercollegiate athletics; rights and licensing; school funds; student fees; support
9415 from third parties guaranteed by the institution, such as income received from athletics camps,
9416 income received from television, and housing allowances; and all other income from any other
9417 source generated by the institution's intercollegiate athletics programs.

9418 "Contributions" means any income received directly from individuals, corporations,
9419 associations, foundations, clubs, or other donors for the operation of an institution's
9420 intercollegiate athletics programs. "Contributions" includes amounts paid in excess of the face
9421 value of an admissions ticket to an intercollegiate athletics contest or any other event associated
9422 with intercollegiate athletics; cash; marketable securities; income generated from preferential
9423 seating arrangements at intercollegiate athletics contests or other events associated with
9424 intercollegiate athletics; and in-kind contributions such as cars provided to an intercollegiate
9425 athletics program by car dealers at no cost and apparel and sports drink products provided to
9426 intercollegiate athletes and coaches at no cost.

9427 "Generated revenue" means all athletics revenue with the exception of the subsidy.

9428 "Institution" means a ~~four-year~~ baccalaureate public institution of higher education ~~in the~~
9429 Commonwealth.

9430 "Intercollegiate athletics program" means any athletics program for a particular sport
9431 that is operated by an institution and governed by the National Collegiate Athletic Association
9432 (NCAA).

9433 "Rights and licensing" includes income from radio and television broadcasts; Internet
9434 and e-commerce rights resulting from institution-negotiated contracts; revenue-sharing
9435 agreements with the NCAA or an intercollegiate athletics conference; licensing; the sale of
9436 advertisements, trademarks, or royalties; corporate sponsorships; and the value of in-kind
9437 contributions of products and services provided to an intercollegiate athletics program at no cost
9438 as part of such corporate sponsorship, such as equipment, apparel, isotonic sports drinks, other
9439 sports drink products, or water.

9440 "School funds" means the direct and indirect financial support provided by the institution
9441 to any of its intercollegiate athletics programs. "School funds" includes state funds, tuition,
9442 tuition waivers, federal work awards for student athletes, administrative costs, facilities and
9443 grounds maintenance, security, risk management, utilities, and depreciation and debt services.

9444 "Student fees" means any fees assessed by an institution against a student that are used
9445 to support any of the institution's intercollegiate athletics programs.

9446 "Subsidy" means the sum of school funds and student fees.

9447 "Subsidy percentage" means the subsidy divided by the athletics revenue, provided that
9448 revenues allocated to (i) support spirit groups associated with any intercollegiate athletics
9449 program, (ii) meet any indirect cost policy requirements, or (iii) debt service for previously
9450 approved intercollegiate athletics capital outlay projects may be excluded from the subsidy for
9451 the purposes of such calculation.

9452 "Ticket sales" means the sale of the right to gain admission to an intercollegiate athletics
9453 contest or any other event associated with intercollegiate athletics. "Ticket sales" includes sums
9454 received from any associated shipping and handling charges and includes sales to the public,
9455 faculty, and students. "Ticket sales" does not include (i) amounts paid in excess of the face value
9456 of an admissions ticket to an intercollegiate athletics contest or any other event associated with
9457 intercollegiate athletics such as preferential seating arrangements or (ii) pass-through sales
9458 transactions such as sales for admission tickets to bowl games and conference and national
9459 tournaments.

9460 B. ~~No later than November 1, 2015, the~~ The Auditor of Public Accounts, in
9461 collaboration with the ~~State Council of Higher Education for Virginia, the~~ State Comptroller, ~~the~~
9462 Department of Planning and Budget, and each institution, shall develop and implement a
9463 standardized reporting format for each institution to annually report its intercollegiate athletics
9464 revenue and expenses to the Auditor of Public Accounts that shall include treatment of student
9465 fees and classification of specific intercollegiate athletics programs and shall require expenses
9466 for spirit groups, indirect cost policy requirements, and debt service for previously approved

9467 intercollegiate athletics capital outlay projects and other intercollegiate athletics capital outlay
9468 projects to be reported on separate lines.

9469 C. The subsidy percentage shall not exceed:

9470 1. 20 percent for NCAA Division I-A institutions affiliated with the Atlantic Coast
9471 Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern
9472 Conference;

9473 2. 55 percent for NCAA Division I-A institutions affiliated with conferences other than
9474 the Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or
9475 Southeastern Conference;

9476 3. 70 percent for NCAA Division I-AA institutions;

9477 4. 78 percent for NCAA Division I-AAA institutions;

9478 5. 81 percent for NCAA Division II institutions that operate intercollegiate football
9479 programs;

9480 6. 85 percent for NCAA Division II institutions that do not operate intercollegiate
9481 football programs;

9482 7. 89 percent for NCAA Division III institutions that operate intercollegiate football
9483 programs; and

9484 8. 92 percent for NCAA Division III institutions that do not operate intercollegiate
9485 football programs.

9486 D. ~~Effective with the Each~~ fiscal year ~~beginning July 1, 2016~~, any percentage increase in
9487 the subsidy at an institution that complies with subsection C shall be matched by a like
9488 percentage increase in generated revenue, except that each such institution shall utilize a rolling
9489 average of the change in generated revenue and student fees over the immediately preceding
9490 five years for the purposes of such calculation.

9491 E. When necessary, each institution shall submit to the Governor and the General
9492 Assembly for approval a plan that reduces the subsidy in accordance with targets outlined in the

9493 plan over a five-year period until the subsidy percentage complies with the requirements of
9494 subsection C.

9495 F. The Auditor of Public Accounts shall annually review each institution's progress
9496 towards meeting the requirements of each plan approved pursuant to subsection E as part of his
9497 annual audit pursuant to § 30-133.

9498 G. Failure to meet the progress requirements of each plan approved pursuant to
9499 subsection E for one year, as determined by the Auditor of Public Accounts, shall result in such
9500 reduction of the financial and administrative operations authority granted to the institution
9501 pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§
9502 ~~23-38.88~~ [23.1-1000](#) et seq.) as the Governor or General Assembly determines.

9503 H. Failure to meet the progress requirements of each plan approved pursuant to
9504 subsection E for two consecutive years, as determined by the Auditor of Public Accounts, shall
9505 result in revocation of all financial and administrative operations authority granted to the
9506 institution pursuant to the Restructured Higher Education Financial and Administrative
9507 Operations Act (§~~23-38.88~~ [23.1-1000](#) et seq.).

9508 I. The board of visitors of any institution that seeks to add a major intercollegiate
9509 athletics program such as football or basketball or change the division level of any of its existing
9510 intercollegiate athletics programs shall first submit to the Intercollegiate Athletics Review
9511 Commission (Commission) established pursuant to Chapter 57 (§ 30-359 et seq.) of Title 30 a
9512 plan and recommendations for financing the addition or change. The institution shall not in any
9513 way undertake any such addition or agree or commit to any such change until it has received the
9514 findings and recommendations of the Commission pursuant to § 30-360. Any such addition or
9515 change ~~shall be~~ is subject to the approval of the General Assembly expressed in the general
9516 appropriation act. The board of visitors of any institution that adds a non-major intercollegiate
9517 athletics program shall report such decision within 15 days of the board's action.

9518 **Drafting note: Obsolete references to November 1, 2015 and July 1, 2016 are**
9519 **stricken. Technical changes are made, including use of "regulations" rather than "rules**
9520 **and regulations" per recommendation of the Code Commission.**

9521 § 23.1-1310. Boards of visitors; baccalaureate public institutions of higher education;
9522 property of predecessor institutions.

9523 All real estate and personal property standing in the name of any predecessor institution
9524 of a baccalaureate public institution of higher education shall be transferred to, known and taken
9525 as standing in the name of, and controlled by the board of visitors of such public institution of
9526 higher education. All such real estate and personal property is the property of the
9527 Commonwealth.

9528 **Drafting note: This proposed section incorporates and standardized institution-**
9529 **specific provisions related to the real estate and property of predecessor institutions.**

9530 CHAPTER ~~5.3~~ 14.

9531 CHRISTOPHER NEWPORT UNIVERSITY.

9532 **Drafting note: Existing Chapter 5.3 of Title 23 is logically reorganized as proposed**
9533 **Chapters 13 and 14 of Title 23.1. Existing provisions that apply generally to governing**
9534 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
9535 **Existing provisions relating to the incorporation, membership and meetings, and powers**
9536 **and duties of the governing board that are unique to the University are retained in**
9537 **proposed Chapter 14.**

9538 ~~§ 23-49.23 23.1-1400. Board of visitors a corporation and under control of General~~
9539 ~~Assembly Corporate name; name of the University.~~

9540 ~~There is hereby established a corporate body composed of the~~ A. The board of visitors of
9541 Christopher Newport University (the board) is a corporation under the name and style of "The
9542 Rector and Visitors of Christopher Newport University;" ~~hereafter referred to in this chapter as~~
9543 ~~"the board" or "the board of visitors," which shall have and has,~~ in addition to its other powers,
9544 all the corporate powers given to corporations by the provisions of Title 13.1; except ~~in~~ those

9545 ~~cases where, by the express terms of the provisions thereof, it is powers that are~~ confined to
9546 corporations created ~~under such title, and the board shall also have the power to accept, execute~~
9547 ~~and administer any trust in which it may have an interest under the terms of the instrument~~
9548 ~~creating the trust. Such corporation pursuant to Title 13.1. The board~~ shall be subject at all times
9549 ~~to be under~~ the control of the General Assembly.

9550 B. The ~~University institution~~ shall be known as Christopher Newport University (the
9551 University).

9552 **Drafting note: Technical changes are made to conform the language in this section**
9553 **to that of each other baccalaureate public institution of higher education.**

9554 ~~§ 23-49.24. Transfer and control of certain property in Newport News.~~

9555 ~~All real estate and personal property now existing and heretofore standing in the name~~
9556 ~~and under the control of the corporate body designated "The College of William and Mary" that~~
9557 ~~is located in Newport News and that was heretofore exclusively used by Christopher Newport~~
9558 ~~University is hereby transferred to and shall be known and taken as standing in the name and~~
9559 ~~under the control of the rector and visitors of Christopher Newport University. The term~~
9560 ~~"control" shall include, without limitation, management, control, operation and maintenance.~~
9561 ~~Such real estate and personal property shall be the property of the Commonwealth.~~

9562 **Drafting note: The provisions of existing § 23-49.24 are stricken here and**
9563 **incorporated instead into proposed § 23.1-1310.**

9564 ~~§ 23-49.25~~ 23.1-1401. Appointments of visitors generally; terms Membership.

9565 ~~A.~~ The board shall consist of 14 members appointed by the Governor, of whom at least
9566 six ~~of whom~~ shall be alumni of ~~Christopher Newport the~~ University.

9567 ~~Appointments shall be for terms of four years; however, appointments to fill vacancies~~
9568 ~~occurring otherwise than by expiration of terms shall be for the unexpired terms.~~

9569 ~~B. All appointments of the Governor shall be subject to confirmation by the General~~
9570 ~~Assembly. Members shall continue to hold office until their successors have been appointed and~~
9571 ~~have qualified.~~

9572 **Drafting note: Existing provisions relating to the terms and removal of members of**
9573 **the board are stricken and incorporated instead into proposed § 23.1-1300, and technical**
9574 **changes are made to conform the language to that of each other baccalaureate public**
9575 **institution of higher education.**

9576 ~~§ 23-49.26. Eligibility to serve for more than two terms.~~

9577 ~~No person shall be eligible to serve on the board of visitors for or during more than two~~
9578 ~~successive four year terms; but after the expiration of a term of two years or less, or after the~~
9579 ~~expiration of the remainder of a term to which appointed to fill a vacancy, a member may serve~~
9580 ~~two additional four year terms if appointed thereto.~~

9581 **Drafting note: The provisions of existing § 23-49.26 are stricken and incorporated**
9582 **instead into proposed § 23.1-1300.**

9583 ~~§ 23-49.27.~~

9584 **Drafting note: Repealed by Acts 2015, c. 560, cl. 2.**

9585 ~~§ 23-49.28 23.1-1402. Powers and duties of visitors generally; meetings; rector,~~
9586 ~~secretary and vice rector; executive committee Meetings; officers; committees.~~

9587 ~~A. The board of visitors shall be vested with all the rights and powers conferred by the~~
9588 ~~provisions of this title insofar as the same are not inconsistent with the provisions of this chapter~~
9589 ~~and the general laws of the Commonwealth.~~

9590 ~~The board shall control and expend the funds of the University and any appropriation~~
9591 ~~hereafter provided; make all needful rules and regulations concerning the University; appoint~~
9592 ~~the president, who shall be its chief executive officer, and all teachers; fix their salaries; provide~~
9593 ~~for the employment of other personnel as required; and generally direct the affairs of the~~
9594 ~~University.~~

9595 ~~B. The board of visitors shall meet at the University at least four times a year and at such~~
9596 ~~other times as it shall determine, the days of meetings to be fixed by the board determines.~~
9597 ~~Special meetings of the board may be called by the rector or any three members. The secretary~~
9598 ~~shall provide notice of any special meeting to each member.~~

9599 B. Seven members shall constitute a quorum.

9600 C. At the first meeting after July 1 in every even-numbered year, the board shall elect
9601 from its membership a rector, ~~who shall to~~ preside at its meetings, ~~a secretary and~~ a vice-rector.
9602 ~~In the absence of the rector or vice-rector at any meeting, the secretary shall preside, and in the~~
9603 ~~absence of all three, the~~ to preside at its meetings in the absence of the rector, and a secretary to
9604 preside at its meetings in the absence of the rector and vice-rector.

9605 D. The board may appoint a pro tempore officer to preside at its meetings in the absence
9606 of the rector, vice-rector, and secretary.

9607 ~~Any vacancies~~ E. Vacancies in the offices of rector, vice-rector ~~or, and~~ secretary may be
9608 filled by the board for the unexpired term. ~~Special meetings of the board may be called by the~~
9609 ~~rector or any three members. In either of such cases, notice of the time of meetings shall be~~
9610 ~~given by the secretary to every member.~~

9611 ~~C.F.~~ At every regular annual meeting of the board, the board may appoint an executive
9612 committee for the transaction of business in the recess of the board, to serve for a period of one
9613 year or until the next regular annual meeting.

9614 **Drafting note: Duties of the board set forth in the second paragraph of subsection**
9615 **A are stricken here and incorporated instead into proposed §§ 23.1-1301 and 23.1-1403.**
9616 **Technical changes are made to conform provisions relating to meetings, officers, and**
9617 **committees of the board of visitors to those of each other baccalaureate public institution**
9618 **of higher education.**

9619 ~~§ 23-49.29. Rates, fees and charges.~~

9620 ~~The board may fix, in its discretion, the rates charged the students of the University for~~
9621 ~~tuition, fees and other necessary charges.~~

9622 **Drafting note: The provisions of existing § 23-49.29 are stricken here and**
9623 **incorporated instead into proposed § 23.1-1301.**

9624 ~~§ 23-49.30~~ 23.1-1403. Degrees Powers and duties.

9625 A. The board shall appoint all teachers and fix their salaries, provide for the employment
9626 of other personnel as required, and generally direct the affairs of the University.

9627 B. The board shall have the right to may confer degrees.

9628 § 23-49.31. Curriculum.

9629 The existing collegiate curriculum of the University shall be continued; however, the
9630 board may make such alterations therein as it shall from time to time deem necessary and,
9631 subject to the provisions of § 23.1-203, approve new academic programs and discontinue
9632 academic programs offered by the University.

9633 **Drafting note: Proposed subsection A incorporates board powers from subsection**
9634 **A of existing § 23-49.28. Board powers related to degrees (existing § 23-49.30) and**
9635 **curriculum (existing § 23-49.31) are combined in subsection B of this proposed section. A**
9636 **reference to the Council's powers related to academic programs is included in subsection**
9637 **B. Technical changes are made, including striking the superfluous term "from time to**
9638 **time" per Code Commission policy.**

9639 § 23-49.32. Sale, etc., of real estate.

9640 The rector and visitors of Christopher Newport University, with the approval of the
9641 Governor first obtained, are hereby authorized to lease, sell and convey any and all real estate to
9642 which it has acquired title by gift, devise or purchase since the commencement of the University
9643 under any previous names, or which may hereafter be conveyed or devised to it. The proceeds
9644 derived from any such lease, sale or conveyance shall be held by the rector and the visitors of
9645 Christopher Newport University, upon identical trusts, and subject to the same uses, limitations
9646 and conditions, if any, that are expressed in the original deed or will under which its title was
9647 derived; or if there be no such trusts, uses, limitations or conditions expressed in such original
9648 deed or will, then such funds shall be applied by the rector and visitors of the University to such
9649 purposes as the board may deem best for the University.

9650 **Drafting note: The provisions of existing § 23-49.32 are stricken here and**
9651 **incorporated instead into proposed § 23.1-1301.**

9652 ~~§ 23-49.33. Use of library; sharing of faculty and facilities with College of William and~~
9653 ~~Mary.~~

9654 ~~A. Use of the library of the University shall be granted to students and faculty of the~~
9655 ~~College of William and Mary in Virginia.~~

9656 ~~B. The board of visitors shall make cooperative agreements with the board of visitors of~~
9657 ~~the College of William and Mary in Virginia for the sharing of faculty and of laboratory and~~
9658 ~~other facilities.~~

9659 **Drafting note: Existing § 23-49.33 is recommended for repeal as obsolete.**

9660 CHAPTER ~~9.1~~ 15.

9661 GEORGE MASON UNIVERSITY.

9662 **Drafting note: Existing Chapter 9.1 of Title 23 is logically reorganized as proposed**
9663 **Chapters 13 and 15 of Title 23.1. Existing provisions that apply generally to governing**
9664 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
9665 **Existing provisions relating to the incorporation, membership, and meetings, and powers**
9666 **and duties of the governing board that are unique to the University are retained in**
9667 **proposed Chapter 15.**

9668 ~~§ 23-91.24 23.1-1500. Board of visitors a corporation and under control of General~~
9669 ~~Assembly~~ Corporate name; name of the University.

9670 ~~There is hereby established a corporate body composed of the~~ A. The board of visitors of
9671 George Mason University (the board) is a corporation under the name and style of "The Rector
9672 and Visitors of George Mason University" hereinafter referred to in this chapter as the board.
9673 Such corporation and has, in addition to its other powers, all the corporate powers given to
9674 corporations by the provisions of Title 13.1 except those powers that are confined to
9675 corporations created pursuant to Title 13.1. The board shall be subject at all times to be under
9676 the control of the General Assembly.

9677 B. The ~~University institution~~ shall be known as George Mason University (the
9678 University).

9679 **Drafting note: Technical changes are made to conform the language in this section**
9680 **to that of each other baccalaureate public institution of higher education.**

9681 ~~§ 23-91.25. Transfer of property.~~

9682 ~~All the real estate and personal property now existing and heretofore standing in the~~
9683 ~~name of the rector and visitors of the University of Virginia, located in Fairfax and heretofore~~
9684 ~~exclusively used by the George Mason College Division of the University of Virginia, shall be~~
9685 ~~transferred to and be known and taken as standing in the name and under the control of the~~
9686 ~~rector and visitors of George Mason University. Such real estate and personal property shall be~~
9687 ~~the property of the Commonwealth.~~

9688 **Drafting note: The provisions of existing § 23-91.25 are stricken here and**
9689 **incorporated instead into proposed § 23.1-1310.**

9690 ~~§ 23-91.26 23.1-1501. Appointment and terms of visitors generally Membership.~~

9691 ~~(a) A. The board shall consist of sixteen 16 members, who shall be appointed by the~~
9692 ~~Governor. Of the sixteen members, two may be nonresidents of Virginia. At least one member~~
9693 ~~appointed each year shall be an alumnus of the University.~~

9694 ~~B. The alumni association of the University and the board may submit to the Governor a~~
9695 ~~list of at least three nominees for each vacancy on the board of visitors, whether the vacancy~~
9696 ~~occurs by expiration of a term or otherwise. The Governor may appoint a member from the list~~
9697 ~~of nominees.~~

9698 ~~(b) In 1972 the Governor shall appoint the members of the board for terms beginning~~
9699 ~~July 1, 1972. At least one of the members appointed each year beginning in 1978 shall be an~~
9700 ~~alumnus of George Mason University or of the George Mason College Division of the~~
9701 ~~University of Virginia and, insofar as is possible, ten of the sixteen members shall be~~
9702 ~~representative of the principal political subdivisions comprising Planning District Number Eight~~
9703 ~~and of Fauquier County. Four of such appointments shall be for terms of four years each, four~~
9704 ~~for terms of three years, four for terms of two years, and four for terms of one year. Subsequent~~

9705 ~~appointments shall be for terms of four years; provided, however, that appointments to fill~~
9706 ~~vacancies occurring otherwise than by expiration of terms shall be for the unexpired terms.~~

9707 ~~(c) All appointments shall be subject to confirmation by the General Assembly.~~
9708 ~~Members shall continue to hold office until their successors have been appointed and have~~
9709 ~~qualified.~~

9710 **Drafting note: Existing provisions relating to the membership of the board of**
9711 **visitors are logically combined in this proposed section, existing provisions relating to the**
9712 **terms and removal of members of the board are stricken and incorporated instead into**
9713 **proposed § 23.1-1300, existing provisions related to the initial staggering of terms are**
9714 **stricken as obsolete, and technical changes are made to conform the language to that of**
9715 **each other baccalaureate public institution of higher education. The provision in existing**
9716 **subsection (a) related to nonresidents members is stricken as inconsistent with current**
9717 **practice. The provision in existing subsection (b) related to members from Planning**
9718 **District Eight and Fauquier County is recommended for repeal as obsolete. Proposed**
9719 **subsection B is relocated from existing § 23-91.27.**

9720 ~~§ 23-91.27. Appointment of visitors from nominees submitted by board and association.~~

9721 ~~(a) The Governor may, if his discretion so dictates appoint visitors from a list of~~
9722 ~~qualified persons submitted to him by the board of visitors and the alumni association of George~~
9723 ~~Mason University on or before the first day of July of any year next preceding a year in which~~
9724 ~~the terms of any of such visitors will expire.~~

9725 ~~(b) Every list of prospective appointees submitted by the board and such alumni~~
9726 ~~association shall contain at least three names for each vacancy to be filled.~~

9727 ~~(c) The Governor is not to be limited in his appointments to the persons so nominated.~~

9728 **Drafting note: The July deadline for alumni association nominations is**
9729 **recommended for repeal as obsolete. The remaining provisions of existing § 23-91.27 are**
9730 **stricken and incorporated instead into proposed § 23.1-1501.**

9731 ~~§ 23-91.28. No person eligible to serve more than two terms; when office of visitor~~
9732 ~~deemed vacant.~~

9733 ~~No person shall be eligible to serve for more than two successive terms; however, a~~
9734 ~~member appointed to serve an unexpired term shall be eligible to serve two successive four-year~~
9735 ~~terms.~~

9736 **Drafting note: The provisions of existing § 23-91.28 are stricken and incorporated**
9737 **instead into proposed § 23.1-1300.**

9738 ~~§ 23-91.29 23.1-1502. Powers and duties of board generally; meetings; Meetings;~~
9739 ~~officers; executive committee committees.~~

9740 ~~(a) The board of visitors shall be vested with all the rights and powers conferred by the~~
9741 ~~provisions of this title insofar as the same are not inconsistent with the provisions of this chapter~~
9742 ~~and the general laws of the Commonwealth.~~

9743 ~~The board shall control and expend the funds of the University and any appropriation~~
9744 ~~hereafter provided, and shall make all needful rules and regulations concerning the University,~~
9745 ~~appoint the president, who shall be its chief executive officer, and all professors, teachers, staff~~
9746 ~~members and agents, and fix their salaries, and generally direct the affairs of the University.~~

9747 ~~(b) A. The board of visitors shall meet at the University once a year, and at such other~~
9748 ~~times as they shall determine, the days of meetings to be fixed by them it determines. Special~~
9749 ~~meetings of the board may be called by the rector or any three members. The secretary shall~~
9750 ~~provide notice of any special meeting to each member.~~

9751 ~~B. Eight members shall constitute a quorum. At the first meeting after July 1, 1972, and~~
9752 ~~every second year thereafter, they~~

9753 ~~C. Every other year, the board shall appoint from their own body its membership a~~
9754 ~~rector, who shall to preside at their its meetings, a secretary and a vice-rector to preside at its~~
9755 ~~meetings in the absence of the rector, and a secretary to preside at its meetings in the absence of~~
9756 ~~the rector and vice-rector.~~

9757 ~~In the absence of the rector or vice rector at any meeting, the secretary shall preside, and~~
 9758 ~~on the absence of all three, the~~ D. The board may appoint a pro tempore officer to preside at its
 9759 meetings in the absence of the rector, vice-rector, and secretary.

9760 ~~Any vacancies~~ E. Vacancies in the offices of rector, vice-rector ~~or, and~~ secretary may be
 9761 filled by the board for the unexpired term. ~~Special meetings of the board may be called by the~~
 9762 ~~rector or any three members. In either of such cases, notice of the time of meetings shall be~~
 9763 ~~given by the secretary to every member.~~

9764 ~~(e)~~ F. At every regular annual meeting of the board ~~they, the board~~ may appoint an
 9765 executive committee for the transaction of business in the recess of the board, ~~not less than~~
 9766 consisting of at least three ~~or~~ and not more than five members, to serve for a period of one year
 9767 or until the next regular annual meeting.

9768 **Drafting note: Duties of the board set forth in existing subsection (a) are stricken**
 9769 **and incorporated instead into proposed §§ 23.1-1303 and 23.1-1503. Technical changes are**
 9770 **made to conform provisions relating to meetings, officers, and committees of the board of**
 9771 **visitors to those of each other baccalaureate public institution of higher education. An**
 9772 **obsolete reference to the board's first meeting after July 1, 1972 is stricken as obsolete.**

9773 ~~§ 23-91.30. Tuition, fees and other charges.~~

9774 ~~The board may fix, in its discretion, the rates charged the students of the University for~~
 9775 ~~tuition, fees and other necessary charges.~~

9776 **Drafting note: The provisions of existing § 23-91.30 are stricken here and**
 9777 **incorporated instead into proposed § 23.1-1301.**

9778 ~~§ 23-91.31~~ 23.1-1503. Right to confer degrees Powers and duties.

9779 A. The board shall appoint all teachers, staff members, and agents and fix their salaries
 9780 and generally direct the affairs of the University.

9781 B. The board ~~shall have the right to~~ may confer degrees.

9782 ~~§ 23-91.32. Curriculum.~~

9783 ~~The existing collegiate curriculum shall be continued; however, the board may make~~
9784 ~~such alterations therein as it shall from time to time deem necessary and, subject to the~~
9785 ~~provisions of § 23.1-203, approve new academic programs and discontinue academic programs~~
9786 ~~offered by the University.~~

9787 **Drafting note: Subsection A incorporates board duties set forth in subsection (a) of**
9788 **existing § 23-91.29. Board powers related to degrees (existing § 23-91.31) and curriculum**
9789 **(existing § 23-91.32) are combined in subsection B of this proposed section. A reference to**
9790 **the Council's powers related to academic programs is added in subsection B. Technical**
9791 **changes are made, including striking the superfluous term "from time to time" per Code**
9792 **Commission policy.**

9793 ~~§ 23-91.29:1 23.1-1504.~~ Establishment of branch campus in the Republic of Korea.

9794 A. In recognition that global educational opportunities benefit the intellectual and
9795 economic interests of the Commonwealth, the board ~~of visitors of George Mason University is~~
9796 ~~authorized to~~ may create a corporation or other legal entity controlled by ~~George Mason the~~
9797 ~~University to establish and operate a branch campus of George Mason the~~ University in the
9798 Republic of Korea. Establishment of the branch campus ~~shall be~~ is subject to ~~State Council of~~
9799 ~~Higher Education for Virginia~~ guidelines governing the approval of branch campuses, pursuant
9800 to § ~~23-9.6:1 23.1-203.~~

9801 B. The board ~~of visitors shall have~~ has the same powers with respect to operation and
9802 governance of its branch campus in Korea as are vested in the board ~~by the Code of Virginia~~
9803 with respect to ~~George Mason the~~ University ~~in Virginia, including, but not limited to, fixing of~~
9804 ~~fees and charges, the establishment of academic standards, and the conferral of degrees.~~

9805 C. No corporation or other legal entity created for the above purpose shall be deemed a
9806 state or governmental agency, advisory agency, public body or agency, or other instrumentality.

9807 ~~Further, no~~ D. No director, officer, or employee of any such corporation or other legal
9808 entity shall be deemed an officer or employee of the Commonwealth for any purpose.

9809 E. In operating the branch campus, the board ~~of visitors~~ shall provide for appropriate
9810 professional opportunities for Virginia-based faculty to teach or conduct research on the
9811 Republic of Korea campus and educational opportunities for Virginia-based students to study or
9812 conduct research on the Republic of Korea campus.

9813 F. Nothing contained in this section shall be deemed a waiver of the sovereign immunity
9814 of the Commonwealth or ~~of George Mason~~ the University.

9815 **Drafting note: Technical changes.**

9816 ~~§ 23-91.33. Conveyance of real estate; disposition of proceeds.~~

9817 ~~The rector and visitors of George Mason University with the approval of the Governor~~
9818 ~~first obtained, are hereby authorized to lease, sell and convey any and all real estate to which it~~
9819 ~~has acquired title by gift, devise or purchase since the commencement of the University under~~
9820 ~~any previous names, or which may hereafter be conveyed or devised to it. The proceeds derived~~
9821 ~~from any such lease, sale or conveyance shall be held by the rector and visitors of George~~
9822 ~~Mason University upon the identical trusts, and subject to the same uses, limitations and~~
9823 ~~conditions, if any, that are expressed in the original deed or will under which its title was~~
9824 ~~derived; or if there be no such trusts, uses, limitations or conditions expressed in such original~~
9825 ~~deed or will, then such funds shall be applied by the rector and visitors of the University to such~~
9826 ~~purposes as said board may deem best for the University.~~

9827 **Drafting note: The provisions of existing § 23-91.33 are stricken and incorporated**
9828 **instead into proposed § 23.1-1301.**

9829 ~~CHAPTER 12.1 16.~~

9830 JAMES MADISON UNIVERSITY.

9831 **Drafting note: Existing Chapter 12.1 of Title 23 is logically reorganized as proposed**
9832 **Chapters 13 and 16 of Title 23.1. Existing provisions that apply generally to governing**
9833 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
9834 **Existing provisions relating to the incorporation, membership, and powers and duties of**

9835 **the governing board that are unique to the University are retained in proposed Chapter**
9836 **16.**

9837 ~~§ 23-164.1 23.1-1600. Corporation composed of board of visitors established; style;~~
9838 Corporate name; name of the University.

9839 A. The corporation composed of the board of visitors of Madison College, heretofore
9840 established by law, is continued as the board of visitors of James Madison University (the
9841 board) is a corporation under the name and style of "The Visitors of James Madison University"
9842 hereinafter referred to in this chapter as board and has, in addition to its other powers, all the
9843 corporate powers given to corporations by the provisions of Title 13.1 except those powers that
9844 are confined to corporations created pursuant to Title 13.1. The board shall at all times be under
9845 the control of the General Assembly.

9846 B. The University institution shall be known as James Madison University (the
9847 University).

9848 C. All laws relating to Madison College or the board of visitors of Madison College shall
9849 be construed as relating to James Madison the University or the board, respectively.

9850 **Drafting note: Technical changes are made to conform the language in this section**
9851 **to that of each other baccalaureate public institution of higher education.**

9852 ~~§ 23-164.2. Transfer of property.~~

9853 ~~All the real estate and personal property now existing and heretofore standing in the~~
9854 ~~name of the visitors of Madison College shall be known and taken as standing in the name, and~~
9855 ~~to be under the control, of the corporate body designated "The Visitors of James Madison~~
9856 ~~University." Such real estate and personal property shall be the property of the Commonwealth.~~

9857 **Drafting note: The provisions of existing § 23-164.2 are stricken here and**
9858 **incorporated instead into proposed § 23.1-1310.**

9859 ~~§ 23-164.3. Appointment of members of board of visitors generally; terms; vacancies.~~
9860 23.1-1601. Membership.

9861 A. The board shall consist of ~~fifteen~~ 15 members ~~who shall be~~ appointed by the
9862 Governor, ~~of whom at least 13 shall be residents of the Commonwealth.~~

9863 ~~Of the four members of the board appointed for terms beginning July 1, 1989, two~~
9864 ~~members shall be appointed for initial terms of two years and two members shall be appointed~~
9865 ~~for initial terms of three years. Successors to the members so appointed shall be appointed to~~
9866 ~~serve for terms of four years each. Vacancies occurring other than by expiration of term shall be~~
9867 ~~filled for the unexpired term. Of the persons so appointed two may be nonresidents of the~~
9868 ~~Commonwealth.~~

9869 ~~All appointments shall be subject to confirmation by the General Assembly. Members~~
9870 ~~shall continue to hold office until their successors have been appointed and have qualified.~~

9871 B. The alumni association of the University may submit to the Governor a list of at least
9872 three nominees for each vacancy on the board of visitors, whether the vacancy occurs by
9873 expiration of a term or otherwise. The Governor may appoint a member from the list of
9874 nominees. The Governor is not limited in his appointments to the individuals so nominated.

9875 **Drafting note: Existing provisions relating to the membership of the board of**
9876 **visitors are logically combined in this proposed section, existing provisions relating to the**
9877 **terms and removal of members of the board are stricken and incorporated instead into**
9878 **proposed § 23.1-1300, existing provisions related to the initial staggering of terms are**
9879 **stricken as obsolete, and technical changes are made to conform the language to that of**
9880 **each other baccalaureate public institution of higher education.**

9881 ~~§ 23-164.4. Appointment of visitors from list submitted by alumni.~~

9882 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him~~
9883 ~~by the alumni association of the James Madison University, or its titular successor, on or before~~
9884 ~~the first day of July of any year in which the terms of any visitors will expire.~~

9885 ~~(b) Every list shall contain at least three names for each vacancy to be filled.~~

9886 ~~(c) The Governor shall not be limited in his appointments to the persons so nominated.~~

9887 **Drafting note: The July deadline for alumni association nominations is**
9888 **recommended for repeal as obsolete. The remaining provisions of existing § 23-164.4 are**
9889 **stricken and incorporated instead into proposed § 23.1-1601.**

9890 ~~§ 23-164.5. Eligibility to serve more than two successive terms.~~

9891 ~~No person shall be eligible to serve for or during more than two successive four year~~
9892 ~~terms. A person appointed to serve an unexpired term created by a vacancy shall be eligible to~~
9893 ~~serve two additional four year terms.~~

9894 **Drafting note: The provisions of existing § 23-164.5 are stricken and incorporated**
9895 **instead into proposed § 23.1-1300.**

9896 ~~§ 23-164.6 23.1-1602. Rights and powers of board generally Powers and duties.~~

9897 ~~A. The board shall be vested with all the rights and powers conferred by this chapter~~
9898 ~~insofar as the same are not inconsistent with the laws of the Commonwealth.~~

9899 ~~The board shall control and expend the funds of the University and any appropriation~~
9900 ~~hereafter provided, and shall make all needful rules and regulations concerning the University,~~
9901 ~~appoint the president, who shall be its chief executive officer, and all professors, teachers and~~
9902 ~~agents; and fix their salaries; and generally direct the affairs of the University.~~

9903 ~~§ 23-164.8. Degrees.~~

9904 ~~B. The board shall have the right to may confer degrees.~~

9905 **Drafting note: The board's duties to control and expend funds, make regulations,**
9906 **and appoint a president and professors, as set forth in the second paragraph of existing §**
9907 **23-164.6, are stricken and incorporated instead into proposed § 23.1-1303. Proposed**
9908 **subsection B incorporates the provisions of existing § 23-164.8. Technical changes are**
9909 **made.**

9910 ~~§ 23-164.7. Tuition, fees and charges.~~

9911 ~~The board may fix the rates charged the students of the University for tuition, fees and~~
9912 ~~other necessary charges.~~

9939 **Drafting note: Existing Chapter 15 of Title 23 is logically reorganized as proposed**
9940 **Chapters 13 and 17 of Title 23.1. Existing provisions that apply generally to governing**
9941 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
9942 **Existing provisions relating to the incorporation, membership, and powers and duties of**
9943 **the governing board that are unique to the University are retained in proposed Chapter**
9944 **17.**

9945 ~~§ 23-182 23.1-1700. Board of visitors established as corporation~~ Corporate name; name
9946 of the University.

9947 ~~There is hereby established a corporation composed of the~~ A. The board of visitors of
9948 Longwood University (the board) is a corporation under the name and style of "The Visitors of
9949 Longwood University;" ~~hereinafter referred to in this chapter as the board~~ and has, in addition to
9950 its other powers, all the corporate powers given to corporations by the provisions of Title 13.1
9951 except those powers that are confined to corporations created pursuant to Title 13.1. The board
9952 shall at all times be under the control of the General Assembly.

9953 ~~§ 23-183. Name.~~

9954 ~~The University~~ B. The institution shall be known as Longwood University (the
9955 University).

9956 **Drafting note: Existing §§ 23-182 and 23-183 are combined as proposed § 23.1-**
9957 **1700. Technical changes are made to conform the language in this section to that of each**
9958 **other baccalaureate public institution of higher education.**

9959 ~~§ 23-184. Property transferred to Longwood University and owned by Commonwealth.~~

9960 ~~All the real estate and personal property now existing and heretofore standing in the~~
9961 ~~name of the State Board of Education, located at Farmville, and heretofore used by Longwood~~
9962 ~~University under the State Board of Education, shall be transferred to and be known and taken~~
9963 ~~as standing in the name, and to be under the control, of the corporate body designated "The~~
9964 ~~Visitors of Longwood University." Such real estate and personal property shall be the property~~
9965 ~~of the Commonwealth.~~

9966 **Drafting note: The provisions of existing § 23-184 are stricken here and**
9967 **incorporated instead into proposed § 23.1-1310.**

9968 § ~~23-185~~ 23.1-1701. ~~Composition of board; appointment and terms of visitors generally;~~
9969 ~~vacancies; confirmation~~ Membership.

9970 A. The board shall consist of 13 members ~~who shall be~~ appointed by the Governor, of
9971 whom at least two shall be alumni of the University and at least 11 shall be residents of the
9972 Commonwealth.

9973 B. ~~The Governor shall appoint the 13 appointive members of the board for terms of four~~
9974 ~~years each. Members shall be eligible for service for two consecutive terms of four years,~~
9975 ~~exclusive of that portion of any unexpired term. Successors to the members so appointed shall~~
9976 ~~be appointed to serve for terms of four years each. Vacancies occurring other than by expiration~~
9977 ~~of term shall be filled for the unexpired term. Of the persons so appointed two shall be alumni of~~
9978 ~~the University, and two may be nonresidents of the Commonwealth, the remaining number to be~~
9979 ~~selected from the Commonwealth at large.~~

9980 C. ~~All appointments shall be subject to confirmation by the General Assembly. Members~~
9981 ~~shall continue to hold office until their successors have been appointed and have qualified. The~~
9982 alumni association of the University may submit to the Governor a list of at least three nominees
9983 for each vacancy on the board of visitors, whether the vacancy occurs by expiration of a term or
9984 otherwise. The Governor may appoint a member from the list of nominees.

9985 **Drafting note: Existing provisions relating to the membership of the board of**
9986 **visitors are logically combined in this proposed section, existing provisions relating to the**
9987 **terms and removal of members of the board are stricken and incorporated instead into**
9988 **proposed § 23.1-1300, and technical changes are made to conform the language to that of**
9989 **each other baccalaureate public institution of higher education. Proposed subsection B is**
9990 **relocated from existing § 23-186.**

9991 § ~~23-186~~. ~~Appointment of visitors from alumni.~~

9992 ~~A. The Governor may appoint visitors from a list of qualified persons submitted to him,~~
9993 ~~by the alumni association of the University, or its titular successor, on or before the first day of~~
9994 ~~July of any year in which the terms of any visitors will begin or expire.~~

9995 ~~B. Every list shall contain at least three names for each vacancy to be filled.~~

9996 ~~C. The Governor shall not be limited in his appointments to the persons so nominated.~~

9997 **Drafting note: The July deadline for alumni association nominations is**
9998 **recommended for repeal as obsolete. The remaining provisions of existing § 23-186 are**
9999 **stricken and incorporated instead into proposed § 23.1-1701.**

10000 ~~§ 23-186.1.~~

10001 **Drafting note: Repealed by Acts 2015, c. 560.**

10002 ~~§ 23-187. Eligibility to serve more than two successive terms.~~

10003 ~~No person shall be eligible to serve for or during more than two successive terms except~~
10004 ~~the persons receiving initial appointments for only two years and who have served an additional~~
10005 ~~four year term may be appointed for another four year term.~~

10006 **Drafting note: The provisions of existing § 23-187 are stricken and incorporated**
10007 **instead into proposed § 23.1-1300.**

10008 ~~§ 23-188 23.1-1702. Rights, powers Powers and duties of board generally.~~

10009 ~~A. The board shall be vested with all the rights and powers conferred by this chapter~~
10010 ~~insofar as the same are not inconsistent with the laws of the Commonwealth.~~

10011 ~~The board shall control and expend the funds of the University and any appropriation~~
10012 ~~hereafter provided, and shall make all needful rules and regulations concerning the University,~~
10013 ~~appoint the president, who shall be its chief executive officer, and all professors, teachers and~~
10014 ~~agents; and fix their salaries; and generally direct the affairs of the University.~~

10015 ~~§ 23-190. Right to confer degrees.~~

10016 ~~B. The board shall have the right to may confer degrees.~~

10017 **Drafting note: The board's duties to control and expend funds, make regulations,**
10018 **and appoint a president and professors, as set forth in the second paragraph of existing §**

10019 **23-188, are stricken and incorporated instead into proposed § 23.1-1303. Subsection B**
10020 **incorporates the provisions of existing § 23-190.**

10021 ~~§ 23-189. Board may fix tuition, fees and other necessary charges.~~

10022 ~~The board may fix the rates charged the students of the University for tuition, fees and~~
10023 ~~other necessary charges.~~

10024 **Drafting note: The provisions of existing § 23-189 are stricken here and**
10025 **incorporated instead into proposed § 23.1-1301.**

10026 ~~§ 23-191 23.1-1703. Curriculum Program of instruction to educate and train teachers.~~

10027 ~~The curriculum of Longwood University shall embrace such branches of learning as~~
10028 ~~relate to teaching in the public free schools of Virginia, without excluding other studies in the~~
10029 ~~arts and sciences maintain a program of instruction to educate and train teachers for the public~~
10030 ~~elementary and secondary schools of the Commonwealth without excluding other programs of~~
10031 ~~instruction.~~

10032 **Drafting note: Technical changes.**

10033 ~~CHAPTER 7.~~

10034 ~~THE MILLER SCHOOL OF ALBEMARLE.~~

10035 **Drafting note: Existing Chapter 7 (§ 23-51 et seq.) relating to the Miller School of**
10036 **Albemarle, a college preparatory school in Albemarle County, is recommended for repeal**
10037 **as obsolete.**

10038 ~~§ 23-51. Miller Manual Labor School continued as The Miller School of Albemarle.~~

10039 ~~The Miller Manual Labor School of Albemarle, created pursuant to Chapter 61 of the~~
10040 ~~Acts of Assembly of 1874, is continued as The Miller School of Albemarle, an educational~~
10041 ~~institution of the Commonwealth of Virginia, as a corporation with all of the rights and powers~~
10042 ~~of nonprofit, nonstock corporations chartered under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1~~
10043 ~~for the purpose of providing quality education to certain worthy students.~~

10044 **Drafting note: Existing § 23-51 is recommended for repeal as obsolete.**

10045 ~~§ 23-52. Certain statutes continued in force.~~

10046 ~~The second through seventh clauses of section one, and the second section of the act~~
 10047 ~~entitled "an act to give effect to a compromise of the litigation in respect to the construction and~~
 10048 ~~effect of the will of Samuel Miller, deceased, and to establish the manual labor school provided~~
 10049 ~~for in the twenty fifth clause of the said will," approved February 24, 1874, as amended by~~
 10050 ~~Chapter 258 of the Acts of 1946, approved March 25, 1946, by Chapter 553 of the Acts of 1950,~~
 10051 ~~approved April 7, 1950, and by Chapter 462 of the Acts of 1966, effective April 4, 1966; the act~~
 10052 ~~approved February 19, 1884, amending and reenacting the fourth clause of the second section of~~
 10053 ~~the act approved April 2, 1877 relating to the Miller Manual Labor School of Albemarle; and~~
 10054 ~~the act to authorize the board of the Miller Manual Labor School to convert coupon bonds into~~
 10055 ~~registered bonds, approved August 23, 1884, shall severally continue in force.~~

10056 **Drafting note: Existing § 23-52 is recommended for repeal as obsolete.**

10057 ~~§ 23-53. Jurisdiction and powers of Circuit Court for Albemarle County.~~

10058 ~~All of the jurisdiction and powers by law vested in and exercised by the Circuit Court for~~
 10059 ~~Albemarle County, and the judge thereof in vacation, over the Miller Manual Labor School of~~
 10060 ~~Albemarle, or in connection with the government, control and management thereof, are~~
 10061 ~~continued, and the compensation for such duties and services shall be paid to such judge.~~

10062 **Drafting note: Existing § 23-51 is recommended for repeal as obsolete.**

10063 ~~CHAPTER 8.~~

10064 ~~STATE TEACHERS COLLEGE AT FARMVILLE; MADISON COLLEGE.~~

10065 ~~§§ 23-54 through 23-61.~~

10066 **Drafting note: Repealed by Acts 1964, c. 97.**

10067 ~~CHAPTER 9.2 18.~~

10068 ~~UNIVERSITY OF MARY WASHINGTON.~~

10069 **Drafting note: Existing Chapter 9.2 of Title 23 is logically reorganized as proposed**
 10070 **Chapters 13 and 18 of Title 23.1. Existing provisions that apply generally to governing**
 10071 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
 10072 **Existing provisions relating to the incorporation, membership and meetings, and powers**

10073 and duties of the governing board that are unique to the University are retained in
10074 proposed Chapter 18.

10075 ~~§ 23-91.34 23.1-1800. Board of visitors a corporation and under control of General~~
10076 ~~Assembly Corporate name; name of the University.~~

10077 ~~There is hereby established a corporate body composed of the~~ A. The board of visitors of
10078 the University of Mary Washington (the board) is a corporation under the name and style of
10079 "The Rector and Visitors of the University of Mary Washington" ~~hereinafter referred to in this~~
10080 ~~chapter as the board, which shall have~~ has, in addition to its other powers, all the corporate
10081 powers given to corporations by the provisions of Title 13.1; ~~except in those cases where by the~~
10082 ~~express terms of the provisions thereof, it is~~ powers that are confined to corporations created
10083 ~~under such title, and the board shall also have the power to accept, execute and administer any~~
10084 ~~trust in which it may have an interest under the terms of the instrument creating the trust. Such~~
10085 ~~corporation pursuant to Title 13.1. The board shall be subject~~ at all times to be under the control
10086 of the General Assembly.

10087 B. The institution shall be known as the University of Mary Washington (the
10088 University).

10089 **Drafting note: Technical changes are made to conform the language in this section**
10090 **to that of each other baccalaureate public institution of higher education.**

10091 ~~§ 23-91.35. Transfer of certain property.~~

10092 ~~Upon July 1, 1972, all real estate and personal property held by the University of Mary~~
10093 ~~Washington prior to its union with the rector and visitors of the University of Virginia; control~~
10094 ~~of the real estate acquired from Corinne Lawton Melchers and known as "Belmont" (see~~
10095 ~~Chapter 51 of the Acts of Assembly, 1960), and the real estate known as the James Monroe Law~~
10096 ~~Office—Museum and Memorial Library (see Chapter 641 of the Acts of Assembly, 1964);~~
10097 ~~together with the personal property associated with the respective real estate, all of such real and~~
10098 ~~personal properties existing and standing in the name of the Commonwealth of Virginia but~~
10099 ~~controlled by the rector and visitors of the University of Virginia; and all real and personal~~

10100 ~~property acquired in the name of the rector and visitors of the University of Virginia for the use~~
10101 ~~of the University of Mary Washington during the time in which the University of Mary~~
10102 ~~Washington was a part of the University of Virginia, hereby is transferred to and shall be known~~
10103 ~~and taken as standing in the name and under the control of the rector and visitors of the~~
10104 ~~University of Mary Washington (the term "control" shall include, without limitation,~~
10105 ~~"management, control, operation and maintenance"). Such real estate and personal property~~
10106 ~~shall be the property of the Commonwealth.~~

10107 **Drafting note: The provisions of existing § 23-91.35 are stricken here and**
10108 **incorporated instead into proposed § 23.1-1310.**

10109 ~~§ 23-91.36 23.1-1801. Appointment of visitors generally; terms Membership.~~

10110 ~~(a) A. The board shall consist of twelve 12 members, who shall be appointed by the~~
10111 ~~Governor. Of the twelve members, no more than three may be nonresidents of Virginia, of~~
10112 ~~whom at least nine shall be residents of the Commonwealth and at least six shall be alumni of~~
10113 ~~the University.~~

10114 ~~(b) In 1972 the Governor shall appoint the members of the board for terms beginning~~
10115 ~~July 1, 1972. Three of such appointments shall be for terms of four years each, three for terms of~~
10116 ~~three years, three for terms of two years, and three for terms of one year. Subsequent~~
10117 ~~appointments shall be for terms of four years; provided, however, that appointments to fill~~
10118 ~~vacancies occurring otherwise than by expiration of terms shall be for the unexpired terms.~~

10119 ~~(c) All appointments shall be subject to confirmation by the General Assembly.~~
10120 ~~Members shall continue to hold office until their successors have been appointed and have~~
10121 ~~qualified.~~

10122 ~~B. The alumni association of the University may submit to the Governor a list of at least~~
10123 ~~three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a~~
10124 ~~term or otherwise. The Governor may appoint a member from the list of nominees.~~

10125 **Drafting note: Existing provisions relating to the membership of the board of**
10126 **visitors are logically combined in this proposed section, existing provisions relating to the**

10127 terms and removal of members of the board are stricken and incorporated instead into
10128 proposed § 23.1-1300, existing provisions related to the initial staggering of terms are
10129 stricken as obsolete, and technical changes are made to conform the language to that of
10130 each other baccalaureate public institution of higher education.

10131 ~~§ 23-91.37. Appointment of visitors from nominees of alumni association.~~

10132 ~~(a) The Governor may, if his discretion so dictates, appoint visitors from a list of~~
10133 ~~qualified persons submitted to him by the alumni association of the University of Mary~~
10134 ~~Washington on or before the first day of December of any year next preceding a year in which~~
10135 ~~the terms of any of such visitors will expire.~~

10136 ~~(b) Whenever a vacancy occurs otherwise than by expiration of term, the Governor shall~~
10137 ~~certify this fact to the association and nominations may be submitted of qualified persons. The~~
10138 ~~Governor may fill the vacancy, if his discretion so dictates, from among the eligible nominees of~~
10139 ~~the association, whether or not alumni or alumnae.~~

10140 ~~(c) Every such list of prospective appointees shall contain at least three names for each~~
10141 ~~vacancy to be filled.~~

10142 ~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

10143 ~~(e) At no time shall fewer than six of the members of the board be alumni or alumnae of~~
10144 ~~the University.~~

10145 **Drafting note: The provisions of existing § 23-91.37 are stricken and incorporated**
10146 **instead into proposed § 23.1-1801.**

10147 ~~§ 23-91.38. Eligibility to serve for more than two terms.~~

10148 ~~No person shall be eligible to serve on the board of visitors for or during more than two~~
10149 ~~successive four-year terms; but after the expiration of a term of two years or less, or after the~~
10150 ~~expiration of the remainder of a term to which appointed to fill a vacancy, a member may serve~~
10151 ~~two additional four-year terms if appointed thereto.~~

10152 **Drafting note: The December deadline for alumni association nominations is**
10153 **recommended for repeal as obsolete. The remaining provisions of existing § 23-91.38 are**
10154 **stricken and incorporated instead into proposed § 23.1-1300.**

10155 § 23-91.39.

10156 **Drafting note: Repealed by Acts 2015, c. 560.**

10157 § 23-91.40 23.1-1802. Powers and duties of visitors generally; meetings; rector,
10158 secretary and vice rector; executive committee Meetings; officers; committees.

10159 (a) The board of visitors shall be vested with all the rights and powers conferred by the
10160 provisions of this title insofar as the same are not inconsistent with the provisions of this chapter
10161 and the general laws of the Commonwealth.

10162 The board shall control and expend the funds of the University and any appropriation
10163 hereafter provided, and shall make all needful rules and regulations concerning the University;
10164 appoint the president, who shall be its chief executive officer, and all teachers, and fix their
10165 salaries, and provide for the employment of other personnel as required, and generally direct the
10166 affairs of the University.

10167 (b) A. The board of visitors shall meet at the University once a year, and at such other
10168 times as they shall determine, the days of meetings to be fixed by them it determines.

10169 B. A majority of the members shall constitute a quorum.

10170 C. At the first meeting after July 1, 1972, and every second year thereafter, they in every
10171 even-numbered year, the board shall appoint from their own body its membership a rector, who
10172 shall to preside at their its meetings, a secretary and a vice-rector to preside at its meetings in the
10173 absence of the rector, and a secretary who shall preside at its meetings in the absence of the
10174 rector and vice-rector.

10175 In the absence of the rector or vice rector at any meeting, the secretary shall preside, and
10176 in the absence of all three, the D. The board may appoint a pro tempore officer to preside at its
10177 meetings in the absence of the rector, vice-rector, and secretary.

10178 ~~Any vacancies~~ E. Vacancies in the offices of rector, vice-rector ~~or, and~~ secretary may be
10179 filled by the board for the unexpired term.

10180 F. Special meetings of the board may be called by the rector or any three members. In
10181 either ~~of such cases~~ case, the secretary shall give notice of the time of meetings ~~shall be given~~
10182 ~~by the secretary~~ to ~~every~~ each member.

10183 ~~(e)~~ G. At every regular annual meeting of the board ~~they, it~~ may appoint an executive
10184 committee for the transaction of business in the recess of the board, ~~not less than~~ consisting of at
10185 least three ~~or and not~~ more than five members, to serve for a period of one year or until the
10186 next regular annual meeting.

10187 **Drafting note: Technical changes are made to conform provisions relating to**
10188 **meetings, officers, and committees of the board of visitors to those of each other**
10189 **baccalaureate public institution of higher education. Board duties set forth in subsection**
10190 **(a) of existing § 23-91.40 are stricken and incorporated instead into proposed § 23.1-1303,**
10191 **if the duty applies generally to boards of public institutions of higher education, or § 23.1-**
10192 **1803, if the duty applies specifically to the University.**

10193 ~~§ 23-91.41. Rates, fees and charges.~~

10194 ~~The board may fix, in its discretion, the rates charged the students of the University for~~
10195 ~~tuition, fees and other necessary charges.~~

10196 **Drafting note: The provisions of existing § 23-91.41 are stricken and incorporated**
10197 **instead into proposed § 23.1-1301.**

10198 ~~§ 23-91.42 23.1-1803. Degrees Powers and duties.~~

10199 A. The board shall appoint all teachers and fix their salaries, provide for the employment
10200 of other personnel as required, and generally direct the affairs of the University.

10201 B. The board ~~shall have the right to~~ may confer degrees.

10202 ~~§ 23-91.43. Curriculum.~~

10203 ~~The existing collegiate curriculum of the University shall be continued; however, the~~
10204 ~~board may make such alterations therein as it shall from time to time deem necessary and,~~

10205 [subject to the provisions of § 23.1-203, approve new academic programs and discontinue](#)
10206 [academic programs offered by the University.](#)

10207 **Drafting note: Subsection A incorporates board duties set forth in subsection (a) of**
10208 **existing § 23-91.40. Board powers related to degrees (existing § 23-91.42) and curriculum**
10209 **(existing § 23-91.43) are combined in subsection B of this proposed section. A clarifying**
10210 **reference to the Council's powers related to academic programs is proposed in subsection**
10211 **B. Technical changes are made, including striking the superfluous term "from time to**
10212 **time" per Code Commission policy.**

10213 [§ 23-91.44. Sale, etc., of real estate.](#)

10214 [The rector and visitors of the University of Mary Washington, with the approval of the](#)
10215 [Governor first obtained, are hereby authorized to lease, sell and convey any and all real estate to](#)
10216 [which it has acquired title by gift, devise or purchase since the commencement of the University](#)
10217 [under any previous names, or which may hereafter be conveyed or devised to it. The proceeds](#)
10218 [derived from any such lease, sale or conveyance shall be held by the rector and visitors of the](#)
10219 [University of Mary Washington, upon identical trusts, and subject to the same uses, limitations](#)
10220 [and conditions, if any, that are expressed in the original deed or will under which its title was](#)
10221 [derived; or if there be no such trusts, uses, limitations or conditions expressed in such original](#)
10222 [deed or will, then such funds shall be applied by the rector and visitors of the University to such](#)
10223 [purposes as said board may deem best for the University.](#)

10224 **Drafting note: The provisions of existing § 23-91.44 are stricken and incorporated**
10225 **instead into proposed § 23.1-1301.**

10226 CHAPTER ~~13.1~~ 19.

10227 NORFOLK STATE UNIVERSITY.

10228 **Drafting note: Existing Chapter 13.1 of Title 23 is logically reorganized as proposed**
10229 **Chapters 13 and 19 of Title 23.1. Existing provisions that apply generally to governing**
10230 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
10231 **Existing provisions relating to the incorporation, membership, and powers and duties of**

10232 **the governing board that are unique to the University are retained in proposed Chapter**
10233 **19.**

10234 ~~§ 23-174.1 23.1-1900. Corporation established under control of General Assembly~~
10235 ~~Corporate name; name of the University.~~

10236 ~~A. The corporation composed of the board of visitors of Norfolk State College,~~
10237 ~~heretofore established by law, is continued as the~~ board of visitors of Norfolk State University
10238 ~~(the board) is a corporation~~ under the name and style of "The Visitors of Norfolk State
10239 University;" and ~~which has, in addition to its other powers, all the corporate powers given to~~
10240 ~~corporations by the provisions of Title 13.1 except those powers that are confined to~~
10241 ~~corporations created pursuant to Title 13.1. The board shall~~ at all times ~~shall~~ be under the
10242 control of the General Assembly.

10243 B. The institution shall be known as Norfolk State University (the University).

10244 ~~Whenever the term "C. All laws relating to Norfolk State College" is used in any law of~~
10245 ~~this Commonwealth, it or the board of visitors of Norfolk State College~~ shall be construed as
10246 relating to ~~mean Norfolk State the~~ University or the board, respectively.

10247 **Drafting note: Technical changes are made to conform the language in this section**
10248 **to that of each other baccalaureate public institution of higher education.**

10249 ~~§ 23-174.2. Corporation to establish and maintain University.~~

10250 ~~The corporation is formed for the purpose of establishing and maintaining a university in~~
10251 ~~the name and style of "Norfolk State University."~~

10252 **Drafting note: The provisions of existing § 23-174.2 are stricken and incorporated**
10253 **instead into proposed § 23.1-1900.**

10254 ~~§ 23-174.3. Transfer of property.~~

10255 ~~All real estate and personal property existing and standing in the name of the Visitors of~~
10256 ~~Norfolk State College shall be known and taken as standing in the name, and to be under the~~
10257 ~~control, of the Visitors of Norfolk State University. Such real estate and personal property shall~~
10258 ~~be the property of the Commonwealth.~~

10259 **Drafting note: The provisions of existing § 23-174.3 are stricken here and**
10260 **incorporated instead into proposed § 23.1-1310.**

10261 § ~~23-174.4~~ 23.1-1901. ~~Composition of board of visitors; appointment, terms, etc.~~
10262 Membership; executive committee.

10263 A. The board of visitors shall consist of 13 members ~~who shall be~~ appointed, ~~on or~~
10264 ~~before June 30 of any year in which their terms shall expire~~, by the Governor ~~for terms of four~~
10265 ~~years, of whom at least four shall be alumni of the University~~. Of the ~~persons so~~ alumni
10266 ~~appointed, four shall be alumni of Norfolk State University of which three may be nonresidents~~
10267 ~~of the Commonwealth at least one shall be a resident of the Commonwealth~~. ~~Vacancies~~
10268 ~~occurring other than by expiration of term shall be filled by the Governor for the unexpired~~
10269 ~~term.~~

10270 B. ~~The Governor may appoint alumni visitors from a list of qualified persons submitted~~
10271 ~~to him upon the recommendation of the National Alumni Association of Norfolk State~~
10272 ~~University on or before November 1 of any year in which the terms of such visitors shall expire.~~
10273 ~~The National Alumni Association of Norfolk State University shall submit the names of four~~
10274 ~~qualified alumni for each vacancy.~~

10275 C. ~~All appointments shall be subject to confirmation by the General Assembly. Members~~
10276 ~~shall continue to hold office until their successors have been appointed and qualified. Members~~
10277 ~~shall be eligible for two consecutive terms of four years, exclusive of that portion of any term on~~
10278 ~~the initial board of less than four years or any unexpired term.~~ The alumni association of the
10279 University may submit to the Governor a list of four nominees for each vacancy on the board,
10280 whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a
10281 member from the list of nominees.

10282 C. The board may appoint at least three and not more than five of its members to an
10283 executive committee that has and may exercise such powers as the board may prescribe.

10284 **Drafting note: The November deadline for alumni association recommendations is**
10285 **recommended for repeal as obsolete. The remaining existing provisions relating to the**

10286 terms and removal of members of the board are stricken and incorporated instead into
10287 proposed § 23.1-1300. Subsection C incorporates the last sentence of existing § 23-174.5.
10288 Technical changes are made to conform the language to that of each other baccalaureate
10289 public institution of higher education.

10290 ~~§ 23-174.6 23.1-1902. Control of funds; rules and regulations; appointment, etc., of~~
10291 ~~president, faculty and staff Powers and duties.~~

10292 ~~A. The board shall control and expend the funds of the corporation and any~~
10293 ~~appropriation hereafter provided, and shall make all necessary rules and regulations concerning~~
10294 ~~the University, appoint a president, who shall be its chief executive officer, and (i) make all~~
10295 ~~provisions for teachers, staff members, and agents, and shall, fix their salaries, and shall~~
10296 ~~prescribe their duties and (ii) generally direct the affairs of the University.~~

10297 ~~§ 23-174.5. Rights and powers of board of visitors generally; executive committee.~~

10298 ~~The board shall be vested with all the rights and powers conferred by the provisions of~~
10299 ~~this chapter and the provisions relating to similar corporations under the laws of this~~
10300 ~~Commonwealth so far as they are applicable. B. The corporation shall also have the power to~~
10301 ~~board may take, hold, receive, and enjoy any gift, grant, devise, or bequest to Norfolk State the~~
10302 ~~University, the same to be held for the uses and purposes designated by the donor, if any, or if~~
10303 ~~not so designated, for the general purposes of the corporation board. The board may designate~~
10304 ~~not less than three nor more than five of its members to constitute an executive committee~~
10305 ~~which shall have and may exercise such authority of the board as the board may provide.~~

10306 ~~§ 23-174.7. Right to confer degrees; tuition, fees and other charges.~~

10307 ~~C. The board shall have the right to may confer degrees, and may fix the rates charged~~
10308 ~~the students of the University for tuition, fees and other necessary charges.~~

10309 **Drafting note: The board's duties to control and expend funds, make regulations,**
10310 **and appoint a president, as set forth in existing § 23-174.6, are stricken and incorporated**
10311 **instead into proposed § 23.1-1301. Language related to the duty to generally direct the**
10312 **affairs of the University is added to conform the board's duties to those of the majority of**

10313 other baccalaureate public institutions of higher education. The provisions of existing § 23-
 10314 174.5 related to gifts, grants, devises, and bequests are incorporated into subsection B of
 10315 this proposed section. The provisions of existing § 23-174.5 related to the executive
 10316 committee of the board are stricken and incorporated instead as subsection C of proposed
 10317 § 23.1-1901. The provisions of existing § 23-174.7 related to conferring degrees are
 10318 incorporated into subsection C of this proposed section. The provisions of existing § 23-
 10319 174.7 related to fixing tuition and fees are stricken and incorporated instead into proposed
 10320 § 23.1-1301. Technical changes are made.

10321 ~~§ 23-174.8, 23-174.9.~~

10322 **Drafting note: Repealed by Acts 1979, c. 146.**

10323 CHAPTER ~~5.2~~ 20.

10324 OLD DOMINION UNIVERSITY.

10325 **Drafting note: Existing Chapter 5.2 of Title 23 is logically reorganized as proposed**
 10326 **Chapters 13 and 20 of Title 23.1. Existing provisions that apply generally to governing**
 10327 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
 10328 **Existing provisions relating to the incorporation, membership and meetings, and powers**
 10329 **and duties of the governing board that are unique to the University are retained in**
 10330 **proposed Chapter 20.**

10331 ~~Article 1.~~

10332 ~~General Provisions.~~

10333 **Drafting note: Article 2 and its contents are recommended for repeal as obsolete,**
 10334 **which renders the Article 1 designation unnecessary in proposed Chapter 20.**

10335 ~~§ 23-49.11 23.1-2000. Corporate name; powers; subject to control of General Assembly~~
 10336 ~~name of the University.~~

10337 A. The board of visitors of ~~the~~ Old Dominion University ~~shall be~~ (the board) is a
 10338 corporation under the name and style of "Old Dominion University;" and ~~shall have~~ has, in
 10339 addition to its other powers, all the corporate powers given to corporations by the provisions of

10340 Title 13.1; except ~~in those cases where, by the express terms of the provisions thereof, it is~~
10341 ~~powers that are~~ confined to corporations created ~~under such title; and shall also have the power~~
10342 ~~to accept, execute and administer any trust in which it may have an interest under the terms~~
10343 ~~creating the trust pursuant to Title 13.1. The rector and visitors of Old Dominion University~~
10344 ~~board~~ shall at all times be ~~subject to~~ under the control of the General Assembly.

10345 B. The institution shall be known as Old Dominion University (the University).

10346 C. All laws relating to Norfolk College or the board of visitors of Norfolk College shall
10347 be construed as relating to the University or the board, respectively.

10348 **Drafting note: Existing §§ 23-49.11 and 23-49.12 are combined as proposed § 23.1-**
10349 **2000. Technical changes are made to conform the language in this section to that of each**
10350 **other baccalaureate public institution of higher education, including the specification in**
10351 **subsection C that all laws relating to Norfolk College relate to the University or the board.**

10352 ~~§ 23-49.12. Visitors empowered to choose title.~~

10353 ~~"The board of visitors of Old Dominion University" is empowered to choose and~~
10354 ~~maintain a distinctive and appropriate title, in addition to its other powers.~~

10355 **Drafting note: The corporate name and style is already delineated in proposed §**
10356 **23.1-2000. As such, existing § 23-49.12 is recommended for repeal.**

10357 ~~§ 23-49.14, 23.1-2001. Appointment of visitors generally; number and terms; vacancies;~~
10358 ~~confirmation~~ Membership.

10359 ~~(a) A.~~ The board of visitors is to shall consist of ~~seventeen~~ 17 members ~~to be~~ appointed
10360 by the Governor, ~~three of whom may be nonresidents of whom at least 14 shall be residents~~ of
10361 the Commonwealth ~~of Virginia~~ and at least three ~~of whom~~ shall be alumni of ~~Old Dominion the~~
10362 University.

10363 ~~(b) Prior to July 1, 1980, the Governor shall appoint successors to the members whose~~
10364 ~~terms expire in 1980 for terms of four years and four additional members, one for a term of one~~
10365 ~~year, one for a term of two years, one for a term of three years and one for a term of four years.~~

10366 ~~Annually thereafter, the Governor shall appoint members to fill vacancies caused by the~~
10367 ~~expiration of terms for terms of four years.~~

10368 ~~(c) All vacancies, whether occasioned by failure to make an appointment within the sixty~~
10369 ~~days preceding any regular expiration as required, or otherwise, are to be filled by the Governor~~
10370 ~~for the unexpired term.~~

10371 ~~(d) All appointments are subject to confirmation by the General Assembly if in session~~
10372 ~~when such appointments are made, and if not in session, then at its next succeeding session.~~
10373 ~~Visitors shall continue to discharge their duties after their terms have expired until their~~
10374 ~~successors have been appointed and have qualified.~~

10375 B. The alumni association of the University may submit to the Governor a list of at least
10376 three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a
10377 term or otherwise. The Governor may appoint a member from the list of nominees.

10378 **Drafting note: Existing provisions relating to the membership of the board of**
10379 **visitors are logically combined in this proposed section, existing provisions relating to the**
10380 **terms and removal of members of the board are stricken and incorporated instead into**
10381 **proposed § 23.1-1300, and technical changes are made to conform the language to that of**
10382 **each other baccalaureate public institution of higher education.**

10383 ~~§ 23-49.15. Nominations for appointment to board of visitors.~~

10384 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him,~~
10385 ~~by the alumni association of Old Dominion University, or its titular successor, on or before~~
10386 ~~April 1 of any year in which the terms of any visitors will expire.~~

10387 ~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall~~
10388 ~~certify this fact to the association and nominations may be submitted of qualified persons and~~
10389 ~~the Governor may fill the vacancy, if his discretion so dictates, from among the eligible~~
10390 ~~nominees of the association, whether or not alumni or alumnae.~~

10391 ~~(c) [Repealed.]~~

10392 ~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

10393 **Drafting note: The provisions of existing § 23-49.15 are stricken and incorporated**
10394 **instead into proposed § 23.1-2001.**

10395 ~~§ 23-49.16. Visitor ineligible for more than two successive terms.~~

10396 ~~No person shall be eligible to serve for or during more than two successive four-year~~
10397 ~~terms.~~

10398 **Drafting note: The provisions of existing § 23-49.16 are stricken and incorporated**
10399 **instead into proposed § 23.1-1300.**

10400 ~~§ 23-49.17 23.1-2002. Rights, powers and duties of board in general; meetings; rector,~~
10401 ~~vice-rector and secretary; executive committee Meetings; officers; committees.~~

10402 ~~A. The board of visitors shall be vested with all the rights and powers conferred by the~~
10403 ~~provisions of this chapter insofar as the same are not inconsistent with the provisions of this~~
10404 ~~chapter and the general laws of the Commonwealth.~~

10405 ~~The board shall control and expend the funds of the University and any appropriation~~
10406 ~~hereafter provided, and shall make all needful rules and regulations concerning the University,~~
10407 ~~appoint the president, who shall be its chief executive officer, and all professors, teachers, staff~~
10408 ~~members and agents, and fix their salaries, and generally direct the affairs of the University.~~

10409 ~~B. The board of visitors shall meet at the University once a year, and at such other times~~
10410 ~~as they shall determine, the days of meetings to be fixed by them it determines. Special~~
10411 ~~meetings of the board may be called by the rector or any three members. The secretary shall~~
10412 ~~provide notice of any special meeting to each member.~~

10413 ~~B. A majority of ~~voting~~ members shall constitute a quorum.~~

10414 ~~C. At the first meeting after July 1, ~~1962~~, and every second year thereafter, they in every~~
10415 ~~even-numbered year, the board shall elect from ~~their own body~~ its membership a rector, ~~who~~~~
10416 ~~shall to preside at ~~their its~~ meetings, ~~a secretary and~~ a vice-rector to preside at its meetings in the~~
10417 ~~absence of the rector, and a secretary to preside at its meetings in the absence of the rector and~~
10418 ~~vice-rector.~~

10419 ~~In the absence of the rector or vice rector at any meeting, the secretary shall preside, and~~
10420 ~~on the absence of all three, the~~ D. The board may appoint a pro tempore officer to preside at its
10421 meetings in the absence of the rector, vice-rector, and secretary.

10422 ~~Any vacancies~~ E. Vacancies in the offices of rector, vice-rector ~~or, and~~ secretary may be
10423 filled by the board for the unexpired term. ~~Special meetings of the board may be called by the~~
10424 ~~rector or any three members. In either of such cases, notice of the time of meetings shall be~~
10425 ~~given by the secretary to every member.~~

10426 ~~C. F.~~ At every regular annual meeting of the board, an executive committee ~~of no fewer~~
10427 ~~than five members may be appointed~~ for the transaction of business in the recess of the board
10428 may be appointed, consisting of at least five members. The executive committee shall ~~be consist~~
10429 of the officers of the board and such other members as ~~shall be appointed by~~ the rector may
10430 appoint.

10431 **Drafting note: Technical changes are made to conform provisions relating to**
10432 **meetings, officers, and committees of the board to those of each other baccalaureate public**
10433 **institution of higher education. Board duties set forth in subsection A of existing § 23-49.17**
10434 **are relocated to §§ 23.1-1301 and 23.1-2003.**

10435 ~~§ 23-49.18. Board may fix tuition, fees and other necessary charges.~~

10436 ~~The board of visitors may fix, in their discretion, the rates charged the students of the~~
10437 ~~University for tuition, fees and other necessary charges.~~

10438 **Drafting note: The provisions of existing § 23-49.18 are stricken and incorporated**
10439 **instead into proposed § 23.1-1301.**

10440 ~~§ 23-49.19 23.1-2003. Right to confer degrees~~ Powers and duties.

10441 A. The board shall (i) appoint all, teachers, staff members, and agents and fix their
10442 salaries and (ii) generally direct the affairs of the University.

10443 B. The board ~~of visitors shall have the right to~~ may confer degrees.

10444 ~~§ 23-49.13. Property transferred to visitors and owned by Commonwealth; gifts or~~
10445 ~~bequests.~~

10446 ~~All the real estate and personal property now existing and heretofore (before June 27,~~
10447 ~~1966) standing in the name of the corporate body designated "Norfolk College," located in~~
10448 ~~Norfolk, and heretofore exclusively used by the Norfolk College, shall be transferred to and be~~
10449 ~~known and taken as standing in the name, and to be under the control, of the corporate body~~
10450 ~~designated "The Visitors of Old Dominion University." Such real estate and personal property~~
10451 ~~shall be the property of the Commonwealth of Virginia.~~

10452 ~~Every C. The board may take, hold, and enjoy any gift, grant, devise, or bequest~~
10453 ~~heretofore or hereafter made to Old Dominion the University, for any use or purpose or~~
10454 ~~purposes, designated by the donor, the corporation is empowered to receive, take, hold and~~
10455 ~~enjoy the same for the uses and purposes designated by the donor if he or she shall so designate,~~
10456 ~~or for the general purposes of the corporation board when the gift, grant, devise or bequest is not~~
10457 ~~so no use or purpose is designated, whether the same be given such gift, grant, devise, or~~
10458 ~~bequest is made directly to the corporation, or to trustees for its benefit.~~

10459 **Drafting note: Subsection A incorporates board duties set forth in subsection A of**
10460 **existing § 23-49.17. Subsection B incorporates the provisions of existing § 23-49.19. The**
10461 **first paragraph of existing § 23-49.13 is stricken here and incorporated instead into**
10462 **proposed § 23.1-1310. Subsection C incorporates the provisions of the second paragraph of**
10463 **existing § 23-49.13. Technical changes are made.**

10464 ~~§ 23-49.20 23.1-2004. Normal course to be maintained Program of instruction to educate~~
10465 ~~and train teachers.~~

10466 The University may maintain ~~in connection with its collegiate course, which shall be~~
10467 ~~continued, a system of normal a program of instruction and training for the purpose of educating~~
10468 ~~and training to educate and train teachers for the public-free elementary and secondary schools~~
10469 ~~of the Commonwealth.~~

10470 **Drafting note: Technical changes.**

10471 ~~§ 23-49.21. Lease or sale of real estate.~~

10472 ~~The rector and visitors of Old Dominion University, with the approval of the Governor~~
10473 ~~first obtained, are hereby authorized to lease, sell and convey any and all real estate to which it~~
10474 ~~has acquired title by gift, devise or purchase since the commencement of the University under~~
10475 ~~any previous name or names, or which may hereafter be conveyed or devised to it. The proceeds~~
10476 ~~derived from any such lease, sale or sales shall be held by said rector and visitors of Old~~
10477 ~~Dominion University upon the identical trusts, and subject to the same uses, limitations and~~
10478 ~~conditions, if any, that are expressed in the original deed or will under which its title was~~
10479 ~~derived, or if there be no such trusts, uses, limitations or conditions expressed in such original~~
10480 ~~deed or will, then said funds shall be applied by the rector and visitors of the University to such~~
10481 ~~purposes as said board may deem best for the University.~~

10482 **Drafting note: The provisions of existing § 23-49.21 are stricken and incorporated**
10483 **instead into proposed § 23.1-1301.**

10484 ~~§ 23-49.22.~~

10485 **Drafting note: Repealed by Acts 1968, c. 545.**

10486 ~~Article 2.~~

10487 ~~Center for Graduate and Undergraduate Studies.~~

10488 **Drafting note: Existing Article 2 and its contents are recommended for repeal as**
10489 **obsolete as Old Dominion University and Norfolk State University do not currently**
10490 **operate such a center.**

10491 ~~§ 23-49.22:1. Center for graduate and undergraduate studies authorized; executive~~
10492 ~~director.~~

10493 ~~A. In addition to such powers conferred by this chapter and Chapter 13.1 (§ 23-174.1 et~~
10494 ~~seq.) of this title, the boards of visitors of Old Dominion University and Norfolk State~~
10495 ~~University shall be empowered to jointly establish, from such funds as may be appropriated or~~
10496 ~~received, and to supervise and control a center for graduate and undergraduate studies to serve~~
10497 ~~the Cities of Chesapeake, Portsmouth, and Suffolk. The boards of visitors may enter into~~
10498 ~~agreements for the sharing of faculty and equipment for the operation of the center.~~

10499 ~~B. The boards may appoint an executive director for the center, who shall perform the~~
10500 ~~specific duties imposed by the boards of visitors and shall employ such personnel and contract~~
10501 ~~for such services as may be required for the operation of the center.~~

10502 **Drafting note: Existing § 23-49.22:1 is recommended for repeal as obsolete.**

10503 ~~§ 23-49.22:2. Administration.~~

10504 ~~The boards of visitors of Old Dominion University and Norfolk State University shall~~
10505 ~~have the same powers as to determining the fields of instruction to be offered; fixing tuition,~~
10506 ~~fees, and other charges; appointing and removing administrative officers, professors, and agents;~~
10507 ~~and the making of rules and regulations as are now vested in their respective boards. The boards~~
10508 ~~shall have the power to grant appropriate diplomas or certificates upon the successful~~
10509 ~~completion of the curriculum of the center.~~

10510 **Drafting note: Existing § 23-49.22:2 is recommended for repeal as obsolete.**

10511 ~~§ 23-49.22:3. Curriculum.~~

10512 ~~The curriculum offered by the center shall be limited to upper level undergraduate and~~
10513 ~~graduate courses of instruction which are offered by Old Dominion University and Norfolk~~
10514 ~~State University. The approval of the State Council of Higher Education shall be required for~~
10515 ~~the addition of any new academic programs pursuant to § 23-9.6:1. In developing upper level~~
10516 ~~undergraduate educational programs, the boards shall consider articulation agreements and~~
10517 ~~course offerings at area community colleges to ensure the appropriate breadth and availability of~~
10518 ~~coursework.~~

10519 **Drafting note: Existing § 23-49.22:3 is recommended for repeal as obsolete.**

10520 ~~§ 23-49.22:4. Care, preservation, and acquisition of property; gifts and donations.~~

10521 ~~The boards of visitors of Old Dominion University and Norfolk State University shall be~~
10522 ~~charged with the care and preservation of all real and personal property belonging to the center.~~
10523 ~~The boards are authorized to lease or acquire by gift or purchase a suitable site for the center~~
10524 ~~and to accept and expend gifts and donations of any kind from individuals, firms, corporations,~~
10525 ~~and organizations.~~

10526 **Drafting note: Existing § 23-49.22:4 is recommended for repeal as obsolete.**

10527 CHAPTER ~~11.1~~ 21.

10528 RADFORD UNIVERSITY.

10529 **Drafting note: Existing Chapter 11.1 of Title 23 is logically reorganized as proposed**
 10530 **Chapters 13 and 21 of Title 23.1. Existing provisions that apply generally to governing**
 10531 **boards of public institutions of higher education are consolidated in Chapter 13. Existing**
 10532 **provisions relating to the incorporation, membership, and powers and duties of the**
 10533 **governing board that are unique to the University are retained in Chapter 21.**

10534 ~~§ 23-155.1 23.1-2100. Corporation composed of board of visitors created; style~~
 10535 ~~Corporate name; name of the University.~~

10536 ~~A. The corporation composed of the board of visitors of Radford College, heretofore~~
 10537 ~~established by law, is continued as the~~ board of visitors of Radford University (the board) is a
 10538 corporation under the name and style of "The Visitors of Radford University" ~~in this chapter~~
 10539 ~~hereinafter referred to as the board~~ and has, in addition to its other powers, all the corporate
 10540 powers given to corporations by the provisions of Title 13.1 except those powers that are
 10541 confined to corporations created pursuant to Title 13.1. The board shall at all times be under the
 10542 control of the General Assembly.

10543 ~~All laws relating to Radford College or the board of visitors of Radford College shall be~~
 10544 ~~construed as relating to Radford University or the board.~~

10545 ~~§ 23-155.2. Name of University.~~

10546 B. The University institution shall be known as Radford University (the University).

10547 C. All laws relating to Radford College or the board of visitors of Radford College shall
 10548 be construed as relating to the University or the board, respectively.

10549 **Drafting note: The provisions of existing §§ 23-155.1 and 23-155.2 are combined as**
 10550 **proposed § 23.1-2100. Technical changes are made to conform the language in this section**
 10551 **to that of each other baccalaureate public institution of higher education.**

10552 ~~§ 23-155.3. Transfer of property from board of visitors of Radford College.~~

10553 ~~All the real estate and personal property now existing and heretofore standing in the~~
10554 ~~name of the visitors of Radford College shall be transferred to and be known and taken as~~
10555 ~~standing in the name, and to be under the control, of the visitors of Radford University. Such~~
10556 ~~real estate and personal property shall be the property of the Commonwealth.~~

10557 **Drafting note: The provisions of existing § 23-155.3 are stricken here and**
10558 **incorporated instead into proposed § 23.1-1310.**

10559 ~~§ 23-155.4 23.1-2101. Appointment of visitors; terms; vacancies~~ Membership.

10560 ~~(a) A.~~ The board shall consist of 15 members who shall be appointed by the Governor,
10561 of whom at least 11 shall be residents of the Commonwealth.

10562 ~~(b) Of the four members taking new seats of the board to be appointed by the Governor~~
10563 ~~for terms beginning July 1, 2007, two shall be appointed for initial terms of three years each and~~
10564 ~~two for terms of four years each. Successors to all members shall be appointed to serve for~~
10565 ~~terms of four years each. Vacancies occurring other than by expiration of term shall be filled for~~
10566 ~~the unexpired term. Of the persons so appointed four may be nonresidents of the~~
10567 ~~Commonwealth.~~

10568 ~~(c) All appointments shall be subject to confirmation by the General Assembly.~~
10569 ~~Members shall continue to hold office until their successors have been appointed and have~~
10570 ~~qualified.~~

10571 B. The alumni association of the University may submit to the Governor a list of at least
10572 three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a
10573 term or otherwise. The Governor may appoint a member from the list of nominees.

10574 **Drafting note: Existing provisions relating to the membership of the board of**
10575 **visitors are logically combined in this proposed section, existing provisions relating to the**
10576 **terms and removal of members of the board are stricken and incorporated instead into**
10577 **proposed § 23.1-1300, and technical changes are made to conform the language to that of**
10578 **each other baccalaureate public institution of higher education.**

10579 ~~§ 23-155.5. Appointment of visitors from list submitted by alumni association.~~

10580 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him,~~
10581 ~~by the alumni association of the Radford College, or its titular successor, on or before the first~~
10582 ~~day of July of any year in which the terms of any visitors will begin or expire.~~

10583 ~~(b) Every list shall contain at least three names of each vacancy to be filled.~~

10584 ~~(c) The Governor is not to be limited in his appointments to the persons so nominated.~~

10585 **Drafting note: The July deadline for alumni association recommendations is**
10586 **recommended for repeal as obsolete. The remaining provisions of existing § 23-155.5 are**
10587 **stricken and incorporated instead into proposed § 23.1-2101.**

10588 ~~§ 23-155.6.~~

10589 **Drafting note: Repealed by Acts 2015, c. 560.**

10590 ~~§ 23-155.7 23.1-2102. Rights, powers Powers and duties of board generally.~~

10591 ~~A. The board shall be vested with all the rights and powers conferred by the provisions~~
10592 ~~of this chapter insofar as the same are not inconsistent with the laws of the Commonwealth.~~

10593 ~~The board shall control and expend the funds of the University and any appropriation~~
10594 ~~hereafter provided, and shall make all needful rules and regulations concerning the University,~~
10595 ~~appoint the president, who shall be its chief executive officer, and all professors, teachers and~~
10596 ~~agents; (i) provide for the employment of personnel as required and fix their salaries; and (ii)~~
10597 ~~generally direct the affairs of the University.~~

10598 ~~§ 23-155.9. Right to confer degrees.~~

10599 ~~B. The board shall have the right to may confer degrees.~~

10600 **Drafting note: Duties of the board set forth in the second paragraph of existing §**
10601 **23-155.7 are stricken and incorporated instead into proposed § 23.1-1301. The provisions**
10602 **of existing § 23-155.9 are incorporated as subsection B of this proposed section. Technical**
10603 **changes are made.**

10604 ~~§ 23-155.8. Board may fix rates, fees and charges.~~

10605 ~~The board may fix the rates charged the students of the University for tuition, fees and~~
10606 ~~other necessary charges.~~

10607 **Drafting note: The provisions of existing § 23-155.8 are stricken and incorporated**
10608 **instead into proposed § 23.1-1301.**

10609 ~~§ 23-155.10 23.1-2103. Curriculum Program of instruction to educate and train teachers.~~

10610 ~~The curriculum of Radford University shall embrace such branches of learning as relate~~
10611 ~~to teaching in the public free schools of Virginia, without excluding other studies in the arts and~~
10612 ~~sciences maintain a program of instruction to educate and train teachers for the public~~
10613 ~~elementary and secondary schools of the Commonwealth without excluding other programs of~~
10614 ~~instruction.~~

10615 **Drafting note: Technical changes.**

10616 CHAPTER ~~9~~ 22.

10617 UNIVERSITY OF VIRGINIA.

10618 **Drafting note: Existing Chapter 9 of Title 23 is logically reorganized as proposed**
10619 **Chapters 10, 13, and 22 of Title 23.1. Existing provisions that apply generally to governing**
10620 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
10621 **Existing provisions relating to the incorporation, membership and meetings, and powers**
10622 **and duties of the board of visitors that are unique to the University of Virginia are**
10623 **retained in proposed Chapter 22.**

10624 Article 1.

10625 General Provisions.

10626 ~~§ 23-62. University continued.~~

10627 ~~The University of Virginia shall be continued.~~

10628 **Drafting note: The provisions of existing § 23-62 are recommended for repeal as**
10629 **obsolete.**

10630 ~~§ 23-69 23.1-2200. Board a corporation Corporate name; name of the University.~~

10631 A. The board of visitors of the University of Virginia ~~shall be and remain (the board) is~~ a
10632 corporation, under the name and style of "the Rector and Visitors of the University of Virginia,"
10633 and ~~shall have~~ has, in addition to its other powers, all the corporate powers given to corporations

10634 by the provisions of Title 13.1; ~~except in those cases where, by the express terms of the~~
10635 ~~provisions thereof, it is confined to corporations created under such title; and shall also have the~~
10636 ~~power to accept, execute and administer any trust in which it may have an interest under the~~
10637 ~~terms of the instrument creating the trust~~ those powers that are confined to corporations created
10638 pursuant to Title 13.1. The ~~rector and visitors of the University of Virginia board~~ shall ~~be~~ at all
10639 times ~~subject to be under~~ the control of the General Assembly.

10640 B. The institution shall be known as the University of Virginia (the University).

10641 **Drafting note: Technical changes are made to conform the language in this section**
10642 **to that of each other baccalaureate public institution of higher education.**

10643 ~~§ 23-70 23.1-2201. Appointment of visitors generally; number and terms of office~~
10644 Membership.

10645 A. The board ~~of visitors is to~~ shall consist of 17 ~~visitors~~ members appointed by the
10646 Governor, of whom at least (i) ~~at least~~ 12 shall be appointed from the Commonwealth at large,
10647 (ii) ~~at least~~ 12 shall be alumni of the University ~~of Virginia~~, and (iii) ~~at least~~ one shall be a
10648 physician with administrative and clinical experience in an academic medical center.

10649 B. ~~All appointments on or after July 1, 2008, shall be for terms of four years and~~
10650 ~~commence July 1 of the first year of appointment, except that appointments to fill vacancies~~
10651 ~~shall be made for the unexpired terms. Members shall complete their service on June 30 of the~~
10652 ~~year in which their respective terms expire, including appointments made prior to July 1, 2008.~~
10653 ~~All appointments for full terms, as well as to fill vacancies, shall be made by the Governor~~
10654 ~~subject to confirmation by the Senate and the House of Delegates~~ The alumni association of the
10655 University may submit to the Governor a list of at least three nominees for each vacancy on the
10656 board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may
10657 appoint members from the list of nominees.

10658 **Drafting note: Existing provisions relating to the membership of the board of**
10659 **visitors are logically combined in this proposed section, existing provisions relating to the**
10660 **terms and removal of members of the board are stricken and incorporated instead into**

10661 **proposed § 23.1-1300, and technical changes are made to conform the language to that of**
10662 **each other baccalaureate public institution of higher education.**

10663 ~~§ 23-71. Appointment of visitors from nominees of alumni association.~~

10664 ~~A. The Governor may appoint visitors from a list of qualified persons submitted to him,~~
10665 ~~before or after induction into office, by the alumni association of the University of Virginia, on~~
10666 ~~or before the first day of April of any year in which the terms of any visitors will expire.~~

10667 ~~B. Whenever a vacancy occurs otherwise than by expiration of term, the Governor shall~~
10668 ~~certify this fact to the association and nominations may be submitted of qualified persons and~~
10669 ~~the Governor may fill the vacancy, if his discretion so dictates, from among the eligible~~
10670 ~~nominees of the association, whether or not alumni or alumnae.~~

10671 ~~C. Every list shall contain at least three names for each vacancy to be filled.~~

10672 ~~D. The Governor is not to be limited in his appointments to the persons so nominated.~~

10673 ~~E. At no time shall less than 12 of the visitors be alumni or alumnae of the University.~~

10674 **Drafting note: The provisions of existing § 23-71 are stricken and incorporated**
10675 **instead into proposed § 23.1-2201.**

10676 ~~§ 23-72. Eligibility to serve more than two successive terms.~~

10677 ~~No person shall be eligible to serve for or during more than two successive four-year~~
10678 ~~terms; but after the expiration of a term of two years or less, or after the expiration of the~~
10679 ~~remainder of a term to which appointed to fill a vacancy, two additional four-year terms may be~~
10680 ~~served by such a member if appointed thereto.~~

10681 **Drafting note: The provisions of existing § 23-72 are stricken and incorporated**
10682 **instead into proposed § 23.1-1300.**

10683 ~~§ 23-73.~~

10684 **Drafting note: Repealed by Acts 2015, c. 560.**

10685 ~~§ 23-74 23.1-2202. Meetings of board of visitors; quorum; rector and vice rector;~~
10686 ~~secretary; officers; committees.~~

10687 A. The board ~~of visitors~~ shall meet at the University at least once a year, and at such
10688 other times ~~as they shall determine, the days of meeting to be fixed by them and places as it~~
10689 ~~determines.~~ Special meetings of the board may be called by the rector or any three members.
10690 The Secretary shall provide notice of any special meeting to each member.

10691 B. Five members shall constitute a quorum.

10692 C. The board ~~of visitors~~ shall appoint, from ~~among~~ its ~~members, membership~~ a rector to
10693 preside at ~~their~~ its meetings and a vice-rector to preside at ~~their~~ its meetings in the absence of
10694 the rector. The board may appoint a substitute pro tempore to preside in the absence of the
10695 rector and vice-rector. The rector and the vice-rector shall ~~also~~ perform ~~such~~ any additional
10696 duties as ~~the board may prescribe~~ prescribed by the board. The terms of the rector and vice-
10697 rector shall be for two years, commencing and expiring as provided in the board's bylaws.

10698 D. The board shall ~~also~~ appoint a secretary ~~for such term and with such duties as the~~
10699 ~~board shall prescribe~~ who shall serve a term and perform duties as prescribed by the board.

10700 ~~The board may also appoint a substitute pro tempore, as provided in its bylaws, to~~
10701 ~~preside in the absence of the rector or the vice-rector.~~

10702 E. Vacancies in the ~~office~~ offices of rector, vice-rector ~~or, and~~ secretary may be filled by
10703 the board for the unexpired term, ~~as provided in the Board's bylaws.~~

10704 ~~Special meetings of the board may be called by the rector or any three members. In~~
10705 ~~either of such cases, notice of the time of meeting shall be given by the secretary to every~~
10706 ~~member.~~

10707 ~~§ 23-75. Executive committee of board.~~

10708 F. At every ~~regular~~ annual meeting of the board, the ~~members~~ board shall appoint an
10709 executive committee for the transaction of business in the recess of the board, ~~which shall~~
10710 ~~consist~~ consisting of ~~not less than at least~~ three ~~nor and not~~ more than seven members, to serve
10711 for the period of one year or until the next regular annual meeting.

10712 **Drafting note: Existing provisions relating to meetings, officers, and committees of**
10713 **the board of visitors are logically combined in this proposed section, including relocating**

10714 existing § 23-75 as proposed subsection F. Technical changes are made to conform the
10715 language to that of each other baccalaureate public institution of higher education.

10716 § ~~23-63~~ 23.1-2203. Branches of learning to be taught.

10717 The following branches of learning shall be taught at the University: the Latin, Greek,
10718 Hebrew, French, Spanish, Italian, German, and Anglo-Saxon languages; the different branches
10719 of mathematics, pure and physical; natural philosophy, chemistry, and mineralogy, including
10720 geology; the principles of agriculture; botany, anatomy, surgery, and medicine; zoology, history,
10721 ideology, general grammar, ethics, rhetoric, and belles lettres; and civil government, political
10722 economy, the law of nature and of nations, and municipal law.

10723 **Drafting note: Technical changes.**

10724 § ~~23-64~~ 23.1-2204. Salary of president and professors; fees.

10725 The president and each of the professors shall receive a stated salary; ~~and~~. The board
10726 may ~~also receive such additional compensation~~ supplement such stated salary out of the fees for
10727 tuition and other revenues of the University ~~as the visitors may from time to time direct~~.

10728 **Drafting note: Technical changes.**

10729 § ~~23-65~~ 23.1-2205. Secured obligations.

10730 It shall ~~not~~ be ~~lawful~~ unlawful for the ~~rector and visitors of the University of Virginia~~
10731 board to issue its obligations; to be secured by deed of trust on its real estate; without the prior
10732 consent of the General Assembly ~~previously obtained~~.

10733 **Drafting note: Technical changes.**

10734 § ~~23-66~~ 23.1-2206. Payment of bonds of the University.

10735 For the payment of the bonds, with the interest ~~thereon~~ on such bonds, issued ~~in~~
10736 pursuance of pursuant to the act entitled "An act to authorize the rector and board of visitors of
10737 the University of Virginia to issue bonds to pay off and discharge their floating debt and
10738 maturing obligations," approved March 28, 1871, ~~not only~~ the current revenue of the University;
10739 ~~but also~~ and the property ~~now~~ held by the Commonwealth for the purposes of the University;
10740 shall continue liable.

10741 **Drafting note: Technical changes.**

10742 § ~~23-67~~ 23.1-2207. Payment of interest on debt of University; sinking fund.

10743 Out of the appropriation made by the General Assembly for the support of the University
10744 ~~of Virginia~~, there shall be first set apart, annually, a sum sufficient to pay the interest accruing
10745 on the existing interest-bearing debt of the University, except as provided in § ~~23-24~~ 23.1-1109,
10746 and to constitute a sinking fund for the liquidation of the principal of ~~the same; and~~ such debt.
10747 Such sum shall be applied to no other purpose or object ~~whatever~~.

10748 **Drafting note: Technical changes.**

10749 § ~~23-68~~ 23.1-2208. Provision for interest on certain bonds.

10750 ~~Two several~~ The Comptroller shall place in the state treasury a sum sufficient to pay
10751 semiannually six percent interest per annum on two sums of \$50,000 in consol bonds of the
10752 Commonwealth ~~having been~~ donated by William W. Corcoran, of Washington, D.C., to the
10753 University, and ~~the consol bonds, having~~, under the act of January 13, 1877, and the act of April
10754 2, 1879, ~~been~~ converted into registered bonds in the name of the ~~rector and visitors of the~~
10755 ~~University, bearing interest at the rate of six per centum per annum, payable semiannually. It is~~
10756 ~~enacted, that for the continued payment of such interest, the Comptroller is authorized and~~
10757 ~~required to place, from time to time, in the state treasury a sufficient sum to pay the same as it~~
10758 ~~falls due~~ board.

10759 **Drafting note: Technical changes, including striking the superfluous term "from**
10760 **time to time" per Code Commission policy.**

10761 § ~~23-76~~ 23.1-2209. Powers and duties ~~of board; president and other officers; professors~~
10762 ~~and instruction; regulations~~.

10763 A. The board shall ~~be charged with the~~ (i) care for and ~~preservation of~~ preserve all
10764 property belonging to the University. ~~They shall appoint a president, with such duties as may be~~
10765 ~~prescribed by the board, and who shall have~~ and (ii) grant to the president of the University
10766 supreme administrative direction ~~under the authority of the board~~ over all the schools, colleges,

10767 divisions, and branches of the University ~~wherever located, and they shall appoint as many~~
10768 ~~professors as they deem proper, and,~~

10769 B. The board may (i) remove the president of the University or any professor with the
10770 assent of two-thirds of ~~the whole number of visitors, may remove such president or any~~
10771 ~~professor. They may~~ its members, (ii) prescribe the duties of each professor, and the course and
10772 mode of instruction. They may, (iii) appoint a comptroller and proctor, and employ any other
10773 agents ~~agent or servants~~ servant, (iv) regulate the government and discipline of the students, and
10774 the renting of the rooms and dormitories, and, generally, in respect to the government and
10775 management of the University, make such regulations as they may deem expedient, not being
10776 contrary to law. To, and (v) to enable the ~~proctor and visitors of the University board~~ to procure
10777 a supply of water, and to construct and maintain a system of waterworks, drainage, and
10778 sewerage for the University ~~they shall have power and authority to,~~ acquire such springs, lands,
10779 and rights-of-way as may be necessary, according to the provisions of Title 25.1.

10780 **Drafting note: The provisions of existing § 23-76 regarding appointing a president**
10781 **and professors, disciplining students, and making regulations are stricken here and**
10782 **incorporated instead into proposed § 23.1-1301. Technical changes are made.**

10783 ~~§ 23-76.1~~ 23.1-2210. Investment of endowment funds, endowment income, ~~and gifts;~~
10784 ~~standard of care; liability; exemption from the Virginia Public Procurement Act etc.~~

10785 A. As used in this section:

10786 "Derivative" means a contract or financial instrument or a combination of contracts and
10787 financial instruments, including any contract commonly known as a "swap," that gives the
10788 University the right or obligation to deliver, receive delivery of, or make or receive payments
10789 based on changes in the price, value, yield, or other characteristic of a tangible or intangible
10790 asset or group of assets or changes in a rate, index of prices or rates, or other market indicator
10791 for an asset or group of assets.

10792 "Option" means an agreement or contract whereby the University may grant or receive
10793 the right to purchase, sell, or pay or receive the value of any personal property asset, including
10794 any agreement or contract that relates to any security, contract, or agreement.

10795 "Financial security" means any note, stock, treasury stock, bond, debenture, evidence of
10796 indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of
10797 subscription, transferable share, investment contract, voting-trust certificate, certificate of
10798 deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; any put,
10799 call, straddle, option, or privilege on any security, certificate of deposit, or group or index of
10800 securities (including any interest therein or based on the value thereof); any put, call, straddle,
10801 option, or privilege entered into on a national securities exchange relating to foreign currency; in
10802 general, any interest or instrument commonly known as a "security;" or any certificate of
10803 interest or participation in, temporary or interim security for, receipt for, guarantee of, or
10804 warrant or right to subscribe to or purchase any financial security.

10805 B. The board ~~of visitors~~ shall invest and manage the endowment funds, endowment
10806 income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the
10807 University in accordance with this section and the provisions of the Uniform Prudent
10808 Management of Institutional Funds Act (§ 64.2-1100 et seq.).

10809 B.C. No member of the board ~~of visitors shall be~~ is personally liable for losses suffered
10810 by ~~an any~~ endowment fund, endowment income, ~~gifts gift,~~ all other nongeneral fund ~~reserves~~
10811 reserve and ~~balances balance,~~ or local funds of or held by the University; arising from
10812 investments made pursuant to the provisions of subsection A.

10813 C.D. The investment and management of endowment funds, endowment income, gifts,
10814 all other nongeneral fund reserves and balances, or local funds of or held by the University ~~shall~~
10815 is not ~~be~~ subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

10816 D.E. In addition to the investment practices authorized by the Uniform Prudent
10817 Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board ~~of visitors~~ may ~~also~~
10818 invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund

10819 reserves and balances, and local funds of or held by the University in derivatives, options, and
10820 financial securities.

10821 ~~1. In this section, "derivative" means a contract or financial instrument or a combination~~
10822 ~~of contracts and financial instruments, including, without limitation, any contract commonly~~
10823 ~~known as a "swap," which gives the University the right or obligation to deliver or receive~~
10824 ~~delivery of, or make or receive payments based on, changes in the price, value, yield or other~~
10825 ~~characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index~~
10826 ~~of prices or rates, or other market indicator for an asset or a group of assets.~~

10827 ~~2. In this section, an "option" means an agreement or contract whereby the University~~
10828 ~~may grant or receive the right to purchase or sell, or pay or receive the value of, any personal~~
10829 ~~property asset including, without limitation, any agreement or contract that relates to any~~
10830 ~~security, contract, or agreement.~~

10831 ~~3. In this section, "financial security" means any note, stock, treasury stock, bond,~~
10832 ~~debenture, evidence of indebtedness, certificate of interest, collateral trust certificate,~~
10833 ~~preorganization certificate of subscription, transferable share, investment contract, voting trust~~
10834 ~~certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other~~
10835 ~~mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit,~~
10836 ~~or group or index of securities (including any interest therein or based on the value thereof), or~~
10837 ~~any put, call, straddle, option, or privilege entered into on a national securities exchange relating~~
10838 ~~to foreign currency, or in general, any interest or instrument commonly known as a "security,"~~
10839 ~~or any certificate of interest or participation in, temporary or interim security for, receipt for,~~
10840 ~~guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

10841 ~~E.F.~~ The authority ~~as~~ provided in this section ~~as it relates~~ to invest and reinvest
10842 nongeneral fund reserves and balances of or held by the University is predicated upon an
10843 approved management agreement between the University and the Commonwealth ~~of Virginia~~.

10844 **Drafting note: Technical changes.**

10845 ~~§ 23-77. Confirmation of certain proceedings and contracts.~~

10846 ~~All proceedings heretofore had before any court or in any clerk's office, and all contracts~~
10847 ~~heretofore entered into, for acquiring land by condemnation or purchase, for any of the purposes~~
10848 ~~mentioned in § 23-76, are hereby confirmed and made valid.~~

10849 **Drafting note: The provisions of existing § 23-77 are recommended for repeal as**
10850 **obsolete.**

10851 ~~§ 23-77.1. Authority to sell and convey certain lands.~~

10852 ~~The rector and visitors of the University of Virginia, with the approval of the Governor~~
10853 ~~first obtained, are hereby authorized to sell and convey any and all real estate to which it has~~
10854 ~~acquired title by gift, devise or purchase since January 1, 1900, or which may hereafter be~~
10855 ~~conveyed or devised to it. The proceeds derived from any such sale or sales shall be held by said~~
10856 ~~rector and visitors of the University of Virginia upon the identical trusts, and subject to the same~~
10857 ~~uses, limitations and conditions, if any, that are expressed in the original deed or will under~~
10858 ~~which its title was derived, or if there be no such trusts, uses, limitations or conditions expressed~~
10859 ~~in such original deed or will, then said funds shall be applied by the rector and visitors of the~~
10860 ~~University to such purposes as said board may deem best for the University.~~

10861 **Drafting note: The provisions of existing § 23-77.1 are stricken here and**
10862 **incorporated instead into proposed § 23.1-1301.**

10863 ~~§ 23-77.2. Granting easements on property of the University.~~

10864 ~~The rector and visitors of the University of Virginia are hereby authorized to grant~~
10865 ~~easements for roads, streets, sewers, water lines, electric and other utility lines or other purpose~~
10866 ~~on any property now owned or hereafter acquired by said rector and visitors of the University of~~
10867 ~~Virginia, when in the discretion of the rector and visitors it is deemed proper to grant such~~
10868 ~~easement.~~

10869 **Drafting note: The provisions of existing § 23-77.2 are stricken here and**
10870 **incorporated instead into proposed § 23.1-1301.**

10871 ~~§ 23-78. Testimonials to students.~~

10872 ~~The board shall examine into the progress of the students in each year, and shall give to~~
 10873 ~~those who excel in any branch of learning such honorary testimonials of approbation as they~~
 10874 ~~deem proper.~~

10875 **Drafting note: The provisions of existing § 23-78 are recommended for repeal as**
 10876 **obsolete.**

10877 ~~§ 23-79. Visitors' expenses.~~

10878 ~~Such reasonable expenses as the visitors may incur in the discharge of their duties shall~~
 10879 ~~be paid out of the funds of the University.~~

10880 **Drafting note: The provisions of existing § 23-79 are stricken here and**
 10881 **incorporated instead into § 23.1-1307.**

10882 ~~§ 23-80.~~

10883 **Drafting note: Repealed by Acts 2009, c. 72.**

10884 Article ~~9~~2.

10885 The University of Virginia's College at Wise.

10886 **Drafting note: The provisions of the first three sections in existing Article 9 (§ 23-**
 10887 **91.20 et seq.) of Chapter 9 are logically combined as a single section, § 23.1-2211, in**
 10888 **proposed Article 2 of this chapter. The fourth and final section in existing Article 9, § 23-**
 10889 **91.23, is recommended for repeal as obsolete.**

10890 ~~§ 23-91.20 23.1-2211. Institution a division of The University of ~~Virginia~~ under~~
 10891 ~~supervision, etc., of rector and visitors; authorized to grant degrees Virginia's College at Wise.~~

10892 A. The University of Virginia's College at Wise (the College), established in Wise
 10893 County, Virginia, ~~shall be~~ is a division of the University ~~of Virginia~~. ~~It shall be~~ and a four-year
 10894 college with the right to prepare students for the granting of degrees upon graduation therefrom.
 10895 ~~It shall be an integral part of the University of Virginia and be~~ baccalaureate public institution of
 10896 higher education subject to the supervision, management, and control of the ~~rector and visitors~~
 10897 ~~of the University of Virginia~~ board.

10898 ~~§ 23-91.22. Expenditure of appropriations.~~

10899 ~~Appropriations, directly or indirectly,~~ B. Direct and indirect appropriations from the
10900 Commonwealth to ~~such division~~ the College shall be expended as directed by the ~~rector and~~
10901 ~~visitors of the University of Virginia~~ board.

10902 ~~§ 23-91.21. Property, duties, contracts, etc., vested in rector and visitors of University;~~
10903 ~~principal administrative officer of division; powers of board of visitors generally; title of local~~
10904 ~~administrative officer.~~

10905 C. All property, property rights, duties, contracts, and agreements of ~~such division are~~
10906 the College are vested in the ~~rector and visitors of the University of Virginia~~ board. ~~The~~
10907 ~~president of the University of Virginia, by virtue of his office, shall be the principal~~
10908 ~~administrative officer of such division.~~ The board ~~of visitors of the University is charged with~~
10909 ~~the care and preservation of~~ shall care for and preserve all property belonging to ~~such division~~
10910 the College.

10911 D. With respect to ~~such division~~ the College, the board ~~of visitors shall have~~ has all the
10912 same powers ~~as to granting degrees, as to fixing tuitions, fees and charges, as to borrowing~~
10913 ~~money and issuing bonds, as to the appointment and removal of administrative officers,~~
10914 ~~professors, agents and servants, and the making of rules and regulations, as~~ that are now vested
10915 in ~~them~~ the board with respect to the University.

10916 E. The president of the University shall be the principal administrative officer of the
10917 College.

10918 F. The board shall fix the title of the chief ~~local administrative executive~~ officer of ~~such~~
10919 ~~division shall be fixed by the board of visitors~~ the College.

10920 **Drafting note: The provisions of the first three sections in existing Article 9 (§ 23-**
10921 **91.20 et seq.) of Chapter 9 are logically combined as a single section, § 23.1-2211, in**
10922 **proposed Article 2 of Chapter 22. Technical changes are made.**

10923 ~~§ 23-91.23. Validation of prior acts and proceedings of rector and visitors.~~

10924 ~~All acts and proceedings heretofore [before September 1, 1968] taken by the rector and~~
10925 ~~visitors of the University of Virginia with respect to the establishment and maintenance of the~~

10926 ~~University of Virginia's College at Wise, including all contracts, loan agreements and other~~
10927 ~~agreements of whatsoever nature, are hereby ratified, validated and confirmed.~~

10928 **Drafting note: The provisions of existing § 23-91.23 are recommended for repeal as**
10929 **obsolete.**

10930 Article ~~2~~ 3.

10931 ~~Board of Visitors~~ Medical Center.

10932 **Drafting note: The provisions of existing Article 2, Board of Visitors, have been**
10933 **logically reorganized in proposed Chapter 22: Existing §§ 23-69 through 23-77.2 and §§**
10934 **23-78, 23-79, and 23-80 have been moved into and addressed in proposed Article 1,**
10935 **General Provisions. Existing §§ 23-77.3 and 23-77.4, relating to the University of Virginia**
10936 **Medical Center, are logically reorganized as five sections in proposed Article 2, Medical**
10937 **Center.**

10938 § ~~23-77.3~~ 23.1-2212. Operations of Medical Center.

10939 A. ~~In enacting this section, the General Assembly recognizes that the~~ The ability of the
10940 ~~University of Virginia~~ to provide medical and health sciences education and related research is
10941 dependent upon the maintenance of high quality teaching hospitals and related health care and
10942 health maintenance facilities, collectively referred to in this ~~section~~ article as the Medical
10943 Center, and ~~that~~ the maintenance of a Medical Center serving such purposes requires specialized
10944 management and operation that permit the Medical Center to remain economically viable and ~~to~~
10945 participate in cooperative arrangements reflective of changes in health care delivery.

10946 B. Notwithstanding the provisions of § 32.1-124 exempting hospitals and nursing homes
10947 owned or operated by an agency of the Commonwealth from state licensure, the Medical Center
10948 shall be, for so long as the Medical Center maintains its accreditation by a national accrediting
10949 organization granted authority by the Centers for Medicare and Medicaid Services to ensure
10950 compliance with Medicare conditions of participation pursuant to § 1865 of Title XVIII of the
10951 Social Security Act (42 U.S.C. § 1395bb), deemed to be licensed as a hospital for purposes of
10952 other law relating to the operation of hospitals licensed by the Board of Health. The Medical

10953 Center shall not, however, be deemed to be a licensed hospital to the extent that any law relating
10954 to licensure of hospitals specifically excludes the Commonwealth or its agencies. As an agency
10955 of the Commonwealth, the Medical Center shall, ~~in addition,~~ remain (i) exempt from licensure
10956 by the Board of Health pursuant to § 32.1-124 and (ii) subject to the Virginia Tort Claims Act (§
10957 8.01-195.1 et seq.). ~~Further, this~~ This subsection shall not be construed as a waiver of the
10958 Commonwealth's sovereign immunity.

10959 C. ~~Without limiting the powers provided in this chapter, the~~ The University ~~of Virginia~~
10960 may create, own in whole or in part, or otherwise control corporations, partnerships, insurers, or
10961 other entities whose activities ~~will~~ promote the operations of the Medical Center and its mission;
10962 may; cooperate or enter into joint ventures with such entities and with government bodies; and
10963 may enter into contracts in connection ~~therewith~~ with its operations. Without limiting the power
10964 of the University ~~of Virginia~~ to issue bonds, notes, guarantees, or other evidence of indebtedness
10965 ~~under pursuant to~~ subsection D in connection with such activities, no such creation, ownership,
10966 or control shall create any responsibility of the University, the Commonwealth, or any ~~other~~
10967 agency ~~thereof of the Commonwealth~~ for the operations or obligations of any such entity or in
10968 any way make the University, the Commonwealth, or any ~~other~~ agency ~~thereof of the~~
10969 Commonwealth responsible for the payment of debt or other obligations of such entity. All such
10970 interests shall be reflected on the financial statements of the Medical Center.

10971 D. Notwithstanding the provisions of Chapter ~~3 11~~ (§ ~~23-14~~ 23.1-1100 et seq.) ~~of this~~
10972 ~~title~~, the University ~~of Virginia~~ may issue bonds, notes, guarantees, or other evidence of
10973 indebtedness without the approval of any other governmental body subject to the following
10974 provisions:

10975 1. Such debt is used solely for the purpose of paying not more than 50 percent of the cost
10976 of capital improvements in connection with the operation of the Medical Center or related
10977 issuance costs, reserve funds, and other financing expenses, including interest during
10978 construction ~~or~~ and acquisitions and for up to one year thereafter;.

10979 2. The only revenues of the University pledged to the payment of such debt are those
10980 derived from the operation of the Medical Center and related health care and educational
10981 activities, and ~~there are pledged therefor~~ no general fund appropriation and special Medicaid
10982 disproportionate share payments for indigent and medically indigent patients who are not
10983 eligible for the Virginia Medicaid Program; is pledged for the payment of such debt.

10984 3. Such debt states that it does not constitute a debt of the Commonwealth or a pledge of
10985 the faith and credit of the Commonwealth;.

10986 4. Such debt is not sold to the public;.

10987 5. The total principal amount of such debt outstanding at any one time does not exceed
10988 \$25 million;.

10989 6. The Treasury Board ~~has approved~~ approves the terms and structure of such debt;.

10990 7. The purpose, terms, and structure of such debt are promptly communicated to the
10991 Governor and the Chairmen of the House Appropriations and Senate Finance Committees; ~~and.~~

10992 8. All such indebtedness is reflected on the financial statements of the Medical Center.

10993 E. Subject to meeting the conditions set forth ~~above in subsection D,~~ such debt may be in
10994 such form and have such terms as the board ~~of visitors~~ may provide and shall be in all respects
10995 debt of the University for the purposes of §§ ~~23-23~~ 23.1-1110, ~~23-25~~ 23.1-1115, and ~~23-26~~
10996 23.1-1116.

10997 **Drafting note: Technical changes.**

10998 § ~~23-77.4~~ 23.1-2213. Medical center management; capital projects; leases of property;
10999 procurement.

11000 A. The ~~General Assembly recognizes and finds that the~~ economic viability of the
11001 ~~University of Virginia~~ Medical Center, ~~hereafter referred to as the Medical Center, together with~~
11002 the requirement for its specialized management and operation, and the need of the Medical
11003 Center to participate in cooperative arrangements reflective of changes in health care delivery,
11004 as set forth in § ~~23-77.3~~ 23.1-2212, ~~are dependent~~ depend upon the ability of the management of
11005 the Medical Center to make and promptly implement ~~promptly~~ decisions necessary to conduct

11006 the affairs of the Medical Center in an efficient, competitive manner. ~~The General Assembly~~
11007 ~~also recognizes and finds that it~~ It is critical to, and in the best interests of, the Commonwealth
11008 that the University ~~continue~~ continues to fulfill its mission of providing quality medical and
11009 health sciences education and related research and, through the presence of its Medical Center,
11010 ~~continue~~ continues to provide for the care, treatment, health-related services, and education
11011 activities associated with Virginia patients, including indigent and medically indigent patients.
11012 Because ~~the General Assembly finds that~~ the ability of the University to fulfill this mission is
11013 highly dependent upon revenues derived from providing health care through its Medical Center,
11014 and because ~~the General Assembly also finds that~~ the ability of the Medical Center to continue
11015 to be a reliable source of such revenues is heavily dependent upon its ability to compete with
11016 other providers of health care that are not subject to the requirements of law applicable to
11017 agencies of the Commonwealth, the University ~~is hereby authorized to~~ may implement the
11018 following modifications to the management and operation of the affairs of the Medical Center in
11019 order to enhance its economic viability:

11020 ~~B. Capital projects; leases of property; procurement of goods, services and construction.~~

11021 1. ~~Capital projects.~~

11022 a. For any Medical Center capital project entirely funded by a nongeneral fund
11023 appropriation made by the General Assembly, all post-appropriation review, approval,
11024 administrative, and policy and procedure functions performed by the Department of General
11025 Services, the Division of Engineering and Buildings, the Department of Planning and Budget,
11026 and any other agency that supports the functions performed by these departments are ~~hereby~~
11027 delegated to the University, subject to the following stipulations and conditions: (i) the ~~Board of~~
11028 Visitors board shall develop and implement an appropriate system of policies, procedures,
11029 reviews, and approvals for Medical Center capital projects to which this ~~subdivision subsection~~
11030 applies; (ii) the system so adopted shall provide for the review and approval of any Medical
11031 Center capital project to which this ~~subdivision subsection~~ applies ~~in order~~ to ensure that, except
11032 as provided in clause (iii), the cost of any such capital project does not exceed the sum

11033 | appropriated ~~therefor~~ for the project and ~~that~~ the project otherwise complies with all
11034 | requirements of the Code of Virginia regarding capital projects, excluding only the post-
11035 | appropriation review, approval, administrative, and policy and procedure functions performed
11036 | by the Department of General Services, the Division of Engineering and Buildings, the
11037 | Department of Planning and Budget, and any other agency that supports the functions
11038 | performed by these departments; (iii) the ~~Board of Visitors~~ board may, during any fiscal year,
11039 | approve a transfer of up to ~~a total of~~ 15 percent of the total nongeneral fund appropriation for
11040 | the Medical Center ~~in order~~ to supplement funds appropriated for a capital project ~~or capital~~
11041 | projects of the Medical Center, provided that the ~~Board of Visitors~~ board finds that the transfer
11042 | is necessary to effectuate the original intention of the General Assembly in making the
11043 | appropriation for the capital project ~~or projects~~ in question; (iv) the University shall report to the
11044 | Department of General Services on the status of any such capital project prior to
11045 | commencement of construction of, and at the time of acceptance of, any such capital project;
11046 | and (v) the University shall ensure that Building Officials and Code Administrators (BOCA)
11047 | Code and fire safety inspections of any such project are conducted and ~~that~~ such projects are
11048 | inspected by the State Fire Marshal or his designee prior to certification for building occupancy
11049 | by the University's assistant state building official to whom such inspection responsibility has
11050 | been delegated pursuant to § 36-98.1. Nothing in this section shall be deemed to relieve the
11051 | University of any reporting requirement pursuant to § 2.2-1513. Notwithstanding the ~~foregoing~~
11052 | provisions of this subsection, the terms and structure of any financing of any capital project to
11053 | which this ~~subdivision subsection~~ applies shall be approved pursuant to § 2.2-2416.

11054 | b. No capital project to which this ~~subdivision subsection~~ applies shall be materially
11055 | increased in size or materially changed in scope beyond the plans and justifications that were the
11056 | basis for the project's appropriation unless: (i) the Governor determines that such increase in
11057 | size or change in scope is necessary due to an emergency or (ii) the General Assembly approves
11058 | the increase or change in a subsequent appropriation for the project. After construction of any

11059 such capital project has commenced, no such increase or change ~~may shall~~ be made during
11060 construction unless the conditions in clause (i) or (ii) have been satisfied.

11061 2. Leases of property.

11062 a. The University ~~shall be is~~ exempt from the provisions of § 2.2-1149 and ~~from~~ any
11063 rules, regulations and guidelines of the Division of Engineering and Buildings ~~in relation to~~
11064 regarding leases of real property that it enters into on behalf of the Medical Center and, pursuant
11065 to policies and procedures adopted by the ~~Board of Visitors board~~, may enter into such leases
11066 subject to the following conditions: (i) the lease ~~must shall~~ be an operating lease and not a
11067 capital lease as defined in guidelines established by the Secretary of Finance and ~~Generally~~
11068 Accepted Accounting Principles (GAAP) generally accepted accounting principles; (ii) the
11069 University's decision to enter into such a lease shall be based upon cost, demonstrated need, and
11070 compliance with guidelines adopted by the ~~Board of Visitors which board that~~ direct that (a)
11071 competition be sought to the maximum practical degree, ~~that (b)~~ all costs of occupancy be
11072 considered, and ~~that (c)~~ the use of the space to be leased ~~actually~~ is necessary and ~~is~~ efficiently
11073 planned; (iii) the form of the lease is approved by the Special Assistant Attorney General
11074 representing the University; (iv) the lease otherwise meets all requirements of law; (v) the
11075 leased property is certified for occupancy by the building official of the political subdivision in
11076 which the leased property is located; and (vi) upon entering such leases and upon any
11077 subsequent amendment of such leases, the University ~~shall provide~~ provides copies of all lease
11078 documents and any attachments ~~thereto to such lease documents~~ to the Department of General
11079 Services.

11080 b. Notwithstanding the provisions of §§ 2.2-1155 and ~~23-4.1 subdivision B 1 of § 23.1-~~
11081 1301, but subject to policies and procedures adopted by the ~~Board of Visitors board~~, the
11082 University may lease, for a purpose consistent with the mission of the Medical Center and for a
11083 term not to exceed 50 years, property in the possession or control of the Medical Center.

11084 c. Notwithstanding the ~~foregoing provisions of this subdivision~~, the terms and structure
11085 of any financing arrangements secured by capital leases or other similar lease financing
11086 agreements shall be approved pursuant to § 2.2-2416.

11087 3. ~~Procurement of goods, services and construction.~~

11088 a. Contracts awarded by the University ~~in compliance with this section~~, on behalf of the
11089 Medical Center, for the procurement of goods; ~~services, including professional services;~~
11090 ~~construction; and, or~~ information technology and telecommunications, ~~shall be in compliance~~
11091 ~~with this subdivision are~~ exempt from (i) the Virginia Public Procurement Act (§ 2.2-4300 et
11092 seq.), except as provided ~~below in this section~~; (ii) the requirements of the Division of Purchases
11093 and Supply of the Department of General Services as set forth in Article 3 (§ 2.2-1109 et seq.)
11094 of Chapter 11 of Title 2.2; (iii) the requirements of the Division of Engineering and Buildings as
11095 set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2; and (iv) the authority of the
11096 Chief Information Officer and the Virginia Information Technologies Agency as set forth in
11097 Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 regarding the review and approval of contracts for
11098 (a) the construction of Medical Center capital projects and (b) information technology and
11099 telecommunications projects; ~~however, the provisions of this subdivision may not be~~
11100 ~~implemented by the University until such time as the Board of Visitors has adopted~~

11101 b. The University shall adopt and at all times maintain guidelines generally applicable to
11102 the procurement of goods, services, construction, and information technology and
11103 telecommunications projects by the Medical Center or by the University on behalf of the
11104 Medical Center. Such guidelines shall be based upon competitive principles and ~~shall~~ in each
11105 instance seek competition to the maximum practical degree. The guidelines shall (i) implement
11106 a system of competitive negotiation for professional services; ~~shall (ii)~~ prohibit discrimination
11107 ~~because of race, religion, color, sex, or national origin of~~ against the bidder or offeror in the
11108 solicitation or award of contracts on the basis of the race, religion, color, sex, or national origin
11109 of the bidder or offeror; and (iii) incorporate the prompt payment principles of §§ 2.2-4350 and
11110 2.2-4354 and may (a) take into account ~~in all cases~~ the dollar amount of the intended

11111 procurement, the term of the anticipated contract, and the likely extent of competition; ~~may (b)~~
 11112 implement a prequalification procedure for contractors or products; ~~may (c)~~ include provisions
 11113 for cooperative procurement arrangements with private health or educational institutions, or
 11114 ~~with~~ public agencies or institutions of the several states, territories of the United States, or the
 11115 District of Columbia; ~~shall incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-~~
 11116 ~~4354;~~ and ~~may (d)~~ implement provisions of law.

11117 ~~The following sections of the Virginia Public Procurement Act shall continue to apply to~~
 11118 ~~procurements by the Medical Center or by the University on behalf of the Medical Center: §§~~
 11119 ~~c. Sections 2.2-4311, 2.2-4315, and 2.2-4342 (which section shall not be construed to~~
 11120 ~~require compliance with the prequalification application procedures of subsection B of § 2.2-~~
 11121 ~~4317), and 2.2-4330; and §§ 2.2-4333 through 2.2-4341, and 2.2-4367 through 2.2-4377 shall~~
 11122 ~~continue to apply to procurements by the Medical Center and the University on behalf of the~~
 11123 ~~Medical Center.~~

11124 ~~C.B.~~ Subject to ~~such~~ conditions ~~as may be that are~~ prescribed in the budget bill ~~under~~
 11125 ~~pursuant to~~ § 2.2-1509 ~~as enacted into law by the General Assembly~~, the State Comptroller shall
 11126 credit, on a monthly basis, to the nongeneral fund operating cash balances of the ~~University of~~
 11127 ~~Virginia~~ Medical Center the imputed interest earned by the investment of such nongeneral fund
 11128 operating cash balances, including ~~but not limited to~~ those balances derived from patient care
 11129 revenues, on deposit with the State Treasurer.

11130 **Drafting note: Technical changes made, including removing "without limitation"**
 11131 **when used in conjunction with "including" in subsection B based on § 1-218, which states**
 11132 **""Includes' means includes, but not limited to.""**

11133 Article ~~3~~ 4.

11134 Donations.

11135 **Drafting note: Existing Article 3 (§ 23-81 et seq.) of Chapter 9 is retained as**
 11136 **proposed Article 4 of Chapter 22.**

11137 ~~§ 23-81~~ 23.1-2214. Gifts, bequests, and devises.

11138 Any person may (i) deposit in the state treasury, ~~or; (ii)~~ bequeath money, stocks, or
 11139 public bonds of any kind to be so deposited;~~;~~ or (iii) grant, devise, or bequeath property, real or
 11140 personal, to be sold and the proceeds to be so deposited, in sums not less than \$100, ~~which that~~
 11141 shall be invested in securities that are legal investments under the laws of the Commonwealth
 11142 for public funds for the benefit of the University, and in such case the interest or dividends
 11143 accruing on such investments shall be paid to the ~~rector and visitors of the University, to be by~~
 11144 ~~them appropriated to the general purposes thereof,~~ board and appropriated by the board for
 11145 general purposes unless some particular appropriation ~~shall have~~ has been designated by the
 11146 donor or testator, ~~as hereinafter provided.~~ The State Treasurer shall notify the board of any such
 11147 deposit in the state treasury.

11148 **Drafting note: Technical changes.**

11149 § ~~23-82~~ 23.1-2215. ~~When donations~~ Donations for special purposes or objects, ~~how~~
 11150 applied, etc.

11151 If any particular purpose or object connected with the University ~~be is~~ specified by ~~the a~~
 11152 donor pursuant to § 23.1-2214 at the time of such deposit, (i) by writing filed in the State
 11153 Treasurer's office ~~(, which may also be recorded in the clerk's office of the Circuit Court of~~
 11154 ~~Albemarle County, as a deed for land is recorded),~~ or (ii) in the will of such testator, the interest,
 11155 income, and profits of such fund shall be appropriated to such purpose and object, and none
 11156 other; ~~or, if.~~ If the donor or testator ~~shall~~ so ~~direct~~ directs in such writing or will, the interest
 11157 accruing on such fund shall be reinvested by the State Treasurer every six months, in the manner
 11158 prescribed in § ~~23-81,~~ 23.1-2214 and ~~the interest thereon shall be, from time to time, reinvested~~
 11159 ~~in like manner~~ for such period as such writing or will ~~shall prescribe~~ prescribes, not exceeding
 11160 ~~thirty 30~~ years; ~~and at.~~ At the expiration of the time so prescribed or ~~thirty 30~~ years, whichever
 11161 ~~shall happen occurs~~ first, the fund, with its accumulations, ~~shall be paid over to the rector and~~
 11162 ~~visitors of the University, or and~~ the interest, income, and profits ~~thereafter~~ accruing upon the
 11163 aggregate fund shall be paid to ~~them~~ the board as ~~the same shall they~~ accrue, ~~according as the~~
 11164 ~~one or the other disposition shall be~~ and as directed by such writing or will, and ~~in either case~~

11165 ~~the same~~ shall be appropriated and employed according to the provisions of such writing or will,
 11166 and not otherwise; ~~and the rector and visitors of the University. The board~~ shall render to the
 11167 General Assembly, at each regular session, an account of the disbursement of any funds so
 11168 derived.

11169 **Drafting note: Technical changes, including striking the superfluous term "from**
 11170 **time to time" per Code Commission policy.**

11171 § ~~23-83~~ 23.1-2216. ~~Donations irrevocable; disposition thereof, if refused, etc~~ Disposition
 11172 of donations.

11173 ~~Such donations shall be~~ Donations made pursuant to § 23.1-2214 are irrevocable by the
 11174 donor or his representatives; ~~but if the authorities of the University, within one year after being~~
 11175 ~~notified thereof (which it shall be the duty of the State Treasurer to do immediately upon the~~
 11176 ~~making of such deposit with him), shall give~~ board gives notice, in writing, to the State
 11177 Treasurer, ~~that they decline within one year of being notified of the donation by the Treasurer~~
 11178 that it declines to receive the benefit of such deposit, ~~the same, with whatever deposit and any~~
 11179 interest and profits that may have accrued ~~thereon~~, shall ~~thereupon~~ be held subject to the order
 11180 of such donor or his legal representatives; ~~and if. If~~ at any time the object ~~for~~ of such donation
 11181 or deposit ~~is intended, fails~~ by the legal destruction of the University; or by any other means;
 11182 ~~shall fail~~, so that the purpose of the gift, bequest, or devise ~~shall be~~ is permanently frustrated, the
 11183 whole fund, including unexpended principal and interest, ~~then unexpended as it shall then be~~,
 11184 shall revert to and be vested in the donor or his legal representatives.

11185 **Drafting note: Technical changes.**

11186 § ~~23-84~~ 23.1-2217. Reservation of nomination by donor.

11187 If ~~the a~~ donor ~~shall, in such writing, filed as aforesaid, reserve pursuant to § 23.1-2214~~
 11188 reserves in writing as set forth in § 23.1-2215 to himself or to any other person the power to (i)
 11189 nominate to any professorship, scholarship, or other place or appointment in the University; or
 11190 ~~to~~ (ii) do any other act connected ~~therewith, with such nomination~~ and he or such other person
 11191 ~~shall fail at any time for six months~~ fails to make such nomination in writing; or ~~to~~ do such other

11192 act within six months, the board ~~of visitors~~ may proceed to make such appointment or ~~to~~ do
11193 such act ~~at their discretion~~.

11194 **Drafting note: Technical changes.**

11195 § ~~23-85~~ 23.1-2218. Commonwealth to be trustee of donations; liability of State
11196 Treasurer.

11197 The Commonwealth is ~~hereby constituted~~ the trustee for the safekeeping and due
11198 application of all funds ~~which that~~ may be deposited in the treasury ~~in pursuance of~~ pursuant to
11199 § ~~23-81~~ 23.1-2214. The State Treasurer and the sureties in his official bond ~~shall be~~ are liable
11200 for the money or other funds deposited ~~as aforesaid~~, and the accounting officers of the
11201 Commonwealth shall keep separate accounts of each such deposit ~~shall be kept by the~~
11202 ~~accounting officers of the Commonwealth~~ in the same manner as are other public funds.

11203 **Drafting note: Technical changes.**

11204 Article 4.

11205 Mary Washington College.

11206 §§ 23-86 through 23-91.

11207 **Drafting note: Repealed by Acts 1972, c. 861.**

11208 Article 5.

11209 Clinch Valley College and Northern Virginia Branch College.

11210 §§ 23-91.1 through 23-91.4.

11211 **Drafting note: Repealed by Acts 1966, c. 68.**

11212 Article 6.

11213 Patrick Henry College of the University of Virginia.

11214 §§ 23-91.5 through 23-91.8.

11215 **Drafting note: Repealed by Acts 1983, c. 63.**

11216 Article 7.

11217 Eastern Shore Branch of School of General Studies.

11218 §§ 23-91.9 through 23-91.12.

11219 **Drafting note: Repealed by Acts 1983, c. 63.**

11220 ~~§ 23-91.13. [Reserved.]~~

11221 **Drafting note: This section is deleted because it is carried as reserved in the existing**
11222 **title.**

11223 ~~Article 8.~~

11224 ~~George Mason College.~~

11225 ~~§§ 23-91.14 through 23-91.17.~~

11226 **Drafting note: Repealed by Acts 1972, c. 550.**

11227 ~~§§ 23-91.18, 23-91.19. [Reserved.]~~

11228 **Drafting note: These sections are deleted because they are carried as reserved in**
11229 **the existing title.**

11230 ~~Article 10.~~

11231 ~~Branch Campus in Qatar.~~

11232 **Drafting note: Existing Article 10 (§ 23-91.23:1) of Chapter 9, relating to the**
11233 **branch campus in Qatar, is recommended for repeal as obsolete.**

11234 ~~§ 23-91.23:1. Establishment of branch campus in the State of Qatar.~~

11235 ~~In recognition that global educational opportunities benefit the intellectual and economic~~
11236 ~~interests of the Commonwealth, the board of visitors of the University of Virginia is authorized~~
11237 ~~to establish, operate, and govern a branch campus of the University of Virginia in the State of~~
11238 ~~Qatar. The board of visitors shall have the same powers with respect to operation and~~
11239 ~~governance of its branch campus in Qatar as vested in the board by the Code of Virginia with~~
11240 ~~respect to the University of Virginia in Virginia, including, but not limited to, the fixing of fees~~
11241 ~~and charges;² the establishment of academic standards;² and the conferral of degrees. In~~
11242 ~~operating such branch campus, the board of visitors shall provide appropriate professional~~
11243 ~~opportunities for Virginia-based faculty to teach or conduct research on the Qatar campus and~~
11244 ~~educational opportunities for Virginia-based students to study or conduct research on the Qatar~~
11245 ~~campus.~~

11246 ~~Nothing contained in this section shall be deemed a waiver of the sovereign immunity of~~
11247 ~~the Commonwealth or of the University of Virginia.~~

11248 ~~In its operation of any branch campus established in the State of Qatar, the board of~~
11249 ~~visitors and its employees shall not discriminate on the basis of race, color, religion, national~~
11250 ~~origin, or sex, and shall not abridge the constitutional rights of freedom of speech and religion.~~
11251 ~~Any agreement the board of visitors enters to establish, operate, or govern the branch campus in~~
11252 ~~Qatar shall contain contractual assurances to the board that the branch campus shall operate~~
11253 ~~without discrimination on the basis of race, color, religion, national origin, or sex, and without~~
11254 ~~abridging the constitutional rights of freedom of speech and religion.~~

11255 **Drafting note: The provisions of existing § 23-91.23:1 are recommended for repeal**
11256 **as obsolete.**

11257 ~~CHAPTER 5.1.~~

11258 ~~RICHMOND PROFESSIONAL INSTITUTE.~~

11259 ~~§§ 23-49.2 through 23-49.10.~~

11260 **Drafting note: Repealed by Acts 1968, c. 93.**

11261 ~~CHAPTER 6.~~

11262 ~~MEDICAL COLLEGE OF VIRGINIA.~~

11263 ~~§§ 23-50 through 23-50.3.~~

11264 **Drafting note: Repealed by Acts 1968, c. 93.**

11265 ~~CHAPTER 6.1 23.~~

11266 ~~VIRGINIA COMMONWEALTH UNIVERSITY.~~

11267 **Drafting note: Existing Chapter 6.1 of Title 23 is logically reorganized as proposed**
11268 **Chapters 13 and 23 of Title 23.1. Existing provisions that apply generally to governing**
11269 **boards of public institutions of higher education are consolidated in Chapter 13. Existing**
11270 **provisions relating to the incorporation, powers and duties, and membership and meetings**
11271 **of the board of visitors that are unique to Virginia Commonwealth University are retained**
11272 **in Chapter 23.**

11273 § ~~23-50.4~~ 23.1-2300. ~~Corporation established~~ Corporate name; name of the University.
 11274 ~~There is hereby established a corporation consisting of the~~ A. The board of visitors of
 11275 ~~the~~ Virginia Commonwealth University (the board) is a corporation under the name and style of
 11276 "Virginia Commonwealth University;" and has, in addition to its other powers, all the corporate
 11277 powers given to corporations by the provisions of Title 13.1 except those powers that are
 11278 confined to corporations created pursuant to Title 13.1. The board shall at all times be under the
 11279 control of the General Assembly.

11280 B. The institution shall be known as Virginia Commonwealth University (the
 11281 University).

11282 **Drafting note: Subsection A incorporates a portion of existing § 23-50.8. Technical**
 11283 **changes are made to conform the language in this section to that of each other**
 11284 **baccalaureate public institution of higher education.**

11285 § ~~23-50.7~~ 23.1-2301. Purpose of ~~corporation; redesignation of Medical College of~~
 11286 Virginia board.

11287 The ~~corporation board~~ board is formed for the purpose of establishing and maintaining a
 11288 university consisting of colleges, schools, and divisions offering undergraduate and graduate
 11289 programs in the liberal arts and sciences and programs of education for the professions and such
 11290 other ~~branches of learning programs of education~~ as may be appropriate, and in connection
 11291 ~~therewith, it is empowered to~~ with this purpose, the board may maintain and conduct hospitals,
 11292 infirmaries, dispensaries, laboratories, research centers, power plants, and such other ~~necessary~~
 11293 ~~related~~ facilities as in the opinion of the board of visitors are deemed it deems proper. ~~The~~
 11294 ~~colleges, schools, and divisions heretofore existing as The Medical College of Virginia shall, as~~
 11295 ~~of July 1, 1968, be designated The Medical College of Virginia, Health Sciences Division of~~
 11296 ~~Virginia Commonwealth University.~~

11297 **Drafting note: Provisions related to The Medical College of Virginia are logically**
 11298 **relocated to proposed § 23.1-2308. Technical changes are made.**

11299 § ~~23-50.5~~ 23.1-2302. ~~Transfer of property, rights, duties, etc.,~~ Property and liabilities of
 11300 Medical College of Virginia and Richmond Professional Institute.

11301 All real estate and personal property ~~existing and standing~~ in the name of the corporate
 11302 bodies designated "Medical College of Virginia" and "Richmond Professional Institute" ~~as of~~
 11303 ~~July 1, 1968, shall be~~ transferred ~~automatically to and, by virtue of this chapter, shall be,~~ known
 11304 and taken as standing in the name of, and ~~to be~~ under the control of the ~~corporate body~~
 11305 ~~designated "Virginia Commonwealth University."~~ Such real estate and personal property shall
 11306 be is the property of the Commonwealth. ~~All rights, duties, contracts and agreements of the~~
 11307 ~~Medical College of Virginia and Richmond Professional Institute as of July 1, 1968, are hereby~~
 11308 ~~vested in such corporate body designated "Virginia Commonwealth The University," which~~
 11309 ~~shall thenceforth be~~ is vested with all rights, duties, contracts, and agreements and is responsible
 11310 and liable for all the liabilities and obligations of ~~each of the~~ its predecessor institutions.

11311 **Drafting note: Technical changes.**

11312 § ~~23-50.6~~ 23.1-2303. ~~Appointment, terms, etc., of board of visitors; boards of~~
 11313 ~~predecessor institutions to serve as advisory boards~~ Membership.

11314 (a) ~~A.~~ The board of visitors is to shall consist of ~~sixteen~~ 16 members ~~to be~~ appointed by
 11315 the Governor ~~for four-year terms except that vacancies other than by expiration of term shall be~~
 11316 ~~filled as provided in subsection (d) and except that the initial term of the member appointed to~~
 11317 ~~increase the board of visitors to sixteen members shall be three years.~~

11318 (b) ~~[Repealed.]~~

11319 (c) ~~Members shall be eligible for service for two consecutive terms of four years only~~
 11320 ~~(exclusive of that portion of any unexpired term or any term on the board of less than four years~~
 11321 ~~to which he may have been appointed).~~

11322 (d) ~~All vacancies shall be filled by the Governor for the unexpired terms.~~

11323 (e) ~~All appointments are subject to confirmation by the General Assembly if in session~~
 11324 ~~when such appointments are made, and if not in session, at its next succeeding session. Visitors~~

11325 ~~shall continue to discharge their duties after their terms have expired until their successors have~~
11326 ~~been appointed and have qualified.~~

11327 ~~(f), (g) [Repealed.]~~

11328 B. Notwithstanding § 23.1-1300, members are eligible to serve for a total of two four-
11329 year terms which may be served consecutively; however, a member appointed by the Governor
11330 to serve an unexpired term is eligible to serve two additional four-year terms.

11331 **Drafting note: Existing provisions relating to the terms and removal of members of**
11332 **the board that apply generally to governing boards of public institutions of higher**
11333 **education are stricken and incorporated instead into proposed § 23.1-1300. Technical**
11334 **changes are made to conform the language to that of each other baccalaureate public**
11335 **institution of higher education. The unique provisions of existing subsection (c) are**
11336 **retained in proposed subsection B and technical changes are made.**

11337 ~~§ ~~23-50.9~~ 23.1-2304. Principal office ~~of corporation~~; meetings, ~~etc., and~~; officers ~~of~~~~

11338 ~~board of visitors; executive committee; committees.~~

11339 ~~(a)-A.~~ A. The principal office of the ~~corporation board~~ shall be located, and all meetings of

11340 the board ~~of visitors~~ held, as far as practicable, in the City of Richmond.

11341 B. The board shall ~~fix the date for its annual meeting and such other meetings as it may~~

11342 ~~deem advisable meet at least once a year and at such other times as it determines.~~ Due notice

11343 Notice of all meetings shall be ~~given provided~~ to each ~~visitor member~~.

11344 C. A majority of the members ~~serving at any time~~ shall constitute a quorum. ~~Such~~

11345 ~~reasonable expenses as the visitors may incur in the discharge of their duties shall be paid out of~~

11346 ~~the funds of the University.~~

11347 ~~(b)-D.~~ D. The board shall ~~elect appoint~~ from its ~~members membership~~ a rector, a vice-

11348 rector, a secretary, and ~~such any~~ other officers as ~~it deems necessary or advisable, and~~

11349 ~~determined by the board. The board shall~~ prescribe their duties, and term of office, and fix their

11350 compensation, if any.

11351 E. The board shall ~~also designate~~ determine the number of members of and appoint an
11352 executive committee, and determine the number of members ~~thereof and the number which of~~
11353 the executive committee that shall constitute a quorum; ~~such.~~ The executive committee shall
11354 perform ~~all the~~ duties ~~as are delegated to it~~ prescribed by the board.

11355 F. Reasonable expenses incurred by members shall be paid out of the funds of the
11356 University.

11357 **Drafting note: Technical changes are made to conform provisions relating to**
11358 **meetings, officers, and committees of the board of visitors to those of each other**
11359 **baccalaureate public institution of higher education.**

11360 ~~§ 23-50.10 23.1-2305. Rights and powers of board generally; appointment, etc., of~~
11361 ~~president, faculty and staff; rules and regulations~~ Powers and duties.

11362 ~~The board of visitors shall be vested with all the rights and powers conferred upon it by~~
11363 ~~this chapter insofar as the same are not inconsistent with the general laws of the~~
11364 ~~Commonwealth.~~

11365 A. The board shall appoint the ~~president, who shall be the chief executive officer of the~~
11366 ~~University, and~~ all ~~professors,~~ teachers, staff members, and agents, ~~and shall~~ fix their salaries,
11367 and ~~shall~~ prescribe their duties.

11368 B. The board shall ~~make all rules and regulations it deems advisable concerning the~~
11369 ~~University and shall~~ generally direct the affairs and business of the University.

11370 C. The board may confer degrees, including honorary degrees.

11371 ~~§ 23-50.8. Rights, powers and privileges of corporation generally.~~

11372 ~~The corporation is vested with all the rights, powers and privileges conferred upon and~~
11373 ~~subject to all the provisions relating to similar corporations under the laws of this~~
11374 ~~Commonwealth so far as they are applicable and shall have, in addition to those other powers,~~
11375 ~~all the corporate powers given to nonstock corporations by the provisions of Chapter 10 (§ 13.1-~~
11376 ~~801 et seq.) of Title 13.1, except in those cases where by the express terms of the provisions~~
11377 ~~thereof it is confined to corporations created under Title 13.1.~~ D. The corporation shall also have

11378 ~~the power to board may~~ take, hold, receive, and enjoy any gift, grant, devise, or bequest to
11379 ~~Virginia Commonwealth the~~ University or its predecessors, ~~the same to be held~~ for the uses and
11380 purposes designated by the donor, ~~if any,~~ or if not so designated, for the general purposes of the
11381 corporation, whether given directly or indirectly; and ~~to~~ accept, execute, and administer any
11382 trust in which it may have an interest under the terms of the instrument creating the trust. ~~The~~
11383 ~~corporation shall control and expend the funds appropriated to it by the Commonwealth~~
11384 ~~provided by law.~~

11385 **Drafting note: The provisions of existing § 23-50.10 related to the president,**
11386 **professors, and regulations are stricken and incorporated instead into proposed § 23.1-**
11387 **1303. Subsection B incorporates the provisions of existing § 23-50.12. The provisions of**
11388 **existing § 23-50.8 related to corporate powers are stricken and incorporated instead into**
11389 **proposed §§ 23.1-2300. Proposed subsection C incorporates the provisions of existing § 23-**
11390 **50.12. The provisions of existing § 23-50.8 related to controlling and expending funds are**
11391 **stricken and incorporated instead into proposed § 23.1-1301. The provisions of existing §**
11392 **23-50.8 related to gifts, grants, devises, and bequests are retained in subsection D of this**
11393 **proposed section. Technical changes are made.**

11394 § ~~23-50.10:01~~ 23.1-2306. Investment of endowment funds, endowment income, ~~and~~
11395 ~~gifts; standard of care; liability; exemption from the Virginia Public Procurement Act etc.~~

11396 A. As used in this section:

11397 "Derivative" means a contract or financial instrument or a combination of contracts and
11398 financial instruments, including any contract commonly known as a "swap," that gives the
11399 University the right or obligation to deliver, receive delivery of, or make or receive payments
11400 based on changes in the price, value, yield, or other characteristic of a tangible or intangible
11401 asset or group of assets or changes in a rate, index of prices or rates, or other market indicator
11402 for an asset or group of assets.

11403 "Option" means an agreement or contract whereby the University may grant or receive
11404 the right to purchase, sell, or pay or receive the value of any personal property asset, including
11405 any agreement or contract that relates to any security, contract, or agreement.

11406 "Financial security" means any note, stock, treasury stock, bond, debenture, evidence of
11407 indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of
11408 subscription, transferable share, investment contract, voting-trust certificate, certificate of
11409 deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; any put,
11410 call, straddle, option, or privilege on any security, certificate of deposit, or group or index of
11411 securities (including any interest therein or based on the value thereof); any put, call, straddle,
11412 option, or privilege entered into on a national securities exchange relating to foreign currency; in
11413 general, any interest or instrument commonly known as a "security;" or any certificate of
11414 interest or participation in, temporary or interim security for, receipt for, guarantee of, or
11415 warrant or right to subscribe to or purchase any financial security.

11416 B. The board ~~of visitors~~ shall invest and manage the endowment funds, endowment
11417 income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the
11418 University in accordance with this section and the provisions of the Uniform Prudent
11419 Management of Institutional Funds Act (§ 64.2-1100 et seq.).

11420 B-C. No member of the board ~~of visitors shall be is~~ personally liable for losses suffered
11421 by ~~an any~~ endowment fund, endowment income, ~~gifts gift, all~~ other nongeneral fund ~~reserves~~
11422 ~~reserve~~ and ~~balancees balance~~, or local funds of or held by the University; arising from
11423 investments made pursuant to the provisions of subsection A.

11424 C-D. The investment and management of endowment funds, endowment income, gifts,
11425 all other nongeneral fund reserves and balances, or local funds of or held by the University ~~shall~~
11426 ~~is not be~~ subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

11427 D-E. In addition to the investment practices authorized by the Uniform Prudent
11428 Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board ~~of visitors~~ may ~~also~~
11429 invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund

11430 reserves and balances, and local funds of or held by the University in derivatives, options, and
11431 financial securities.

11432 ~~1. In this section, "derivative" means a contract or financial instrument or a combination~~
11433 ~~of contracts and financial instruments, including, without limitation, any contract commonly~~
11434 ~~known as a "swap," which gives the University the right or obligation to deliver or receive~~
11435 ~~delivery of, or make or receive payments based on, changes in the price, value, yield or other~~
11436 ~~characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index~~
11437 ~~of prices or rates, or other market indicator for an asset or a group of assets.~~

11438 ~~2. In this section, an "option" means an agreement or contract whereby the University~~
11439 ~~may grant or receive the right to purchase or sell, or pay or receive the value of, any personal~~
11440 ~~property asset including, without limitation, any agreement or contract that relates to any~~
11441 ~~security, contract, or agreement.~~

11442 ~~3. In this section, "financial security" means any note, stock, treasury stock, bond,~~
11443 ~~debenture, evidence of indebtedness, certificate of interest, collateral trust certificate,~~
11444 ~~preorganization certificate of subscription, transferable share, investment contract, voting trust~~
11445 ~~certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other~~
11446 ~~mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit,~~
11447 ~~or group or index of securities (including any interest therein or based on the value thereof), or~~
11448 ~~any put, call, straddle, option, or privilege entered into on a national securities exchange relating~~
11449 ~~to foreign currency, or in general, any interest or instrument commonly known as a "security,"~~
11450 ~~or any certificate of interest or participation in, temporary or interim security for, receipt for,~~
11451 ~~guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

11452 ~~E.F.~~ The authority ~~as~~ provided in this section ~~as it relates~~ to invest and reinvest
11453 nongeneral fund reserves and balances of or held by the University is predicated upon an
11454 approved management agreement between the University and the Commonwealth ~~of Virginia~~.

11455 **Drafting note: Technical changes.**

11456 ~~§ 23-50.11. Tuition, fees and other charges.~~

11457 ~~The board may fix the rates charged the students of the University for tuition, fees and~~
11458 ~~other necessary charges, and may fix and collect fees and charges for services rendered by or~~
11459 ~~through any facilities maintained or conducted by the corporation.~~

11460 **Drafting note: The provisions of existing § 23-50.11 are stricken and incorporated**
11461 **instead into proposed § 23.1-1301.**

11462 ~~§ 23-50.12. Degrees.~~

11463 ~~The board of visitors shall have the right to confer all degrees heretofore conferred by~~
11464 ~~the Medical College of Virginia and the Richmond Professional Institute and such other degrees~~
11465 ~~including honorary degrees as it may deem proper.~~

11466 **Drafting note: The provisions of existing § 23-50.12 are stricken and incorporated**
11467 **instead into proposed subsection C of § 23.1-2305.**

11468 ~~§ 23-50.13. Conveyance of real property and interests therein.~~

11469 ~~The board of visitors of Virginia Commonwealth University, with the approval of the~~
11470 ~~Governor first obtained, is hereby authorized to sell and convey any and all real estate or~~
11471 ~~interests therein including easements for roads, streets, sewers, water lines, electric and other~~
11472 ~~utility lines or other purposes to which it has acquired title by gift, devise or purchase. The~~
11473 ~~proceeds derived from any such sale or sales shall be held by the University upon the identical~~
11474 ~~trusts, and subject to the same uses, limitations and conditions, if any, that are expressed in the~~
11475 ~~original instrument under which its title was derived, or if there be no such trusts, uses,~~
11476 ~~limitations or conditions expressed in such original instrument, then such funds shall be applied~~
11477 ~~by the board to such purposes as it may deem best for the University.~~

11478 **Drafting note: The provisions of existing § 23-50.13 are stricken and incorporated**
11479 **instead into proposed § 23.1-1301.**

11480 ~~§ 23-50.14~~ 23.1-2307. Process or notice.

11481 Process against or notice to the ~~corporation may~~ board shall be served only in the City of
11482 Richmond upon the rector, vice-rector, or secretary of the board; or ~~upon~~ the president of
11483 ~~Virginia Commonwealth~~ the University.

11484 **Drafting note: Technical changes.**

11485 ~~§ 23-50.15:1. [Expired.]~~

11486 **Drafting note: Expired pursuant to Acts 1989, c. 257, cl. 3, effective July 1, 1992.**

11487 ~~§ 23.1-2308. The Medical College of Virginia, Health Sciences Division of Virginia~~
11488 ~~Commonwealth University.~~

11489 ~~The colleges, schools, and divisions previously existing as The Medical College of~~
11490 ~~Virginia are designated The Medical College of Virginia, Health Sciences Division of Virginia~~
11491 ~~Commonwealth University.~~

11492 **Drafting note: Proposed § 23.1-2309 incorporates the provisions of the last sentence**
11493 **of existing § 23-50.7.**

11494 ~~§ 23-50.16~~ 23.1-2309. Operations of Medical Center.

11495 A. ~~In enacting this section, the General Assembly recognizes that the ability of Virginia~~
11496 ~~Commonwealth~~ The University ~~to~~ may provide medical and health sciences education and
11497 related research ~~is dependent upon the maintenance of high quality through~~ teaching hospitals
11498 and related health care and health maintenance facilities, collectively referred to in this section
11499 as the Medical Center, ~~and that the maintenance of a medical center serving such purposes~~
11500 ~~requires specialized management and operation that permit the Medical Center to remain~~
11501 ~~economically viable and to~~ The Medical Center may participate in cooperative arrangements
11502 reflective of changes in health care delivery.

11503 B. ~~Without limiting the powers provided in §§ 23-50.8 and 23-50.10, Virginia~~
11504 ~~Commonwealth~~ The University may create, own in whole or in part, or otherwise control
11505 corporations, partnerships, insurers, or other entities whose activities ~~will~~ promote the
11506 operations of the Medical Center and its mission, ~~may~~ may cooperate or enter into joint ventures
11507 with such entities ~~and government bodies and may~~ and enter into contracts in connection
11508 ~~therewith with such joint ventures~~. Without limiting the power of ~~Virginia Commonwealth the~~
11509 University to issue bonds, notes, guarantees, or other evidence of indebtedness ~~under pursuant~~
11510 to subsection C in connection with such activities, no such creation, ownership, or control shall

11511 create any responsibility of the University, the Commonwealth, or any ~~other~~ agency ~~thereof of~~
11512 the Commonwealth for the operations or obligations of any entity or in any way make the
11513 University, the Commonwealth, or any ~~other~~ agency ~~thereof of the Commonwealth~~ responsible
11514 for the payment of debt or other obligations of such entity. All such interests shall be reflected
11515 on the financial statements of the Medical Center.

11516 C. Notwithstanding the provisions of Chapter ~~3 11~~ (§ ~~23-14 23.1-1100~~ et seq.) ~~of this~~
11517 ~~title, Virginia Commonwealth the~~ University may issue bonds, notes, guarantees, or other
11518 evidence of indebtedness without the approval of any other governmental body subject to the
11519 following provisions:

11520 1. Such debt is used solely for the purpose of paying not more than ~~fifty~~ 50 percent of
11521 the cost of capital improvements in connection with the operation of the Medical Center or
11522 related issuance costs, reserve funds, and other financing expenses, including interest during
11523 construction or acquisition and for up to one year thereafter;.

11524 2. ~~The only~~ No revenues of the University are pledged to the payment of such debt ~~are~~
11525 except those revenues derived from the operation of the Medical Center and related health care
11526 and educational activities, and ~~there are pledged therefor~~ no general fund appropriation and
11527 special Medicaid disproportionate share payments for indigent and medically indigent patients
11528 who are not eligible for the Virginia Medicaid Program; are pledged to the payment of such
11529 debt.

11530 3. Such debt states that it does not constitute a debt of the Commonwealth or a pledge of
11531 the faith and credit of the Commonwealth;.

11532 4. Such debt is not sold to the public;.

11533 5. The total principal amount of such debt outstanding at any one time does not exceed
11534 ~~twenty-five~~ \$25 million ~~dollars~~;

11535 6. The Treasury Board ~~has approved~~ approves the terms and structure of such debt;.

11536 7. The purpose, terms, and structure of such debt are promptly communicated to the
11537 Governor and the Chairmen of the House Appropriations and Senate Finance Committees; and.

11538 8. All such indebtedness is reflected on the financial statements of the Medical Center.
11539 Subject to meeting the conditions set forth ~~above in subsection C~~, such debt may be in
11540 such form and have such terms as the board ~~of visitors~~ may provide and shall be in all respects
11541 debt of the University for the purposes of §§ ~~23-23 23.1-1110, 23-25 23.1-1115~~, and ~~23-26~~
11542 23.1-1116.

11543 **Drafting note: Statements of policy in subsection A are stricken per the Code**
11544 **Commission policy regarding such statements. Technical changes are made.**

11545 § ~~23-50.16:01 23.1-2310~~. Authority to create Virginia Commonwealth University
11546 School of Medicine-Northern Virginia Division; ~~authority to create~~.

11547 A. The board ~~of visitors of Virginia Commonwealth University is authorized to may~~
11548 establish the Virginia Commonwealth University School of Medicine-Northern Virginia
11549 Division, ~~hereinafter referred to as~~ (the Division). If established, the board shall operate the
11550 Division ~~shall be operated with in the~~ areas of program and service emphasis ~~as may be~~
11551 approved by that the ~~State~~ Council ~~of Higher Education for Virginia~~ approves pursuant to
11552 subdivision 7 of § ~~23-9.6:1 23.1-203~~.

11553 B. The board ~~of visitors shall have has~~ the same powers with respect to the operation of
11554 the Division as are vested in the board regarding ~~Virginia Commonwealth the~~ University
11555 pursuant to this chapter.

11556 **Drafting note: Technical changes.**

11557 § ~~23-50.15 23.1-2311~~. Virginia Center on Aging.

11558 ~~Chapter 170 of the Acts of 1978, relating to the Virginia Center on Aging at Virginia~~
11559 ~~Commonwealth University, is incorporated in this Code by this reference.~~

11560 A. The Virginia Center on Aging (the Center) shall be located at the University and shall
11561 be an interdisciplinary study, research, information, and resource facility for the
11562 Commonwealth. The Center shall utilize the full capability of the faculty, staff, libraries,
11563 laboratories, and clinics of the University for the benefit of older Virginians and the expansion
11564 of knowledge related to the aged and the aging process.

- 11565 B. The Center is subject to the supervision and control of the board.
- 11566 C. The board shall appoint an advisory committee for the Center.
- 11567 D. The board shall appoint an executive director for the Center who shall:
- 11568 1. Exercise all powers and perform all duties imposed upon him by law;
- 11569 2. Perform all duties imposed upon him by the board; and
- 11570 3. Employ such personnel and contract for such services as may be required to carry out
- 11571 the purposes of this section.
- 11572 E. The Center, under the direction of the executive director, shall:
- 11573 1. Develop and promote programs of continuing education and in-service training for
- 11574 persons who work with or provide services to the elderly;
- 11575 2. Develop educational and training programs for persons 60 years old or older to assist
- 11576 them in adjusting to the aging process, including retirement planning, health maintenance,
- 11577 employment opportunities, recreation, and self-development;
- 11578 3. Foster development of educational courses for students at institutions of higher
- 11579 education in disciplines other than gerontology to increase their understanding of the process of
- 11580 aging in humans;
- 11581 4. Conduct research in the field of gerontology and make the research findings available
- 11582 to interested public and private agencies;
- 11583 5. Collect and maintain data on a statewide and regional basis on the characteristics and
- 11584 conditions of persons over the age of 60 and make such data available to the Department for
- 11585 Aging and Rehabilitative Services and all other organizations and state agencies involved in
- 11586 planning and delivering services to persons over the age of 60;
- 11587 6. Coordinate the functions and services of the Center with the Department for Aging
- 11588 and Rehabilitative Services (i) in such a manner that the knowledge, education, and research
- 11589 programs in the Center constitute a readily available resource for the Department in planning
- 11590 and service delivery and (ii) to prevent any duplication of effort;

11591 7. Apply for and accept grants from the United States government, state government,
11592 state agencies, or any other source to carry out the purposes of this section. The Center is
11593 permitted to execute such agreements and comply with such conditions as may be necessary to
11594 apply for and accept such grants;

11595 8. Accept gifts, bequests, and any other thing of value to be used to carry out the
11596 purposes of this section;

11597 9. Receive, administer, and expend all funds and other assistance made available to the
11598 Center to carry out the purposes of this section; and

11599 10. Do all other things necessary or convenient to carrying out the purposes of this
11600 section.

11601 **Drafting note: Acts 1978, c. 170, previously incorporated in existing § 23-50.15 by**
11602 **reference, is instead set out in full in proposed § 23.1-2312. Technical changes are made.**

11603 ~~CHAPTER 6.3.~~

11604 ~~BRANCH CAMPUS IN QATAR.~~

11605 **Drafting note: Existing Chapter 6.3 is incorporated into proposed Chapter 23.**

11606 ~~§ 23-50.16:36~~ 23.1-2312. Establishment of a branch campus in the State of Qatar.

11607 A. In recognition that global educational opportunities benefit the intellectual and
11608 economic interests of the Commonwealth, the board ~~of visitors of the Virginia Commonwealth~~
11609 ~~University is authorized to~~ may establish, operate, and govern a branch campus of ~~Virginia~~
11610 ~~Commonwealth the~~ University in the State of Qatar. The board ~~of visitors shall have~~ has the
11611 same powers with respect to operation and governance of its branch campus in Qatar as are
11612 vested in the board by ~~the Code of Virginia law~~ with respect to ~~Virginia Commonwealth the~~
11613 ~~University in Virginia, including, but not limited to, the fixing of fees and charges, the~~
11614 ~~establishment of academic standards, and the conferral of degrees~~. In operating such branch
11615 campus, the board ~~of visitors~~ shall provide appropriate professional opportunities for Virginia-
11616 based faculty to teach or conduct research on the Qatar campus and educational opportunities
11617 for Virginia-based students to study or conduct research on the Qatar campus.

11618 B. Nothing contained in this section shall be deemed a waiver of the sovereign immunity
11619 of the Commonwealth or ~~of Virginia Commonwealth~~ the University.

11620 C. In its operation of any branch campus established in the State of Qatar, the board ~~of~~
11621 ~~visitors~~ and its employees shall not discriminate on the basis of race, color, religion, national
11622 origin, or sex, and shall not abridge the constitutional rights of freedom of speech and religion.
11623 Any agreement that the board ~~of visitors~~ enters to establish, operate, or govern the branch
11624 campus in Qatar shall contain contractual assurances to the board that the branch campus shall
11625 operate without discrimination on the basis of race, color, religion, national origin, or sex, and
11626 without abridging the constitutional rights of freedom of speech and religion.

11627 **Drafting note: Technical changes.**

11628 CHAPTER ~~6.2~~ 24.

11629 VIRGINIA COMMONWEALTH UNIVERSITY HEALTH SYSTEM AUTHORITY.

11630 **Drafting note: Existing Chapter 6.2 of Title 23 is logically reorganized as proposed**
11631 **Chapter 24 of Title 23.1. Technical changes are made throughout the proposed chapter.**

11632 ~~§ 23-50.16:1. Short title.~~

11633 ~~This chapter shall be known and may be cited as the "Virginia Commonwealth~~
11634 ~~University Health System Authority Act."~~

11635 **Drafting note: Existing § 23-50.16:1 is recommended for repeal because of the**
11636 **Code-wide application of § 1-244, which states that the caption of a subtitle, chapter, or**
11637 **article serves as a short title citation.**

11638 ~~§ 23-50.16:2. Findings and declaration of necessity.~~

11639 ~~The General Assembly finds that:~~

11640 ~~1. Provision of health care, including indigent care, is an essential governmental function~~
11641 ~~protecting and promoting the health and welfare of the citizens of the Commonwealth;~~

11642 ~~2. Education of medical and health sciences professionals and the performance of~~
11643 ~~medical and related research are essential to promote such health care;~~

11644 ~~3. Teaching hospitals and related facilities of high quality are essential both to provide~~
11645 ~~high levels of health care and to promote medical and health sciences education, because such~~
11646 ~~hospitals and related facilities (i) provide facilities necessary to train physicians and other health~~
11647 ~~sciences professionals, (ii) provide medical services not generally available at other hospitals,~~
11648 ~~and (iii) treat patients of the type and on the scale necessary to facilitate medical research and to~~
11649 ~~attract physicians, faculty members, researchers and other persons necessary to maintain quality~~
11650 ~~medical and health sciences education;~~

11651 ~~4. The missions of the Medical College of Virginia Hospitals are to (i) serve as a general~~
11652 ~~hospital and health care facility, (ii) facilitate and support the health education, research and~~
11653 ~~public service activities of the Health Sciences Schools of the Medical College of Virginia,~~
11654 ~~Health Sciences Division of Virginia Commonwealth University, (iii) provide high quality~~
11655 ~~patient care and other specialized health services not widely available in the Commonwealth,~~
11656 ~~including the provision of medical care to indigent patients, (iv) serve as the principal teaching~~
11657 ~~and training hospital for undergraduate and graduate students of the Schools of the Health~~
11658 ~~Sciences Division of Virginia Commonwealth University, and (v) provide a site for faculty~~
11659 ~~members of the Health Sciences Division of Virginia Commonwealth University to conduct~~
11660 ~~medical and biomedical research, all of which missions constitute essential governmental~~
11661 ~~functions for protecting and promoting the health and welfare of the citizens of the~~
11662 ~~Commonwealth;~~

11663 ~~5. Such hospital, health care and related facilities require specialized management and~~
11664 ~~operation to remain economically viable, to earn revenues necessary for their operation, and to~~
11665 ~~engage in arrangements with public and private entities and other activities, taking into account~~
11666 ~~changes that have occurred or may occur in the future in the provision of health care and related~~
11667 ~~services; and~~

11668 ~~6. The needs of the citizens of the Commonwealth and the needs of the Health Sciences~~
11669 ~~Division of Virginia Commonwealth University will best be served if the Medical College of~~
11670 ~~Virginia Hospitals are transferred to and operated by an independent public authority charged~~

11671 ~~with the missions of operating such Hospitals as teaching hospitals for the benefit of the Schools~~
11672 ~~of the Health Sciences Division of Virginia Commonwealth University, providing high quality~~
11673 ~~patient care, and providing a site for medical and biomedical research, all in close affiliation~~
11674 ~~with the Health Sciences Division of Virginia Commonwealth University so that the public~~
11675 ~~authority does not duplicate or compete with the undergraduate and graduate programs,~~
11676 ~~research, training and teaching facilities offered at or operated by the University.~~

11677 ~~The exercise of the powers permitted by this chapter shall be deemed the performance of~~
11678 ~~essential governmental functions and matters of public necessity for the entire Commonwealth~~
11679 ~~in the provision of health care, medical and health sciences education and research, for which~~
11680 ~~public moneys may be borrowed, loaned, spent or otherwise utilized and for which private~~
11681 ~~property may be utilized or acquired.~~

11682 **Drafting note: Subdivisions 1 through 6 of existing § 23-50.16:2, specifying the**
11683 **functions of the Medical College of Virginia Hospitals, are logically relocated to proposed**
11684 **§ 23.1-2401. The final paragraph of existing § 23-50.16:2 is logically relocated as**
11685 **subsection B of proposed § 23.1-2404.**

11686 § ~~23-50.16:4~~ 23.1-2400. Definitions.

11687 As used in this chapter, ~~the following terms have the following meanings~~, unless the
11688 context requires ~~otherwise~~ a different meaning:

11689 "Authority" means the Virginia Commonwealth University Health System Authority.

11690 "Board" means the ~~Board of Directors~~ board of directors of the Authority.

11691 "Bonds" means bonds, notes, revenue certificates, lease participation certificates, or
11692 other evidences of indebtedness or deferred purchase financing arrangements.

11693 "Chief executive officer" means the chief executive officer of the Virginia
11694 Commonwealth University Health System Authority.

11695 "Costs" means (i) costs of (a) construction, reconstruction, renovation, site work, and
11696 acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights
11697 and interests; ~~costs of (b)~~ demolition, removal, or relocation of buildings or structures; ~~costs of~~

11698 (c) labor, materials, machinery, and all other kinds of equipment; ~~financing charges; costs of~~ (d)
11699 engineering and inspections; ~~costs of~~ (e) financial, legal, and accounting services; ~~costs of~~ (f)
11700 plans, specifications, studies, and surveys; (g) estimates of costs and of revenues; (h) feasibility
11701 studies ~~and administrative expenses, including administrative expenses during the start-up of~~
11702 ~~any project; costs of~~ and (i) issuance of bonds, including printing, engraving, advertising, legal,
11703 and other similar expenses; (ii) financing charges; (iii) administrative expenses, including
11704 administrative expenses during the start-up of any project; (iv) credit enhancement and liquidity
11705 facility fees; (v) fees for interest rate caps, collars, swaps, or other financial derivative products;
11706 (vi) interest on bonds in connection with a project prior to and during construction or acquisition
11707 thereof and for a period not exceeding one year thereafter; (vii) provisions for working capital to
11708 be used in connection with any project; (viii) redemption premiums, obligations purchased to
11709 provide for the payment of bonds being refunded, and other costs necessary or incident to
11710 refunding of bonds; (ix) operating and maintenance reserve funds, debt reserve funds, and other
11711 reserves for the payment of principal and interest on bonds; ~~and~~ (x) all other expenses
11712 necessary, desirable, or incidental to the operation of the Authority's facilities or the
11713 construction, reconstruction, renovation, acquisition, or financing of projects ~~or~~, other facilities,
11714 or equipment appropriate for carrying out the purposes of this chapter and the placing of the
11715 same in operation; or (xi) the refunding of bonds.

11716 ~~"Chief executive officer" means the chief executive officer of the Virginia~~
11717 ~~Commonwealth University Health System Authority.~~

11718 "Hospital facilities" means all property or rights in property, real and personal, tangible
11719 and intangible, including all facilities suitable for providing hospital and health care services
11720 and ~~including any and~~ all structures, buildings, improvements, additions, extensions,
11721 replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches,
11722 roadways, and other related and supporting facilities, ~~now or hereafter~~ owned, leased, operated,
11723 or used, in whole or in part, by Virginia Commonwealth University as part of, or in connection

11724 with, ~~the Medical College of Virginia MCV~~ Hospitals in the normal course of its operations as a
11725 teaching, research, and medical treatment facility.

11726 "Hospital obligations" means all debts or other obligations, contingent or certain, owing
11727 to any person or other entity on the transfer date, arising out of the operation of ~~the Medical~~
11728 ~~College of Virginia MCV~~ Hospitals as a medical treatment facility or ~~arising out of~~ the
11729 financing or refinancing of hospital facilities, and including all bonds and other debts for the
11730 purchase of goods and services, whether or not delivered, and obligations for the delivery of
11731 services, whether or not performed.

11732 "Project" means any health care, research, or educational facility or equipment necessary
11733 or convenient to or consistent with the purposes of the Authority, whether ~~or not~~ owned by the
11734 Authority, including, ~~without limitation,~~ hospitals; nursing homes; continuing care facilities;
11735 self-care facilities; wellness and health maintenance centers; medical office facilities; clinics;
11736 ~~out-patient~~ outpatient clinics; surgical centers; alcohol, substance abuse, and drug treatment
11737 centers; laboratories; sanitariums; hospices; facilities for the residence or care of the elderly, the
11738 handicapped, or the chronically ill; residential facilities for nurses, interns, and physicians; other
11739 kinds of facilities for the treatment of sick, disturbed, or infirm ~~persons or individuals,~~ the
11740 prevention of disease, or maintenance of health; colleges, schools, or divisions offering
11741 undergraduate or graduate programs for the health professions and sciences and such other
11742 branches of learning as may be appropriate, together with research, training, and teaching
11743 facilities; all necessary or desirable related and supporting facilities and equipment ~~necessary or~~
11744 ~~desirable in connection therewith or incidental thereto;~~ or equipment alone, including, ~~without~~
11745 ~~limitation,~~ (i) parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative,
11746 communications, computer, and recreational facilities; (ii) power plants and equipment; (iii)
11747 storage space; (iv) mobile medical facilities; (v) vehicles; (vi) air transport equipment; and (vii)
11748 other equipment necessary or desirable for the transportation of medical equipment, medical
11749 personnel, or patients; and all lands, buildings, improvements, approaches, and appurtenances
11750 necessary or desirable in connection with or incidental to any project.

11751 "Transfer date" means a date or dates agreed to by the ~~Board of Visitors~~ board of visitors
11752 of Virginia Commonwealth University and the Authority for the transfer of employees to the
11753 Authority and for the transfer of hospital facilities, or any parts thereof, to and the assumption,
11754 directly or indirectly, of hospital obligations by the Authority, which dates for the various
11755 transfers and the various assumptions may be different, but in no event shall any date be later
11756 than June 30, 1997.

11757 "University" means Virginia Commonwealth University.

11758 **Drafting note: Technical changes are made, including moving "chief executive**
11759 **officer" into alphabetical order and removing "without limitation" twice in the definition**
11760 **of "project" when used in conjunction with "including" on the basis of the Code-wide**
11761 **application of § 1-218, which states, "'Includes' means includes, but not limited to."**

11762 § ~~23-50.16:3~~ 23.1-2401. Authority ~~created~~ established; powers, purposes, and duties.

11763 A. ~~There~~ The Virginia Commonwealth University Health System Authority is ~~hereby~~
11764 ~~created~~ established as a public body corporate, public instrumentality, and ~~as a~~ political
11765 subdivision of the Commonwealth, ~~the Virginia Commonwealth University Health System~~
11766 ~~Authority, referred to in this chapter as the Authority~~, with such public and corporate powers as
11767 are set forth in this chapter.

11768 B. The purpose of the Authority is ~~hereby constituted a public instrumentality,~~
11769 exercising to exercise public and essential governmental functions ~~with the power and purpose~~
11770 to provide for the health, welfare, convenience, knowledge, benefit, and prosperity of the
11771 residents of the Commonwealth and such other ~~persons~~ individuals who might be served by the
11772 Authority by delivering and supporting the delivery of medical care and related services to such
11773 residents and ~~persons~~ individuals, ~~by~~ providing educational opportunities in the medical field
11774 and related disciplines, ~~by~~ conducting and facilitating research in the medical field and related
11775 disciplines, and ~~by~~ enhancing the delivery of health care and related services to the
11776 Commonwealth's indigent population. The Authority may perform such public and essential
11777 government functions with the power and purpose to:

- 11778 1. Provide health care, including indigent care, to protect and promote the health and
11779 welfare of the citizens of the Commonwealth;
- 11780 2. Serve as a high quality teaching hospital to provide and promote health care by
11781 educating medical and health sciences professionals, providing medical services not widely
11782 available in the Commonwealth, and treating patients of the type and on the scale necessary to
11783 facilitate medical research and attract physicians, faculty members, researchers, and other
11784 individuals necessary to maintain quality medical and health sciences education;
- 11785 3. Facilitate and support the health education, research, and public service activities of
11786 the Health Sciences Schools of the University;
- 11787 4. Serve as the principal teaching and training hospital for undergraduate and graduate
11788 students of the Health Sciences Schools of the University;
- 11789 5. Provide a site for faculty members of the Health Sciences Schools of the University to
11790 conduct medical and biomedical research; and
- 11791 6. Operate and manage general hospital and other health care facilities, engaging in
11792 specialized management and operational practices to remain economically viable, earning
11793 revenues necessary for operations, and participating in arrangements with public and private
11794 entities and other activities, taking into account changes that have occurred or may occur in the
11795 future in the provision of health care and related services.
- 11796 ~~B-C. The Authority is authorized to provide, promote, support and sponsor education,~~
11797 ~~public knowledge and scientific research in medicine, public health and related fields; to~~
11798 ~~administer programs to assist in the delivery of medical and related services to the citizens of~~
11799 ~~the Commonwealth and others; and to participate in and administer federal, state and local~~
11800 ~~programs affecting, supporting or carrying out any of its purposes. The Authority is further~~
11801 ~~authorized to exercise independently the powers conferred by this chapter in furtherance of its~~
11802 ~~corporate and public purposes, and the Authority is directed to undertake the operation of~~ shall
11803 operate, maintain, and expand, as appropriate, teaching hospitals and related facilities ~~and to~~

11804 ~~maintain and, as appropriate, to expand the same, all~~ for the benefit of the Commonwealth, ~~and~~
11805 its citizens and such other ~~persons~~ individuals who might be served by the Authority.

11806 **Drafting note: Portions of subsection B are relocated to proposed § 23.1-2404.**
11807 **Subdivisions 1 through 6 of existing § 23-50.16:2 are incorporated into proposed**
11808 **subdivisions B 1 through 6 of this section. Technical changes are made.**

11809 § ~~23-50.16:5~~ 23.1-2402. Board of ~~Directors~~ directors; ~~appointment~~ membership;
11810 meetings; officers; employees.

11811 A. The Authority shall be governed by a ~~Board of Directors consisting~~ board of directors
11812 with a total of 21 members ~~as follows: that consists of 19 appointed members and two ex officio~~
11813 members. The 19 appointed members shall consist of six nonlegislative citizen members to be
11814 appointed by the Governor, including of whom two shall be physician-faculty members, ~~to be~~
11815 ~~appointed by the Governor~~; five members to be appointed by the Speaker of the House of
11816 Delegates, including of whom two shall be physician-faculty members, ~~to be appointed by the~~
11817 ~~Speaker of the House of Delegates~~; three members to be appointed by the Senate Committee on
11818 Rules, including of whom one shall be a physician-faculty member, ~~to be appointed by the~~
11819 ~~Senate Committee on Rules~~; and five nonlegislative citizen members of the ~~Board of Visitors~~
11820 board of visitors of ~~Virginia Commonwealth~~ the University; to be appointed by the ~~Rector~~ rector
11821 of the board of visitors of the University, all of whom shall ~~also~~ be members of the ~~Board of~~
11822 ~~Visitors~~ board of visitors of the University at all times while serving on the ~~Board~~; the board.
11823 The President of the University and the Vice-President for Health Sciences of the University, or
11824 the ~~person~~ individual who holds such other title as subsequently may be established by the
11825 ~~Board of Visitors~~ board of visitors of the University for the chief academic and administrative
11826 officer for the Health Sciences ~~Campus Schools~~ of the University, ~~both of whom~~ shall serve ~~as~~
11827 ex officio with voting ~~members during their respective terms of office~~ privileges.

11828 All appointed members except those who are members of the board of visitors of the
11829 University shall have demonstrated experience or expertise in business, health care
11830 management, or legal affairs.

11831 B. The five appointed physician-faculty members shall be faculty members of ~~Virginia~~
11832 ~~Commonwealth the~~ University with hospital privileges at ~~Medical College of Virginia MCV~~
11833 Hospitals at all times while serving on the ~~Board~~ board.

11834 ~~After the initial staggering of terms, all appointments shall be for terms of three years~~
11835 ~~each, except appointments to fill unexpired vacancies which shall be made for the remainder of~~
11836 ~~the unexpired terms.~~

11837 C. The Governor, the Speaker of the House of Delegates, and the Senate Committee on
11838 Rules shall appoint ~~faculty physicians~~ physician-faculty members after consideration of ~~the~~
11839 names from lists submitted by the faculty physicians of the School of Medicine of ~~Virginia~~
11840 ~~Commonwealth the~~ University through the Vice-President for Health Sciences of the
11841 University. The list shall contain ~~not less than~~ at least two names for each ~~expired or unexpired~~
11842 vacancy ~~that occurs~~.

11843 ~~No person shall be eligible to serve more than two consecutive full three year terms as~~
11844 ~~an appointed member, but after the expiration of a term of two years or less, or after the~~
11845 ~~expiration of the remainder of a term to which appointed to fill a vacancy, or after one year~~
11846 ~~following the expiration of a second full three year term, two additional three year terms may be~~
11847 ~~served by a member if so appointed. The terms of members serving by virtue of their office~~
11848 ~~shall expire upon termination of their holding such office. All members shall continue to hold~~
11849 ~~office until their successors have been appointed and have qualified.~~

11850 ~~All appointed members, other than those who are members of the Board of Visitors,~~
11851 ~~shall have demonstrated experience or expertise in business, health care management or legal~~
11852 ~~affairs. Immediately after their appointments, members shall enter upon the performance of their~~
11853 ~~duties.~~

11854 D. Members shall serve for terms of three years. Vacancies occurring other than by
11855 expiration of a term shall be filled for the unexpired term. No member shall serve for more than
11856 two consecutive three-year terms; however, a member appointed to serve an unexpired term is
11857 eligible to serve two consecutive three-year terms. Members who serve two consecutive three-

11858 year terms are eligible for reappointment one year after the expiration of their second term. All
11859 appointments are subject to confirmation by the General Assembly. Members shall continue to
11860 hold office until their successors have been appointed and confirmed. Ex officio members shall
11861 serve a term coincident with their term of office.

11862 ~~The Board~~ E. Neither the board members appointed from the ~~Board of Visitors and~~
11863 board of visitors of the University nor the ex officio members shall ~~not~~ vote on matters that ~~shall~~
11864 require them to breach their fiduciary duties to the University or to the Authority.

11865 ~~B. All appointments, including the initial appointments to the Board and appointments to~~
11866 ~~fill vacancies, are subject to confirmation by the affirmative vote of a majority of those voting in~~
11867 ~~each house of the General Assembly if in session when such appointments are made and, if not~~
11868 ~~in session, at its first regular session subsequent to such appointment. Any member whose~~
11869 ~~nomination is subject to confirmation during a regular session of the General Assembly shall be~~
11870 ~~deemed terminated when the General Assembly rejects the nomination or when it adjourns~~
11871 ~~without confirming the nomination, whichever is earlier. No such termination shall affect the~~
11872 ~~validity of any action taken by such member prior to such termination.~~

11873 ~~C. A Board~~ F. Any member may be removed for malfeasance, misfeasance,
11874 incompetence, or gross neglect of duty by the individual or entity that appointed him or, if such
11875 appointing individual no longer holds the office creating the right of appointment, by the current
11876 holder of that office.

11877 ~~D. G.~~ The President of the University shall serve as the chairman of the ~~Board of~~
11878 Directors board. The ~~Board of Directors of the Authority board~~ shall elect annually a vice-
11879 chairman from among its membership. The ~~Board board~~ shall also elect a secretary and treasurer
11880 and such assistant secretaries and assistant treasurers as the ~~Board board~~ may authorize for
11881 terms determined by the ~~Board board~~, each of whom may or may not be a member of the ~~Board~~
11882 board. The same ~~person individual~~ may serve as both secretary and treasurer.

11883 H. The ~~Board board~~ may ~~also~~ appoint an executive committee and other standing or
11884 special committees and prescribe their duties and powers, and any executive committee may

11885 | exercise all such powers and duties of the ~~Board~~ board under this chapter as the ~~Board~~ board
11886 | may delegate.

11887 | ~~E.-I.~~ The ~~Board~~ board may provide for the appointment, employment, term,
11888 | compensation, and removal of ~~a director,~~ officers, employees, and agents of the Authority,
11889 | including engineers, consultants, lawyers, and accountants, as the ~~Board~~ board deems
11890 | appropriate.

11891 | ~~F.-J.~~ The ~~Board~~ board shall meet at least four times each year and may hold such special
11892 | meetings as it deems appropriate.

11893 | ~~K.~~ The ~~Board~~ board may adopt, amend, and repeal such ~~rules~~ policies, regulations,
11894 | procedures, and bylaws, not contrary to law or inconsistent with this chapter, as it deems
11895 | expedient for its own governance and for the governance and management of the Authority.

11896 | ~~L.~~ A majority of the ~~Board~~ board shall constitute a quorum for meetings, and the ~~Board~~
11897 | board may act by a majority of those present at any meeting.

11898 | ~~G.-M.~~ Legislative board members ~~shall be~~ are entitled to such compensation as provided
11899 | § 30-19.12 and nonlegislative citizen board members ~~shall be~~ are entitled to such compensation
11900 | for the performance of their duties as provided in § 2.2-2813 ~~for their services~~. All members
11901 | ~~shall be~~ are entitled to reimbursement for all reasonable and necessary expenses incurred in the
11902 | performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of
11903 | compensation and expenses of the members shall be provided by the Authority.

11904 | ~~H.-N.~~ The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-
11905 | 3100 et seq.) shall apply to the members of the ~~Board~~ board and the employees of the Authority.

11906 | **Drafting note: Technical changes are made, including referring to "policies"**
11907 | **instead of "rules" per board practice.**

11908 | § ~~23-50.16:7~~ 23.1-2403. ~~Appointment, salary and powers of the~~ Chief ~~Executive Officer~~
11909 | executive officer of the Authority.

11910 | A. The Authority shall be under the immediate supervision and direction of a ~~Chief~~
11911 | ~~Executive Officer~~ chief executive officer, subject to the policies and direction established by the

11912 ~~Board board~~. The ~~Chief Executive Officer~~ chief executive officer shall be the ~~person~~ individual
11913 who holds the title of Vice-President for Health Sciences of Virginia Commonwealth
11914 University, or such other title as subsequently may be established by the ~~Board of Visitors~~ board
11915 of visitors of the University for the chief academic and administrative officer for the Health
11916 Sciences ~~Campus Schools~~ of the University, ~~subject to the following: notwithstanding.~~
11917 Notwithstanding any other provision of law to the contrary, the selection and removal of the
11918 ~~Chief Executive Officer~~ chief executive officer, as well as the conditions of appointment,
11919 including salary, shall be made jointly by the ~~Board board~~ and the ~~Board of Visitors~~ board of
11920 visitors of the University at a joint meeting of the ~~Board board~~ and the ~~Board of Visitors~~ board
11921 of visitors of the University upon a vote of a majority of the members of each board, present and
11922 voting at the aforementioned joint meeting, acting separately in accordance with applicable
11923 provisions of law.

11924 B. In the event that a majority of the members of each board do not agree upon the
11925 selection, removal, or conditions of appointment, including salary, of the ~~Chief Executive~~
11926 ~~Officer~~ chief executive officer as provided in subsection A, then each board shall appoint a
11927 committee of three members of its respective board to consider the matter ~~or matters~~ upon
11928 which the boards disagree. The selection, removal, or conditions of appointment shall be made
11929 jointly by the two committees at a joint meeting of the committees upon a vote by a majority of
11930 the members of each committee present and voting at the joint meeting. In the event that a
11931 majority of the members of each committee agree upon the selection, removal, or conditions of
11932 appointment of the ~~Chief Executive Officer~~ chief executive officer, then the decision shall be
11933 reported to the ~~Board board~~ and the ~~Board of Visitors~~ board of visitors of the University, each of
11934 which shall be bound by the decision of the committees. In the event that a majority of the
11935 members of each committee do not agree on the selection, removal, or conditions of
11936 appointment of the ~~Chief Executive Officer~~ chief executive officer within 30 days of the
11937 appointment of the committees by each board, then the ~~President~~ president of the University
11938 shall decide upon the matter ~~or matters~~ upon which the committees disagree. The ~~President~~

11939 [president](#) of the University shall report his decision to both boards, each of which shall be bound
 11940 by the decision of the ~~President~~ [president](#).

11941 C. The ~~Chief Executive Officer~~ [chief executive officer](#) shall devote his full time to the
 11942 performance of his official duties and shall not be engaged in any other profession or
 11943 occupation.

11944 D. The ~~Chief Executive Officer~~ [chief executive officer](#) shall supervise and administer the
 11945 operation of the Authority in accordance with the provisions of this chapter.

11946 **Drafting note: Technical changes.**

11947 § ~~23-50.16:6~~ [23.1-2404](#). Powers ~~generally of the Authority~~.

11948 A. The Authority ~~shall have~~ [has](#) all the powers necessary or convenient to carry out the
 11949 purposes and provisions of this chapter, including, ~~without limitation~~, the following powers:

11950 1. ~~To sue~~ [Sue](#) and be sued in its own name.;

11951 2. ~~To have~~ [Have](#) and alter an official seal.;

11952 3. ~~To have~~ [Have](#) perpetual duration and succession in its name.;

11953 4. ~~To locate~~ [Locate](#) and maintain offices at such places as it may designate.;

11954 5. ~~To make~~ [Make](#) and execute contracts, guarantees, or any other instruments and
 11955 agreements necessary or convenient for the exercise of its powers and functions, including,
 11956 ~~without limitation, to make and execute~~ contracts with hospitals or ~~health care~~ [health care](#)
 11957 businesses to operate and manage any or all of the hospital facilities or operations, and ~~to~~ incur
 11958 liabilities and secure the obligations of any entity or individual.;

11959 6. ~~To conduct~~ [Conduct](#) or engage in any lawful business, activity, effort, or project
 11960 consistent with the Authority's purposes or necessary or convenient to exercise its powers.;

11961 7. ~~To exercise~~ [Exercise](#), in addition to its other powers, all powers that are (i) granted to
 11962 corporations by the provisions of Title 13.1 or similar provisions of any successor law, except in
 11963 those cases ~~where, by the express terms of the provisions thereof, in which~~ the power is
 11964 confined to corporations created under such title, and ~~that are~~ (ii) not inconsistent with the
 11965 purposes and intent of this chapter or the limitations included in this chapter.;

11966 8. ~~To accept~~ Accept, hold, and enjoy any gift, devise, or bequest to the Authority or its
11967 predecessors, ~~the same~~ to be held for the uses and purposes designated by the donor, if any, or if
11968 not so designated, for the general purposes of the Authority, whether given directly or
11969 indirectly; and ~~to~~ accept, execute, and administer any trust or endowment fund in which it has
11970 or may have an interest under the terms of the instrument creating the trust or endowment fund;

11971 9. ~~To borrow~~ Borrow money and issue bonds as provided in this chapter and ~~to~~ purchase
11972 such bonds;

11973 10. ~~To seek~~ Seek financing from, incur or assume indebtedness to, and enter into
11974 contractual commitments with, the Virginia Public Building Authority and the Virginia College
11975 Building Authority, which authorities are authorized to borrow money and make and issue
11976 negotiable notes, bonds, and other evidences of indebtedness to provide such financing relating
11977 to the hospital facilities or any project;

11978 11. ~~To seek~~ Seek financing from, incur or assume indebtedness to, and enter into
11979 contractual commitments with the Commonwealth ~~of Virginia~~ as otherwise provided by law
11980 relating to the hospital facilities or any project;

11981 12. ~~To procure~~ Procure such insurance, participate in such insurance plans ~~and/or, or~~
11982 provide such self-insurance as it deems necessary or convenient to carry out the purposes and
11983 provisions of this chapter. The purchase of insurance, participation in an insurance plan, or
11984 creation of a self-insurance plan by the Authority ~~shall is~~ not ~~be deemed~~ a waiver or
11985 relinquishment of any sovereign immunity to which the Authority or its officers, directors,
11986 employees, or agents are otherwise entitled;

11987 13. ~~To develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of~~
11988 ~~Chapter 43 of Title 2.2.~~

11989 14. ~~To develop~~ Develop policies and procedures generally applicable to the procurement
11990 of goods, services, and construction, based upon competitive principles;

11991 ~~§ 23-50.16:11. Acquisition and disposition of property; acceptance of grants and loans.~~

11992 ~~A. 14.~~ Except as to those hospital facilities or any ~~parts thereof~~ part of such facilities that
11993 are leased to the Authority by the University, the control and disposition of which shall be
11994 determined by such lease instruments, ~~the Authority may~~:

11995 ~~1. a.~~ Own, hold, improve, use, and otherwise deal with real or personal property, tangible
11996 or intangible, or any right, easement, estate, or interest ~~therein in such property~~, acquired by
11997 purchase, exchange, gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of
11998 law, or other means on such terms and conditions and in such manner as it may deem proper;

11999 ~~2. b.~~ Sell, assign, lease, encumber, mortgage, or otherwise dispose of any project ~~or~~ any
12000 other real or personal property, tangible or intangible, ~~or~~ any right, easement, estate, or interest
12001 ~~therein in such property~~, or any deed of trust or mortgage lien interest ~~owned by that~~ it owns,
12002 that is under its control or custody or in its possession. ~~The Authority may release~~

12003 ~~c. Release~~ or relinquish any right, title, claim, lien, interest, easement, or demand
12004 however acquired, including any equity or right of redemption in property foreclosed by it; and

12005 ~~3. Do d. Take~~ any ~~of the foregoing action pursuant to subdivision 14~~ by public or private
12006 sale; ~~or~~ with or without public bidding, notwithstanding the provisions of any other law;

12007 ~~B. The Authority may accept 15. Accept~~ loans, grants, contributions, or other assistance
12008 from the federal government, the Commonwealth ~~or~~ any political subdivision ~~thereof of the~~
12009 Commonwealth, or ~~from~~ any other public or private source to carry out any of the purposes of
12010 this chapter. ~~The Authority may and~~ enter into any agreement or contract regarding ~~or relating~~
12011 ~~to~~ the acceptance, use, or repayment of any such loan, grant, contribution, or assistance ~~and may~~
12012 ~~enter into such other agreements with any such entity~~ in furtherance of the purposes of this
12013 chapter;

12014 ~~Counties, cities and towns are hereby authorized to lend or donate money or other~~
12015 ~~property to the Authority for any of its purposes. The local government making the grant or loan~~
12016 ~~may restrict the use of such grants or loans to a specific project, within or without that locality.~~

12017 ~~§ 23-50.16:12. Eminent domain.~~

12018 ~~The Authority may exercise~~ 16. Exercise the power of eminent domain pursuant to the
12019 provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 to acquire by condemnation any real
12020 property, including fixtures and improvements, ~~which that~~ it may deem necessary to carry out
12021 the purposes of this chapter, upon (i) its adoption of a resolution declaring that the acquisition of
12022 such property is in the public interest and necessary for public use and ~~upon~~ (ii) the approval of
12023 the Governor. The Authority may acquire property already devoted to a public use, provided
12024 that no property belonging to any ~~city, town or county, government or to any~~ locality, religious
12025 corporation, unincorporated church, or charitable corporation may be acquired without its
12026 consent.;

12027 ~~§ 23-50.16:13. Fees, rentals and other charges.~~

12028 ~~The Authority may fix~~ 17. Fix, revise ~~from time to time~~, charge, and collect rates,
12029 rentals, fees, and other charges for the services or facilities furnished by or on behalf of the
12030 Authority; and establish policies, procedures, and regulations regarding any such service
12031 rendered or the use, occupancy or operation of any such facility. Such charges and policies,
12032 procedures, and regulations ~~shall are~~ not ~~be~~ subject to supervision or regulation by any
12033 commission, board, bureau, or agency of the Commonwealth except as otherwise provided by
12034 law for the providers of health care.;

12035 ~~§ 23-50.16:14. Creation of entities; participation in joint ventures; provision of~~
12036 ~~assistance by Authority; moneys; investments.~~

12037 ~~A. 18.~~ Consistent with § ~~23-50.16:15~~ 23.1-2407, ~~the Authority may~~ create, ~~or~~ assist in
12038 the creation of; ~~may~~, own in whole or in part ~~or otherwise~~, control; ~~may~~, participate in or with
12039 any ~~entities~~, public or private; ~~and may~~ entity, purchase, receive, subscribe for, own, hold, vote,
12040 use, employ, sell, mortgage, lend, pledge, or otherwise acquire or dispose of any (i) shares or
12041 obligations of, or other interests in, any entities organized for any purpose within or ~~without~~
12042 outside the Commonwealth; and (ii) obligations of any person or corporation.;

12043 ~~B. The Authority may participate~~ 19. Participate in joint ventures with individuals,
12044 corporations, governmental bodies or agencies, partnerships, associations, insurers, or other

12045 entities to facilitate any activities or programs consistent with the public purposes and intent of
12046 this chapter.;

12047 ~~C. The Authority may create~~ 20. Create a nonprofit entity ~~or entities~~ for the purpose of
12048 soliciting, accepting, and administering grants, outright gifts and bequests, endowment gifts and
12049 bequests, and gifts and bequests in trust, ~~which entity or entities shall not engage in trust~~
12050 ~~business; however, the Authority.~~ Such entity shall not ~~be empowered to create a nonprofit~~
12051 ~~entity or entities that would in any way engage in trust business or~~ duplicate such activities by
12052 the University or its related foundations.

12053 ~~D. In carrying out any activities authorized by this chapter, the Authority may provide~~
12054 21. Provide appropriate assistance, including making loans and providing time of employees, to
12055 corporations, partnerships, associations, joint ventures, or other entities, whether ~~or not~~ such
12056 ~~corporations, partnerships, associations, joint ventures or other~~ entities are owned or controlled
12057 in whole or in part, or directly or indirectly, by the Authority.

12058 ~~E. Effective July 1, 1997, all moneys of the Authority, from whatever source derived,~~
12059 ~~shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first~~
12060 ~~instance by the treasurer in one or more banks or trust companies, in one or more special~~
12061 ~~accounts. All banks and trust companies are authorized to give security for such deposits, if~~
12062 ~~required by the Authority. The moneys in such accounts shall be paid out on the warrant or~~
12063 ~~other orders of the treasurer of the Authority or such other person or persons as the Authority~~
12064 ~~may authorize to execute such warrants or orders.~~

12065 ~~F. Notwithstanding any provision of law to the contrary, the Authority may, effective~~
12066 ~~July 1, 1997, invest its operating funds in any obligations or securities that are considered legal~~
12067 ~~investments for public funds in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2.~~
12068 ~~The Board shall adopt written investment guidelines and shall retain an independent investment~~
12069 ~~advisory firm or consultant to review, a minimum of every five years, the suitability of the~~
12070 ~~Authority's investments and their consistency with the investment guidelines.~~

12071 [22. Provide, promote, support and sponsor education, public knowledge, and scientific](#)
12072 [research in medicine, public health, and related fields.](#)

12073 [23. Administer programs to assist in the delivery of medical and related services to the](#)
12074 [citizens of the Commonwealth and others;](#)

12075 [24. Participate in and administer federal, state, and local programs affecting, supporting,](#)
12076 [or carrying out any of its purposes; and](#)

12077 [25. Exercise independently the powers conferred by this chapter in furtherance of its](#)
12078 [corporate and public purposes.](#)

12079 [B. The exercise of the powers permitted by this chapter shall be deemed the performance](#)
12080 [of essential governmental functions and matters of public necessity for the entire](#)
12081 [Commonwealth in the provision of health care, medical and health sciences education, and](#)
12082 [research for which public moneys may be borrowed, loaned, spent, or otherwise utilized and](#)
12083 [private property may be utilized or acquired.](#)

12084 **Drafting note: Subdivisions A 14 and 15 are derived from subsections A and B of**
12085 **existing § 23-50.16:11 (the second paragraph of subsection B of existing § 23-50.16:11 is**
12086 **relocated to proposed § 23.1-2409), subdivision A 16 is derived from existing § 23-50.16:12,**
12087 **subdivision A 17 is derived from existing § 23-50.16:13, subdivisions A 18 through 21 are**
12088 **derived from subsections A through D of existing § 23-50.16:14 (subsections E and F are**
12089 **relocated to proposed § 23.1-2408), subdivisions A 22 through 25 are derived from**
12090 **subsection B of existing § 23-50.16:3, and subsection B is derived from the second**
12091 **paragraph of existing § 23-50.16:2. Subdivision 13 of existing § 23-50.16:6 is removed as**
12092 **inconsistent with the exemption from the Virginia Public Procurement Act contained in**
12093 **existing § 23-50.16:34. Technical changes are made, including (i) removing "without**
12094 **limitation" when used in conjunction with "including" in subdivision A 5 on the basis of**
12095 **the Code-wide application of § 1-218, which states, "'Includes' means includes, but not**
12096 **limited to" and (ii) striking the superfluous term "from time to time" in proposed**
12097 **subdivision A 17 per Code Commission policy**

12098 § ~~23-50.16:9~~ 23.1-2405. ~~Operation~~ Additional powers of the Authority; operation of
12099 projects.

12100 A. The Authority may acquire, plan, design, construct, own, rent as landlord or tenant,
12101 operate, control, remove, renovate, enlarge, equip, and maintain, directly or through stock or
12102 nonstock corporations or other entities, any project as defined in this chapter. Such projects may
12103 be owned or operated by the Authority or other parties, or jointly by the Authority and other
12104 parties, and may be operated within or ~~without~~ outside the Commonwealth, so long as (i) their
12105 operations are necessary or desirable to assist the Authority in carrying out its public purposes
12106 within the Commonwealth, and ~~so long as~~ (ii) any private benefit resulting to any such other
12107 private parties from any such project is merely incidental to the public benefit of ~~such~~ the
12108 project.

12109 B. In the operation of hospitals and other ~~health care~~ health care and related facilities,
12110 the Authority may make and enforce all ~~rules~~ policies, procedures, and regulations necessary or
12111 desirable for such operation, including those relating to the conditions under which the privilege
12112 of practicing may be available ~~therein in such facilities~~, the admission and treatment of patients,
12113 the procedures for determining the qualification of patients for indigent care or other programs,
12114 and the protection of patients and employees, provided that such ~~rules~~ policies, procedures, and
12115 regulations ~~shall do~~ not discriminate on the basis of race, religion, color, sex, or national origin.

12116 **Drafting note: Technical changes are made, including referring to "policies"**
12117 **instead of "rules" per board practice.**

12118 § ~~23-50.16:10~~ 23.1-2406. ~~Police power~~ Additional powers of the Authority; police.

12119 A. The Authority ~~is empowered to~~ may adopt and enforce reasonable ~~rules~~ policies,
12120 procedures, and regulations governing (i) access to, conduct in or on, and use of its property and
12121 facilities and the surrounding streets, sidewalks, and other public areas, and ~~governing~~ (ii) other
12122 matters affecting the safety and security of Authority property and ~~of those~~ individuals using or
12123 occupying Authority property. Such ~~rules~~ policies, procedures, and regulations ~~shall~~ have the
12124 force and effect of law ~~(i)~~ (a) after publication one time in full in a newspaper of general

12125 circulation in the ~~city or county~~ locality where the affected property is located and ~~(ii) (b)~~ when
 12126 posted where the ~~public~~ individuals using such property may conveniently see them.

12127 B. The campus police department of ~~Virginia Commonwealth the~~ University, established
 12128 in accordance with the provisions of ~~Chapter 17 Article 3~~ (~~§ 23-232 23.1-809~~ et seq.) of ~~this title~~
 12129 Chapter 8, may enforce on Authority property the laws of the Commonwealth and ~~rules policies~~
 12130 and regulations adopted pursuant to subsection A ~~of this section~~. To the extent that such police
 12131 services are not provided by the University, the Authority ~~is authorized to~~ may establish a police
 12132 department in accordance with the provisions of ~~Chapter 17 of this title 8~~, except that the
 12133 employment of such personnel by the Authority ~~shall is~~ not ~~be~~ subject to the Virginia Personnel
 12134 Act (§ 2.2-2900 et seq.).

12135 **Drafting note: Technical changes are made, including referring to "policies"**
 12136 **instead of "rules" per board practice.**

12137 ~~§ 23-50.16:15~~ 23.1-2407. Public purpose.

12138 The exercise of the powers granted by this chapter ~~shall be is~~ in all respects for the
 12139 benefit of the inhabitants of the Commonwealth and ~~for~~ the promotion of their safety, health,
 12140 welfare, knowledge, convenience, and prosperity. No part of the assets or net earnings of the
 12141 Authority shall inure to the benefit of, or be distributable to, any private individual, except that
 12142 reasonable compensation may be paid for services rendered to or for the Authority affecting one
 12143 or more of its purposes, and benefits may be conferred that are in conformity with ~~said its~~
 12144 purposes, ~~and no~~. No private individual ~~shall be is~~ entitled to share in the distribution of any of
 12145 the corporate assets ~~on~~ upon dissolution of the Authority.

12146 **Drafting note: Technical changes.**

12147 ~~§ 23-50.16:14 23.1-2408. Creation of entities; participation in joint ventures; provision~~
 12148 ~~of assistance by Authority; moneys; investments~~ Moneys of the Authority.

12149 ~~A. Consistent with § 23-50.16:15, the Authority may create or assist in the creation of;~~
 12150 ~~may own in whole or in part or otherwise control; may participate in or with any entities, public~~
 12151 ~~or private; and may purchase, receive, subscribe for, own, hold, vote, use, employ, sell,~~

12152 ~~mortgage, lend, pledge, or otherwise acquire or dispose of any (i) shares or obligations of, or~~
12153 ~~other interests in, any entities organized for any purpose within or without the Commonwealth,~~
12154 ~~and (ii) obligations of any person or corporation.~~

12155 ~~B. The Authority may participate in joint ventures with individuals, corporations,~~
12156 ~~governmental bodies or agencies, partnerships, associations, insurers or other entities to~~
12157 ~~facilitate any activities or programs consistent with the public purposes and intent of this~~
12158 ~~chapter.~~

12159 ~~C. The Authority may create a nonprofit entity or entities for the purpose of soliciting,~~
12160 ~~accepting and administering grants, outright gifts and bequests, endowment gifts and bequests,~~
12161 ~~and gifts and bequests in trust, which entity or entities shall not engage in trust business;~~
12162 ~~however, the Authority shall not be empowered to create a nonprofit entity or entities that would~~
12163 ~~in any way duplicate such activities by the University or its related foundations.~~

12164 ~~D. In carrying out any activities authorized by this chapter, the Authority may provide~~
12165 ~~appropriate assistance, including making loans and providing time of employees, to~~
12166 ~~corporations, partnerships, associations, joint ventures or other entities, whether or not such~~
12167 ~~corporations, partnerships, associations, joint ventures or other entities are owned or controlled~~
12168 ~~in whole or in part, directly or indirectly, by the Authority.~~

12169 ~~E. Effective July 1, 1997, all A. All moneys of the Authority, derived from ~~whatever any~~~~
12170 ~~source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in~~
12171 ~~the first instance by the treasurer in one or more banks or trust companies, in one or more~~
12172 ~~special accounts. All banks and trust companies are authorized to give security for such~~
12173 ~~deposits, if required by the Authority. The moneys in such accounts shall be paid out on the~~
12174 ~~warrant or other orders of the treasurer of the Authority or such other person or persons as the~~
12175 ~~Authority may authorize to execute such warrants or orders.~~

12176 ~~F. B. Notwithstanding any provision of law to the contrary, the Authority may, effective~~
12177 ~~July 1, 1997, invest its operating funds in any obligations or securities that are considered legal~~
12178 ~~investments for public funds in accordance with Chapter 45 the Investment of Public Funds Act~~

12179 (§ 2.2-4500 et seq.) ~~of Title 2.2.~~ The ~~Board~~ board shall adopt written investment guidelines and
12180 shall retain an independent investment advisory firm or consultant to review, ~~a minimum of at~~
12181 least every five years, the suitability of the Authority's investments and ~~their~~ the consistency of
12182 such investments with the investment guidelines.

12183 **Drafting note: Subsections A through D of existing § 23-50.16:14 are relocated to**
12184 **proposed § 23.1.2404 on powers of the Authority. Technical changes are made, including**
12185 **removing an obsolete effective date for proposed subsections A and B and removing "or**
12186 **persons" in subsection A because § 1-227 provides that throughout the Code any word in**
12187 **the singular includes the plural and vice versa.**

12188 § ~~23-50.16:11~~ 23.1-2409. ~~Acquisition and disposition of property; acceptance of grants~~
12189 Grants and loans from localities.

12190 ~~A. Except as to those hospital facilities or any parts thereof that are leased to the~~
12191 ~~Authority by the University, the control and disposition of which shall be determined by such~~
12192 ~~lease instruments, the Authority may:~~

12193 ~~1. Own, hold, improve, use and otherwise deal with real or personal property, tangible or~~
12194 ~~intangible, or any right, easement, estate or interest therein, acquired by purchase, exchange,~~
12195 ~~gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of law or other means on~~
12196 ~~such terms and conditions and in such manner as it may deem proper;~~

12197 ~~2. Sell, assign, lease, encumber, mortgage or otherwise dispose of any project or any~~
12198 ~~other real or personal property, tangible or intangible, or any right, easement, estate or interest~~
12199 ~~therein, or any deed of trust or mortgage lien interest owned by it, under its control or custody or~~
12200 ~~in its possession. The Authority may release or relinquish any right, title, claim, lien, interest,~~
12201 ~~easement or demand however acquired, including any equity or right of redemption in property~~
12202 ~~foreclosed by it; and~~

12203 ~~3. Do any of the foregoing by public or private sale, with or without public bidding,~~
12204 ~~notwithstanding the provisions of any other law.~~

12205 ~~B. The Authority may accept loans, grants, contributions or other assistance from the~~
 12206 ~~federal government, the Commonwealth or any political subdivision thereof, or from any other~~
 12207 ~~public or private source to carry out any of the purposes of this chapter. The Authority may~~
 12208 ~~enter into any agreement or contract regarding or relating to the acceptance, use or repayment of~~
 12209 ~~any such loan, grant, contribution or assistance and may enter into such other agreements with~~
 12210 ~~any such entity in furtherance of the purposes of this chapter.~~

12211 ~~Counties, cities and towns~~ Localities are ~~hereby~~ authorized to lend or donate money or
 12212 other property to the Authority for any of ~~its~~ the Authority's purposes. The local ~~government~~
 12213 governing body making the grant or loan may restrict the use of such grants or loans to a
 12214 specific project, within or ~~without~~ outside that locality.

12215 **Drafting note: Existing subsections A and B of § 23-50.16:11 are relocated to**
 12216 **proposed § 23.1.2404 on powers of the Authority. Technical changes are made.**

12217 § ~~23-50.16:8~~ 23.1-2410. Audit.

12218 ~~The accounts of the~~ Authority shall ~~be audited annually by~~ select through a process of
 12219 competitive negotiation either the (i) Auditor of Public Accounts, or his legally authorized
 12220 representatives, or ~~by~~ (ii) a certified public accounting firm, ~~as selected by the Authority to~~
 12221 annually audit the Authority's accounts. ~~The Authority shall select a certified public accounting~~
 12222 firm or the Auditor of Public Accounts through a process of competitive negotiation.

12223 ~~Copies~~ B. The Authority shall distribute copies of the annual audit ~~shall be distributed~~ to
 12224 the Governor and ~~to~~ the ~~chairmen~~ Chairmen of the House Committee on Appropriations and the
 12225 Senate Committee on Finance.

12226 C. The Auditor of Public Accounts and his legally authorized representatives ~~are hereby~~
 12227 ~~authorized and empowered from time to time to~~ may examine the accounts and books of the
 12228 Authority; however, the Authority ~~shall is~~ is not ~~be deemed to be~~ a state or governmental agency,
 12229 advisory agency, public body or agency, or instrumentality for purposes of Chapter 14 (§ 30-
 12230 130 et seq.) of Title 30.

12231 D. The Authority ~~shall be~~ is subject to periodic external review under the provisions of
12232 the Legislative Program Review and Evaluation Act (§ 30-65 et seq.).

12233 **Drafting note: Technical changes, including striking the superfluous term "from**
12234 **time to time" in proposed subsection C per Code Commission policy.**

12235 § ~~23-50.16:16~~ 23.1-2411. Exemption from taxation.

12236 ~~As set forth in § 23-50.16:3, the Authority will be performing essential governmental~~
12237 ~~functions in the exercise of the powers conferred upon it by this chapter. Accordingly, the A.~~
12238 The Authority ~~shall is~~ not be required to pay any taxes or assessments upon any (i) project ~~or~~
12239 ~~any~~, property, ~~or upon any~~ operations of the Authority or the income ~~therefrom~~, from such
12240 projects, property, or operations ~~or any taxes or assessments upon any (ii) project or any,~~
12241 property, or local obligation acquired or used by the Authority under the provisions of this
12242 chapter ~~or upon the income therefrom~~ from such projects, property, or local obligations. ~~The~~
12243 Such exemptions ~~hereby granted~~ shall not extend to persons ~~or entities~~ conducting ~~on the~~
12244 Authority's property businesses on the Authority's property for which payment of state or local
12245 taxes would otherwise be required.

12246 B. Any bonds issued by the Authority under the provisions of this chapter, the transfer
12247 thereof of such bonds, and the income ~~therefrom~~, from such bonds and all rents, fees, charges,
12248 gifts, grants, revenues, receipts, and other moneys received or pledged to pay or secure the
12249 payment of such notes or bonds, ~~shall at all times be free~~ are exempt from taxation and
12250 assessment of every kind by the Commonwealth and by the local governments governing bodies
12251 and other political subdivisions of the Commonwealth.

12252 **Drafting note: Technical changes.**

12253 § ~~23-50.16:17~~ 23.1-2412. ~~Assistance by the University; transfer~~ Transfer of existing
12254 hospital facilities.

12255 A. The University ~~is hereby authorized to~~ may lease, convey, or otherwise transfer to the
12256 Authority any or all assets and liabilities appearing on the balance sheet of ~~the Medical College~~
12257 of Virginia MCV Hospitals and any or all of the hospital facilities, except real estate ~~which that~~

12258 may be leased to the Authority for a term not to exceed ~~ninety-nine~~ 99 years, upon such terms as
12259 may be approved by the University.

12260 B. Any transfer of hospital facilities ~~shall be pursuant to subsection A is~~ conditioned
12261 upon the following existence of a binding agreement between the University and the Authority:

12262 1. ~~The existence of a binding agreement between the University and the Authority that~~
12263 That requires the Authority to assume, directly or indirectly, ~~those~~ hospital obligations that are
12264 directly related to the hospital facilities, or any ~~parts thereof,~~ part of the hospital facilities that
12265 are transferred, ~~which~~ including rentals as provided in subsection C or a combination of rentals
12266 and other obligations in the case of a lease of hospital facilities ~~may take the form of rental, as~~
12267 ~~provided in subsection C of this section, or a combination of assumption and such rental;~~

12268 2. ~~The existence of a binding agreement between the University and the Authority that~~
12269 That provides that, effective on the transfer date ~~and thereafter,~~ the Authority shall assume
12270 responsibility for ~~and shall,~~ defend, indemnify, and hold harmless the University and its officers
12271 and directors with respect to:

12272 a. All liabilities and duties of the University pursuant to contracts, agreements, and
12273 leases for commodities, services, and supplies used by ~~the Medical College of Virginia MCV~~
12274 Hospitals, including property leases;

12275 b. All claims related to the employment relationship between employees of the Authority
12276 and the University on and after the transfer date;

12277 c. All claims for breach of contract resulting from the Authority's action or failure to act
12278 on and after the transfer date; and

12279 d. All claims related to the Authority's errors and omissions, including, ~~but not limited~~
12280 ~~to,~~ medical malpractice, directors' and officers' liability, workers' compensation, automobile
12281 liability, ~~and~~ premises liability, completed operations liability, and products liability, resulting
12282 from the Authority's action or failure to act on and after the transfer date; and

12283 3. ~~The existence of a binding agreement between the University and the Authority by~~ By
12284 which the Authority shall accept and agree to abide by provisions that ensure the continued

12285 support of the education, research, patient care, and public service missions of ~~the Medical~~
12286 ~~College of Virginia MCV~~ Hospitals, ~~specifically~~ including, ~~without limitation~~:

12287 a. A requirement that the Authority continue to provide emergency and inpatient
12288 indigent care services on the ~~Medical College of Virginia MCV~~ campus of the University in ~~a~~
12289 ~~location or~~ locations including, ~~without limitation~~, downtown Richmond; and

12290 b. A requirement that the Authority continue to act as the primary teaching facility for
12291 the ~~Medical College of~~ Virginia Commonwealth University School of Medicine and the Health
12292 Sciences Center Schools of the University.

12293 C. Any lease of hospital facilities, ~~or any parts thereof~~, from the University to the
12294 Authority may include a provision that requires the Authority to pay the University a rental
12295 payment for the hospital facilities, ~~or any parts thereof~~, that are leased. For those hospital
12296 facilities for which rental rent is paid, the rental rent shall be ~~an amount that may not be less~~
12297 ~~than at least equal to~~ the greater of ~~the following~~:

12298 1. ~~An amount equal to the~~ The debt service accruing during the term of the lease on all
12299 outstanding bonds issued for the purpose of financing the acquisition, construction, or
12300 improvement of the hospital facilities, ~~or any parts thereof~~, on which rental rent is paid; or

12301 2. A nominal amount determined by the parties to be necessary to prevent the lease from
12302 being unenforceable because of a lack of consideration.

12303 D. Any lease of hospital facilities, ~~or any parts thereof~~, shall include a provision that
12304 requires the Authority to continue to support the education, research, patient care, and public
12305 service missions of ~~the Medical College of Virginia MCV~~ Hospitals, ~~specifically~~ including,
12306 ~~without limitation~~:

12307 1. A requirement that the Authority continue to provide emergency and inpatient
12308 indigent care services on the ~~Medical College of Virginia MCV~~ campus of the University in ~~a~~
12309 ~~location or~~ locations including, ~~without limitation~~, downtown Richmond; and

12310 2. A requirement that the Authority continue to act as the primary teaching facility for
12311 | the ~~Medical College of Virginia School of Medicine and~~ Health Sciences ~~Center Schools~~ of the
12312 | University.

12313 E. All other agencies and officers of the Commonwealth ~~are authorized and directed to~~
12314 | shall take such actions as may be necessary or desirable in the judgment of the University to
12315 | permit such conveyance and the full use and enjoyment of the hospital facilities, including,
12316 | ~~without limitation,~~ the transfer of property of any type held in the name of the Commonwealth
12317 | or ~~some~~ an instrumentality or agency ~~thereof~~ of the Commonwealth but used by the University
12318 | in the operation of the hospital facilities.

12319 F. The Authority may pay to or on behalf of the University some or all of the costs of the
12320 | hospital facilities. The University may apply some or all of such proceeds to the payment or
12321 | defeasance of its obligations issued to finance the hospital facilities, and the Authority may issue
12322 | its bonds to finance or refinance such payment ~~to or on behalf of the University.~~

12323 G. Funds held by or for the University or any ~~predecessor or division thereof of its~~
12324 | predecessors or divisions, ~~specifically~~ including, ~~without limitation,~~ funds held by the
12325 | University Foundation or the ~~Medical College of Virginia MCV~~ Foundation for the benefit of
12326 | ~~the Medical College of Virginia MCV~~ Hospitals or any ~~predecessor thereof, of its predecessors~~
12327 | for use in operating, maintaining, or constructing hospital facilities, providing medical and
12328 | health sciences education, or conducting medical or related research may be transferred, in
12329 | whole or in part, to the Authority if the University or any foundation determines that the transfer
12330 | is consistent with the intended use of the funds. The University may direct in writing that all or
12331 | part of the money or property representing its beneficial interest under a will, trust agreement, or
12332 | other donative instrument be distributed to the Authority if the University determines that such
12333 | direction ~~will further~~ furthers any of the original purposes of the will, trust agreement, or other
12334 | instrument. Such a direction shall not be considered a waiver, disclaimer, renunciation,
12335 | assignment, or disposition of the beneficial interest by the University. A fiduciary's distribution
12336 | to the Authority pursuant to such a written direction from the University ~~shall be deemed~~ is a

12337 distribution to the University for all purposes relating to the donative instrument, and the
12338 fiduciary ~~shall have~~ has no liability for distributing any money or property to the Authority
12339 pursuant to such a direction. ~~None of the foregoing~~ Nothing in this section shall deprive any
12340 court of its jurisdiction to determine whether such a distribution is appropriate, under its cy pres
12341 powers or otherwise.

12342 ~~§ 23-50.16:20. Operation of hospital facilities.~~

12343 H. The Authority shall not operate any ~~of the~~ hospital ~~facilities~~ pursuant to this section
12344 prior to execution of the lease ~~or leases~~ and agreement ~~or agreements~~ required by ~~§ 23-50.16:17,~~
12345 this section and such other agreements as may be necessary or convenient in the University's
12346 judgment to provide for the transfer of the operations of the hospital facilities to the Authority,
12347 unless, and to the extent that, the University approves otherwise.

12348 ~~§ 23-50.16:21. Assignment of agreements.~~

12349 I. The University may assign, and the Authority may accept the rights and assume the
12350 obligations under, any ~~contracts~~ contract or other ~~agreements~~ agreement of any type relating to
12351 ~~the~~ financing or ~~the~~ operating ~~of~~ the hospital facilities. Upon evidence that such assignment and
12352 acceptance ~~have~~ has been made, all agencies and instrumentalities of the Commonwealth ~~are~~
12353 ~~directed to~~ shall consent to such assignment and ~~to~~ accept the substitution of the Authority for
12354 the University as a party to such ~~agreements~~ agreement to the extent that the University's
12355 obligations ~~thereunder~~ under such agreement relate to the ownership, operation, or financing of
12356 the hospital facilities. Indebtedness previously incurred by the Commonwealth, the Virginia
12357 Public Building Authority, the Virginia College Building Authority, and any other ~~agencies and~~
12358 ~~instrumentalities~~ agency or instrumentality of the Commonwealth to finance the hospital
12359 facilities may continue to remain outstanding after the transfer and ~~the~~ assignment of ~~the~~
12360 ~~agreements relating thereto~~ such agreement by the University to the Authority.

12361 ~~§ 23-50.16:22. Licenses and permits.~~

12362 J. The transfer of the hospital facilities from the University to the Authority ~~shall~~ does
12363 not require a certificate of public need pursuant to Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4

12364 of Title 32.1. All licenses, permits, certificates of public need, or other authorizations of the
12365 Commonwealth ~~or, any agency thereof or of of the Commonwealth, or any county, city or town~~
12366 locality held by the University in connection with the ownership or operation of the hospital
12367 facilities ~~shall be deemed to be~~ are transferred, without further action, to the Authority ~~as and~~
12368 the extent that the Authority undertakes the activity ~~thereby~~ permitted by such authorizations.
12369 All agencies and officers of the Commonwealth and all ~~agencies and officers of counties, cities~~
12370 ~~and towns are directed to~~ localities shall confirm such transfer by the issuance of new or
12371 amended licenses, permits, certificates of public need, or other authorizations upon the request
12372 of the University and the Authority.

12373 ~~§ 23-50.16:23. Agent for University.~~

12374 K. If for any reason the Authority cannot replace the University as a party to any
12375 agreement in connection with the financing, ownership, or operation of the hospital facilities,
12376 the Authority and the University may ~~provide that~~ require the Authority ~~shall to~~
12377 the University in carrying out its obligations under such agreement or ~~in~~ receiving the benefits
12378 thereunder, or both.

12379 **Drafting note: Existing § 23-50.16:20 is relocated as subsection H of proposed §**
12380 **23.1-2412. Existing § 23-50.16:21 is relocated as subsection I of proposed § 23.1-2412.**
12381 **Existing § 23-50.16:22 is relocated as subsection J of proposed § 23.1-2412. Existing § 23-**
12382 **50.16:23 is relocated as subsection K of proposed § 23.1-2412. Technical changes are made,**
12383 **including:**

12384 **1. Removing "but not limited to" and "without limitation" when used in**
12385 **conjunction with "including" in multiple subsections and subdivisions on the basis of the**
12386 **Code-wide application of § 1-218, which states "'Includes' means includes, but not limited**
12387 **to," and removing "location or" in subdivision D 1 on the basis of the Code-wide**
12388 **application of § 1-227, which provides that any word in the singular includes the plural**
12389 **and vice versa.**

12390 **2. Removing "or leases" and "or agreements" on the basis of the Code-wide**
12391 **application of § 1-227, which provides that any word in the singular includes the plural**
12392 **and vice versa.**

12393 **3. Changing references to "counties, cities, and towns" to "localities" pursuant to**
12394 **the Code-wide application of § 1-221, which states that "locality" means a county, city, or**
12395 **town.**

12396 § ~~23-50.16:18~~ 23.1-2413. Capital projects.

12397 A. All capital projects of the Authority shall be approved by the ~~Board~~ board. Within
12398 ~~thirty~~ 30 days after approval of any capital project in excess of \$5 million, the ~~Board~~ board shall
12399 notify the House Appropriations and Senate Finance Committees of the scope, cost, and
12400 construction schedule of the proposed capital project. The ~~Board~~ board may undertake the
12401 project unless ~~objections are raised by~~ either Committee raises objections within ~~thirty~~ 30 days
12402 of the notification. ~~If objections are made, in which case~~ the Authority ~~may~~ shall not undertake
12403 the project until ~~the~~ such objections are resolved.

12404 B. ~~No~~ Before the Authority materially increases the size or materially changes the scope
12405 of any capital project ~~that has been presented to the Committees without objection, no capital~~
12406 ~~project for which objections were raised and resolved, and no capital project~~ for which
12407 construction has commenced, such project shall ~~be materially increased in size or materially~~
12408 ~~changed in scope without following the procedure of subsection A of this section~~ be approved
12409 again by the board in accordance with subsection A and, in the case of any capital project in
12410 excess of \$5 million, presented again to the House Appropriations and Senate Finance
12411 Committees in accordance with subsection A.

12412 C. Notwithstanding any ~~laws or regulations~~ provision of law to the contrary, the
12413 Authority ~~shall~~ is not ~~be~~ subject to any further process or procedure that requires the
12414 submission, review, or approval of any capital project; however, the Authority shall ensure that
12415 BOCA Code and fire safety inspections ~~of any capital project~~ are conducted for any capital

12416 [project](#) and that such projects are inspected by the State Fire Marshal or his designee prior to
12417 certification for building occupancy.

12418 **Drafting note: Technical changes.**

12419 § ~~23-50.16:19~~ [23.1-2414](#). Leases of property.

12420 ~~The Leases of real property that the~~ Authority ~~shall be~~ [enters into](#) ~~are~~ exempt from the
12421 provisions of § 2.2-1149 and from any ~~rules~~ [policies](#), regulations, and guidelines of the Division
12422 of Engineering and Buildings ~~in relation to leases of real property into which it enters~~.

12423 **Drafting note: Technical changes are made, including referring to "policies"**
12424 **instead of "rules" per board practice.**

12425 § ~~23-50.16:24~~ [23.1-2415](#). Employees of the Authority.

12426 A. ~~Until July 1, 2001, employees of the Authority shall be considered employees of the~~
12427 ~~Commonwealth.~~ Employees of the Authority shall be employed on such terms and conditions as
12428 established by the Authority. The ~~Board of Directors of the Authority board~~ shall develop and
12429 adopt policies and procedures that ~~will~~ afford its employees grievance rights, ensure that
12430 employment decisions ~~shall be~~ [are](#) based upon the merit and fitness of applicants, and ~~shall~~
12431 prohibit discrimination ~~because on the basis~~ of race, religion, color, sex, or national origin. ~~Any~~
12432 ~~grievance procedure adopted by the Board other than that contained in § 2.2-1202.1 shall take~~
12433 ~~effect no earlier than July 1, 1997; however, such grievance procedure shall not take effect~~
12434 ~~unless the Authority delivers copies of such grievance procedure to the chairmen of the House~~
12435 ~~Committee on Appropriations and the Senate Committee on Finance on or before January 1,~~
12436 ~~1997.~~

12437 B. The Authority shall issue a written notice to all ~~persons~~ [individuals](#) whose
12438 employment ~~will be~~ [is](#) transferred to the Authority. The date upon which such written notice is
12439 issued ~~shall be~~ [is](#) referred to ~~herein in this section~~ as the "Option Date." Each ~~person~~ [individual](#)
12440 whose employment ~~will be~~ [is](#) transferred to the Authority may, by written request made within
12441 180 days of the Option Date, elect not to become employed by the Authority. Any employee of
12442 ~~the Medical College of Virginia MCV~~ Hospitals who (i) elects not to become employed by the

12443 Authority ~~and who;~~ (ii) is not reemployed by any department, institution, board, commission, or
12444 agency of the Commonwealth; ~~(ii) (iii)~~ (iii) is not offered ~~the opportunity to transfer to~~ alternative
12445 employment by the Authority; ~~or (iii) (iv)~~ (iv) is not offered a position with the Authority for which
12446 the employee is qualified; or (v) is offered a position by the Authority that requires relocation or
12447 a reduction in salary, ~~shall be~~ is eligible for the severance benefits conferred by the provisions of
12448 the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment
12449 with the Authority ~~shall not be considered to be involuntarily~~ has voluntarily separated from
12450 state employment and ~~shall is~~ is not ~~be~~ eligible for the severance benefits conferred by the
12451 provisions of the Workforce Transition Act.

12452 C. Without limiting its power generally with respect to employees, the Authority may
12453 employ any ~~person employed by the~~ University employee utilized in the operation of the
12454 hospital facilities and ~~may~~ assume obligations under any employment agreement for such
12455 person employee, and the University may assign any such contract to the Authority.

12456 D. The Authority and the University may ~~also~~ enter into agreements providing for the
12457 purchase of services of University employees ~~of the University~~ utilized in the operation of the
12458 hospital facilities by ~~payment of such~~ paying agreed-upon amounts ~~as may be agreed upon~~
12459 to cover all or part of the salaries and other costs of such employees.

12460 E. Notwithstanding any other provision of law to the contrary, any ~~person employee~~
12461 whose employment is transferred to the Authority as a result of this chapter and who is a
12462 member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800
12463 et seq.) of Title 2.2; shall continue to be a member of such health insurance plan under the same
12464 terms and conditions ~~as if no transfer had occurred of such plan~~.

12465 F. Notwithstanding subsection A of § 2.2-2818, the costs of providing health insurance
12466 coverage to ~~such~~ employees who elect to continue to be members of the state employees' health
12467 insurance plan shall be paid by the Authority. ~~Alternatively, an~~

12468 G. Any employee of the Authority may elect to become a member of any health
12469 insurance plan established by the Authority. The Authority ~~is authorized to~~ may (i) establish a

12470 health insurance plan for the benefit of its employees, residents, and interns and (ii) enter into
12471 ~~agreements~~ an agreement with the Department of Human Resource Management providing for
12472 the coverage of its employees, interns, and residents under the state employees' health insurance
12473 plan, provided that such agreement ~~shall require~~ requires the Authority to pay the costs of
12474 providing health insurance coverage under such plan.

12475 F. Notwithstanding any other provision of law to the contrary, any ~~person~~ employee
12476 whose employment is transferred to the Authority as a result of this chapter and who is a
12477 member of the Virginia Retirement System, or ~~other~~ another retirement plan as authorized by
12478 Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1, shall continue to be a member of the
12479 Virginia Retirement System or ~~other~~ such other authorized retirement plan under the same terms
12480 and conditions ~~as if no transfer had occurred of such plan. Alternatively, such~~ Any such
12481 employee ~~(and any employee employed by the Authority between July 1, 1997, and June 30,~~
12482 ~~1998, who elected to be covered by the Virginia Retirement System)~~ may elect, during an open
12483 enrollment period from April 1, 2001, through April 30, 2001, to become a member of the
12484 retirement program established by the Authority for the benefit of its employees pursuant to §
12485 ~~23-50.16-24.1~~ 23.1-2416 by transferring assets equal to the actuarially determined present value
12486 of the accrued basic benefit as of the transfer date. The Authority shall reimburse the Virginia
12487 Retirement System for the actual cost of actuarial services necessary to determine the present
12488 value of the accrued basic benefit of employees who elect to transfer to the Authority's
12489 retirement plan. The following rules shall apply to such transfers:

12490 1. With respect to any transferred employee who elects to remain a member of the
12491 Virginia Retirement System or ~~other~~ such another authorized retirement plan, the Authority
12492 shall collect and pay all employee and employer contributions to the Virginia Retirement
12493 System or such other ~~such~~ authorized retirement plan for retirement in accordance with the
12494 provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for such transferred employees.

12495 2. Transferred employees who elect to become members of the retirement program
12496 established by the Authority for the benefit of its employees shall be given full credit for their

12497 creditable service as defined in § 51.1-124.3, vesting and benefit accrual under the retirement
 12498 program established by the Authority. For any such employee, employment with the Authority
 12499 shall be treated as employment with any nonparticipating employer for purposes of the Virginia
 12500 Retirement System or other retirement plan as authorized by Article 4 ([§ 51.1-125 et seq.](#)) of
 12501 Chapter 1 of Title 51.1.

12502 3. For transferred employees who elect to become members of the retirement program
 12503 established by the Authority, the Virginia Retirement System or other such authorized plan shall
 12504 transfer to the retirement plan established by the Authority assets equal to the actuarially
 12505 determined present value of the accrued basic benefit as of the transfer date. For [the](#) purposes
 12506 [hereof of such calculation](#), the basic benefits ~~shall be~~ [is](#) the benefit accrued under the Virginia
 12507 Retirement System or ~~other such another~~ [authorized retirement plan](#); based on creditable service
 12508 and average final compensation as defined in § 51.1-124.3 and determined as of the transfer
 12509 date. The actuarial present value shall be determined on the same basis, using the same actuarial
 12510 factors and assumptions used in determining the funding needs of the Virginia Retirement
 12511 System or [such](#) other ~~such~~ [authorized retirement plan](#); so that the transfer of assets to the
 12512 retirement plan established by the Authority ~~will have~~ [has](#) no effect on the funded status and
 12513 financial stability of the Virginia Retirement System or other such authorized retirement plan.

12514 **Drafting note: The first and last sentences of subsection A are recommended for**
 12515 **repeal as obsolete. Technical changes are made.**

12516 ~~§ 23-50.16:24.1~~ [23.1-2416](#). Retirement benefits for employees of the Authority.

12517 A. The Authority may establish [and determine the effective date of](#) one or more
 12518 retirement plans covering in whole or in part its employees, including employees who, prior to
 12519 the effective date of any plan established pursuant to this section, ~~had been participants~~
 12520 [participated](#) in any plan established pursuant to §§ 51.1-126; ~~or~~ [51.1-126.1](#); or former § 51.1-
 12521 126.2. The Authority ~~is authorized to~~ [may](#) make contributions for the benefit of its employees
 12522 who elect to participate in such plan or arrangement rather than in any other retirement system

12523 established by Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1. ~~Any such alternative retirement~~
12524 ~~plan shall become effective at such time as determined by the Authority.~~

12525 B. ~~Notwithstanding any other provision of law to the contrary, any employee of the~~
12526 ~~Authority employed prior to July 1, 1998, may make~~ Except in the case of an employee of the
12527 Authority hired prior to July 1, 1998, who made an irrevocable election to participate in the
12528 retirement plan established by Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 or any plan
12529 previously established by the Authority, in accordance with guidelines established by the
12530 Authority. ~~The election herein provided shall, as to any employee of the Authority employed~~
12531 ~~following the effective date of any plan established pursuant to this section, be exercised not~~
12532 ~~later than thirty one days from the time of entry upon the performance of his duties. Any~~
12533 ~~employee of the Authority hired on or after July 1, 1998, each eligible employee of the~~
12534 Authority shall participate in a plan established by the Authority, ~~subject to the plan's eligibility~~
12535 ~~criteria pursuant to subsection A.~~

12536 C. No employee of the Authority who is an active member of a plan established ~~under~~
12537 ~~this section pursuant to subsection A~~ shall also be an active member of the retirement system
12538 established pursuant to Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 or a beneficiary of such
12539 retirement system other than as a contingent annuitant.

12540 D. Notwithstanding any other provision of law to the contrary, the contribution by the
12541 Authority to any other retirement plan established pursuant to subsection A on behalf of
12542 employees of the Authority hired before July 1, 1998, ~~pursuant to subsection A~~ shall be ~~(i)~~ equal
12543 to the lesser of (i) the contribution the Commonwealth would be required to make if the
12544 employee were a member of the retirement system established by Chapter 1 (§ 51.1-124.1 et
12545 seq.) of Title 51.1 or (ii) eight percent of creditable compensation, ~~whichever is less~~. The
12546 contribution by the Authority to any retirement plan established pursuant to subsection A on
12547 behalf of employees of the Authority hired on or after July 1, 1998, ~~pursuant to subsection A~~
12548 shall be determined by the ~~Board~~ board.

12549 E. If the ~~institution of higher education with which the Authority is affiliated~~ University
12550 has adopted a retirement plan under § 51.1-126 for its employees who are engaged in the
12551 performance of teaching, administrative, or research duties, the plan established ~~under this~~
12552 section by the Authority pursuant to subsection A shall offer similar investment opportunities as
12553 are available to the participants of the plan established pursuant to § 51.1-126.

12554 F. The Authority shall develop policies and procedures for the administration of any
12555 retirement plan established by the Authority ~~under this section~~ pursuant to subsection A. A copy
12556 of such policies and procedures shall be filed with the Board of Trustees of the Virginia
12557 Retirement System.

12558 **Drafting note: Obsolete language in subsection B is removed. Technical changes are**
12559 **made.**

12560 § ~~23-50.16:24.2~~ 23.1-2417. Insurance for employees of the Authority.

12561 The Authority shall purchase group life, accidental death and dismemberment, and
12562 disability insurance policies covering in whole or in part its employees. Authority employees
12563 ~~shall be~~ are not ~~be~~ required to present at their own expense evidence of insurability satisfactory to
12564 an insurance company for basic group life insurance coverage. Any employee hired prior to July
12565 1, 1998, shall be provided basic group life insurance at the same level of coverage as provided
12566 by the Virginia Retirement System. Any employee hired on or after July 1, 1998, shall be
12567 provided basic group life insurance at a level of coverage determined by the ~~Board, provided~~
12568 ~~that the level of coverage shall~~ board that is not ~~be~~ less than the equivalent of ~~one times~~
12569 employee's annual salary. The Authority may require employees hired on or after July 1, 1998,
12570 to pay all or a portion of the required basic group life insurance coverage, ~~which~~. Such payment
12571 may be collected through a payroll deduction program. The Authority may increase the
12572 insurance coverage under such policies to make available to active insured employees optional
12573 life, accidental death and dismemberment, and disability insurance. Authority employees ~~shall~~
12574 are not ~~be~~ covered by the Virginia Retirement System's group insurance program under § 51.1-
12575 501.

12576 **Drafting note: Technical changes.**

12577 § ~~23-50.16-25~~ 23.1-2418. Power to issue bonds.

12578 A. The Authority may issue bonds ~~from time to time~~ for any of its purposes, including
12579 (i) financing or refinancing all or any part of its programs or general operations; (ii) costs of
12580 any project, including the hospital facilities, whether or not owned by the Authority; or (iii) to
12581 refund bonds or other obligations issued ~~therefor~~ by or on behalf of the Authority, the
12582 University, or otherwise, including bonds or obligations not then subject to redemption, ~~and~~
12583 The Authority may guarantee, assume, or otherwise agree to pay, in whole or in part,
12584 indebtedness issued by the University or any other party resulting in the acquisition or
12585 construction of facilities for the benefit of the Authority or the refinancing ~~thereof of such~~
12586 indebtedness.

12587 B. Notwithstanding Article 1 (§ 2.2-1800 et seq.) of Chapter 18 of Title 2.2, bonds may
12588 be issued under the provisions of this chapter without (i) obtaining the consent of any
12589 commission, board, bureau, political subdivision, or agency of the Commonwealth ~~or of any~~
12590 political subdivision, and without or (ii) any proceedings ~~or the happening of~~, conditions, or
12591 things other than those proceedings, conditions, or things that are specifically required by this
12592 chapter; however, each debt offering shall be submitted to the State Treasurer sufficiently prior
12593 to the sale of such offering to allow the State Treasurer to undertake a review for the sole
12594 purposes of determining ~~(i)~~ (a) whether the offering may constitute tax-supported debt of the
12595 Commonwealth and ~~(ii)~~ (b) the potential impact of the offering on the debt capacity of the
12596 Commonwealth. After such review, the State Treasurer shall determine if the offering
12597 constitutes tax-supported debt of the Commonwealth and the potential impact of the offering on
12598 the debt capacity of the Commonwealth. If the State Treasurer determines that the debt offering
12599 may constitute tax-supported debt of the Commonwealth, or may have an adverse impact on the
12600 debt capacity of the Commonwealth, then the debt offering shall be submitted to the Treasury
12601 Board for review and approval of the terms and structure of the offering in a manner consistent
12602 with § 2.2-2416.

12603 C. The Authority may issue ~~such types of bonds as it may determine, including, without~~
12604 ~~limitation,~~ bonds payable as to principal and interest from any ~~one or more~~ of the following
12605 sources: (i) its revenues generally; (ii) income and revenues derived from the operation, sale, or
12606 lease of a particular project or projects, whether or not they are financed or refinanced from the
12607 proceeds of such bonds; (iii) funds realized from the enforcement of security interests or other
12608 liens or obligations securing such bonds; (iv) proceeds from the sale of bonds; (v) payments
12609 under letters of credit, policies of municipal bond insurance, guarantees, or other credit
12610 enhancements; (vi) any reserve or sinking funds created to secure such payment; (vii) accounts
12611 receivable of the Authority; or (viii) other available funds of the Authority.

12612 D. Any bonds may be ~~additionally~~ guaranteed by, or secured by a pledge of, any grant,
12613 contribution, or appropriation from a participating political subdivision, the University, the
12614 Commonwealth or any political subdivision, agency, or instrumentality ~~thereof, of the~~
12615 Commonwealth or from any federal agency or any unit, private corporation, partnership,
12616 association, or individual.

12617 **Drafting note: Technical changes are made, including (i) striking the superfluous**
12618 **term "from time to time" in proposed subsection A per Code Commission policy and (ii)**
12619 **removing "without limitation" when used in conjunction with "including" on the basis of**
12620 **the Code-wide application of § 1-218, which states "'Includes' means includes, but not**
12621 **limited to."**

12622 § ~~23-50.16:26~~ 23.1-2419. Liability on bonds.

12623 No member of the ~~Board of Directors or board;~~ officer, employee, or agent of the
12624 Authority; or ~~any~~ person executing bonds of the Authority ~~shall be is~~ liable personally on the
12625 bonds by reason of ~~their issuance issuing~~ or ~~execution executing such bonds~~. Bonds of the
12626 Authority ~~shall are~~ not ~~be~~ a debt of the Commonwealth or any political subdivision ~~thereof of~~
12627 the Commonwealth other than the Authority and shall so state on their face. Neither the
12628 Commonwealth nor any political subdivision ~~thereof of the Commonwealth~~ other than the
12629 Authority ~~shall be is~~ liable for payment of bonds of the Authority, nor shall such bonds be

12630 payable out of any funds or properties of the Commonwealth or any political subdivision ~~thereof~~
12631 of the Commonwealth other than those of the Authority, except as permitted by § ~~23-50.16:25~~
12632 23.1-2418. Bonds of the Authority are ~~declared to be~~ issued for an essential public and
12633 governmental purpose.

12634 **Drafting note: Technical changes.**

12635 § ~~23-50.16:27~~ 23.1-2420. Form of bonds.

12636 A. Bonds of the Authority shall (i) be authorized by resolution setting forth the
12637 maximum principal amount issuable ~~and may be issued in one or more series, shall, (ii)~~ be
12638 dated, ~~shall and (iii)~~ mature ~~at such time or times~~ not ~~exceeding forty~~ more than 40 years from
12639 their date and may be (a) issued in one or more series and (b) made redeemable or subject to
12640 tender before maturity, at the option of the Authority, at such price or ~~prices and~~ under such
12641 terms and conditions as may be fixed by the Authority or its agents prior to issuance.

12642 B. Bonds of the Authority shall bear interest payable at such times and ~~at such~~ rates ~~as~~
12643 ~~may be determined by the Authority, or as may be determined and~~ in such manner as the
12644 Authority or its agents may ~~provide~~ determine, including rates approved by officers of the
12645 Authority under authorization of the ~~Board~~ board, rates tied to indices, rates of other securities,
12646 or other standards and determinations by agents designated by the Authority under guidelines
12647 established by the Authority.

12648 C. The Authority shall determine the form ~~of its bonds and the~~, manner of execution, and
12649 ~~shall fix the~~ denominations ~~thereof of its bonds~~ and the place ~~or places~~ of payment of principal
12650 and interest, which may be at any bank or trust company or securities depository within or
12651 ~~without outside~~ the Commonwealth. The bonds may be issued in coupon or registered form, or
12652 both, and provision may be made for their registration in whole or in part. Bonds issued in
12653 registered form may be issued under a system of book-entry for recording the ownership and
12654 transfer of ownership of rights to receive payments ~~thereon on the bonds~~.

12655 D. If any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears
12656 on any bonds or coupons ~~shall cease~~ ceases ~~to be such officer~~ hold such office before delivery of

12657 such bond, such signature or ~~such~~ facsimile ~~shall is~~ nevertheless ~~be~~ valid and sufficient for all
12658 purposes.

12659 E. The Authority may contract for the services of one or more banks, trust companies,
12660 financial institutions, or other entities or persons, within or outside the Commonwealth, for the
12661 authentication, registration, transfer, exchange, and payment of bonds, or ~~may~~ provide such
12662 services itself. The Authority may sell such bonds ~~in such manner, either~~ at public or private
12663 sale, and for such price, as it ~~may determine~~ determines.

12664 F. Notwithstanding any ~~of the~~ other ~~provisions~~ provision of this chapter or any recitals in
12665 any bonds issued under the provisions of this chapter, all such bonds ~~shall be deemed to be~~ are
12666 negotiable instruments under the laws of the Commonwealth.

12667 G. Prior to the preparation of definitive bonds, the Authority may issue interim receipts
12668 or temporary bonds, that are exchangeable for definitive bonds when such bonds ~~shall have been~~
12669 are executed and ~~are~~ available for delivery.

12670 H. The Authority may ~~also~~ provide for the replacement of any mutilated, destroyed,
12671 stolen, or lost bonds.

12672 **Drafting note: Technical changes.**

12673 § ~~23-50.16:28~~ 23.1-2421. Trust indentures and mortgages; security for the bonds.

12674 A. Any bond issued under this chapter may be issued pursuant to or secured by (i) a trust
12675 indenture, deed of trust, or mortgage of any project ~~or projects~~ or ~~any~~ other property of the
12676 Authority, whether or not financed, in whole or in part, from the proceeds of such bonds, ~~by;~~ (ii)
12677 a trust or other agreement with a corporate trustee, which may be any trust company or bank
12678 having the powers of a trust company within or ~~without~~ outside the Commonwealth, or ~~other~~
12679 another agent for bondholders; or (iii) any combination ~~thereof of issuance or security set forth~~
12680 in clause (i) or (ii). Any such trust indenture or other agreement, or the resolution providing for
12681 the issuance of bonds, may pledge or assign fees, rents, and other charges to be received and
12682 ~~may~~ contain reasonable, proper, and lawful provisions for protecting and enforcing the rights
12683 and remedies of the bondholders ~~as may be reasonable and proper and not in violation of law.~~

12684 ~~Such provisions may include, including~~ covenants: ~~(i) (a)~~ providing for the collection and
12685 application of revenues and the repossession and sale of any project or other property by the
12686 Authority, or any trustees under any trust indenture or agreement, ~~of any project or other~~
12687 ~~property~~ upon default; ~~(ii) (b)~~ setting forth duties of the Authority in relation to the acquisition,
12688 construction, maintenance, operation, and insurance of any project or other property of the
12689 Authority and the ~~amounts~~ amount of fees, rents, and other charges to be charged; ~~(iii) (c)~~
12690 providing for the collection of such fees, rents, and other charges, and the custody, safeguarding,
12691 and application of all moneys of the Authority; ~~(iv) (d)~~ providing for the creation of sinking
12692 funds and the creation and maintenance of reserves; and ~~(v) (e)~~ setting forth conditions or
12693 limitations with respect to ~~the incurrance of incurring~~ indebtedness or ~~the~~ granting ~~of~~ mortgages
12694 or other liens. Such trust indenture, trust, or other agreement or resolution may set forth the
12695 rights and remedies of the bondholders ~~and of the~~ trustee, or other agent for bondholders and
12696 may restrict the individual right of action by bondholders.

12697 ~~In addition, the~~ B. The Authority may grant mortgages, deeds of trust, security interests,
12698 and other liens on its real and personal property, including its accounts receivable, to secure
12699 bonds. All pledges of revenues of the Authority for payment of bonds ~~shall be~~ are valid and
12700 binding from the time ~~when~~ the pledge is made, ~~and the~~ The revenues pledged and ~~thereafter~~
12701 received by the Authority ~~shall be~~ are subject immediately to the lien of such pledge without
12702 any physical delivery ~~thereof of such pledge~~ or further act, ~~and the~~ The lien of any such pledge
12703 ~~shall be~~ is valid and binding ~~as~~ against all parties having claims of any kind in tort, contract, or
12704 otherwise against the Authority, ~~irrespective of~~ whether or not such parties have notice ~~thereof~~
12705 of the lien. The Authority may ~~also~~ provide for the recording or filing of any mortgage, deed of
12706 trust, security interest ~~or~~ other lien, ~~or any~~ financing statement, or other instrument, necessary
12707 or desirable to create, perfect, or evidence any lien created pursuant to this chapter.

12708 C. It shall be is lawful for any bank or trust company within or ~~without~~ outside the
12709 Commonwealth to (i) serve as depository of the proceeds of bonds or ~~of~~ other revenues of the

12710 Authority ~~and to~~, (ii) furnish indemnifying bonds, or ~~to~~ (iii) pledge such securities as may be
12711 required by the Authority.

12712 D. All expenses incurred in carrying out the provisions of such trust indenture ~~or~~,
12713 agreement ~~or~~, resolution, or other agreements relating to any project, including those to which
12714 the Authority may not be a party, may be treated as a part of the costs of a project.

12715 **Drafting note: Technical changes.**

12716 § ~~23-50.16:29~~ 23.1-2422. Remedies of obligees of Authority.

12717 Except to the extent that the rights ~~herein given~~ granted by this chapter may be restricted
12718 by such trust indenture or trust or other agreement, any (i) holder of bonds or coupons issued
12719 under the provisions of this chapter and ~~the~~ (ii) trustee or other agent for bondholders under any
12720 trust indenture or trust or other agreement may, either at law or in equity, by suit, action,
12721 injunction, mandamus, or other proceedings, (a) protect and enforce any and all rights granted
12722 by this chapter or under the laws of the Commonwealth ~~or granted by this chapter or under~~, such
12723 trust indenture, trust, or other agreement, or the resolution authorizing the issuance of such
12724 bonds; and ~~may~~ (b) enforce and compel the ~~performance of~~ Authority or any agent or officer of
12725 the Authority to perform all duties required by this chapter or ~~by~~ such trust indenture, trust, or
12726 other agreement or resolution ~~to be performed by the Authority or by any officer or agent~~
12727 ~~thereof~~, including the fixing, charging, and collecting of fees, rents, and other charges.

12728 **Drafting note: Technical changes.**

12729 § ~~23-50.16:30~~ 23.1-2423. Bonds to be legal investments.

12730 Bonds issued by the Authority under the provisions of this chapter are ~~hereby made~~
12731 securities (i) in which all public officers and public bodies of the Commonwealth and its
12732 political subdivisions, ~~all~~ insurance companies, trust companies, banking associations,
12733 investment companies, executors, administrators, trustees, and other fiduciaries may properly
12734 and legally invest funds, including capital in their control or belonging to them. ~~Such bonds are~~
12735 ~~hereby made securities~~ and (ii) that may properly and legally be deposited with and received by
12736 any state ~~or municipal~~ officer or officer of a locality or ~~any~~ agency or political subdivision of the

12737 Commonwealth for any purpose for which the deposit of bonds or obligations is ~~now or may~~
12738 ~~hereafter be~~ authorized by law.

12739 **Drafting note: The language "now or may hereafter be" in the last sentence of**
12740 **proposed § 23.1-2423 is stricken as obsolete. Technical changes are made.**

12741 § ~~23-50.16:31~~ 23.1-2424. Existing bonds.

12742 The Authority may assume; or ~~may~~ agree to make payments in amounts sufficient for the
12743 University to pay; some or all of the hospital obligations incurred under resolutions previously
12744 adopted by the University with respect to the hospital facilities and may issue bonds to refund
12745 bonds issued under such resolutions or ~~to~~ refinance such payment obligations. If the Authority
12746 ~~has assumed~~ assumes all hospital obligations under any such bond resolution and ~~commenced~~
12747 ~~its operation of~~ operates substantially all of the hospital facilities financed or refinanced ~~thereby~~
12748 by such bond resolution, the University, ~~the~~ State Treasurer, ~~the~~ Virginia Public Building
12749 Authority, and ~~the~~ Virginia College Building Authority shall take such steps as are appropriate
12750 to provide for the substitution of the Authority for the University under such resolution and ~~to~~
12751 transfer to the Authority any funds payable to the University under the terms of such resolution.

12752 **Drafting note: Technical changes.**

12753 § ~~23-50.16:32~~ 23.1-2425. Confidential and public information.

12754 A. The Authority ~~shall be~~ is subject to the provisions of the Freedom of Information Act
12755 (§ 2.2-3700 et seq.), ~~which shall include~~ including the exclusions set forth in subdivision 15 of §
12756 2.2-3705.7 and subdivision A ~~23 of subsection A~~ of § 2.2-3711.

12757 B. For purposes of the Freedom of Information Act (§ 2.2-3700 et seq.), meetings of the
12758 ~~Board shall~~ board are not ~~be~~ considered meetings of the ~~Board of Visitors~~ board of visitors of
12759 the University. Meetings of the ~~Board~~ board may be conducted through telephonic or video
12760 means as provided in § 2.2-3708 ~~or similar provisions of any successor law~~.

12761 **Drafting note: Technical changes.**

12762 § ~~23-50.16:33~~ 23.1-2426. Chapter liberally construed.

12763 This chapter shall constitute full and complete authority, without regard to the provisions
 12764 of any other law, for the ~~doing performance~~ of ~~the~~ acts ~~and things herein~~ authorized in the
 12765 chapter and shall be liberally construed to effect the purposes ~~hereof of the chapter~~. Insofar as
 12766 the provisions of this chapter are inconsistent with the provisions of any other ~~law~~, general,
 12767 specific, or local law, the provisions of this chapter ~~shall be controlling control~~.

12768 **Drafting note: Technical changes.**

12769 § ~~23-50.16:34~~ 23.1-2427. ~~Exemption of Authority from Personnel Act, Workforce~~
 12770 ~~Transition Act, Administrative Process Act, and Public Procurement Act Exemptions.~~

12771 The provisions of ~~Chapter 29 the Virginia Personnel Act~~ (§ 2.2-2900 et seq.) ~~of Title 2.2,~~
 12772 ~~Chapter 32 the Workforce Transition Act~~ (§ 2.2-3200 et seq.) ~~of Title 2.2,~~ ~~Chapter 40 the~~
 12773 ~~Administrative Process Act~~ (§ 2.2-4000 et seq.) ~~of Title 2.2,~~ and ~~Chapter 43 the Virginia Public~~
 12774 ~~Procurement Act~~ (§ 2.2-4300 et seq.) ~~of Title 2.2 shall do~~ not apply to the Authority in ~~the its~~
 12775 exercise of any power conferred to it under this chapter.

12776 **Drafting note: Technical changes.**

12777 § ~~23-50.16:35~~ 23.1-2428. ~~Reversion Assets of Authority; reversion~~ to University.

12778 Upon dissolution of the Authority, all assets of the Authority, after satisfaction of
 12779 creditors, shall revert to the University.

12780 **Drafting note: Technical changes.**

12781 CHAPTER ~~10~~ 25.

12782 VIRGINIA MILITARY INSTITUTE.

12783 **Drafting note: Existing Chapter 10 of Title 23 is logically reorganized as proposed**
 12784 **Chapters 13 and 25 of Title 23.1. Existing provisions that apply generally to governing**
 12785 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
 12786 **Existing provisions relating to the incorporation, membership and meetings, and powers**
 12787 **and duties of the governing board that are unique to Virginia Military Institute are**
 12788 **retained in proposed Chapter 25.**

12789 § ~~23-92~~ 23.1-2500. ~~Virginia Military Institute continued~~ Corporate name; name of the
12790 Institute.

12791 A. The military school established in the County of Rockbridge, at the Town of
12792 Lexington, shall be continued, and the board of visitors thereof and their successors shall be and
12793 remain of Virginia Military Institute (the board) is a corporation under the name and style of
12794 "Virginia Military Institute," and has, in addition to its other powers, all the corporate powers
12795 given to corporations by the provisions of Title 13.1 except those powers that are confined to
12796 corporations created pursuant to Title 13.1. The board shall be at all times subject to be under
12797 the control of the General Assembly.

12798 B. The institution shall be known as Virginia Military Institute (the Institute).

12799 ~~For the support of the school there~~ C. There shall be paid out of the public treasury, ~~from~~
12800 ~~time to time~~, such sums as shall be appropriated ~~therefor~~ by the General Assembly for the
12801 support of the school.

12802 **Drafting note: Technical changes are made to conform the language in this section**
12803 **to that of each other baccalaureate public institution of higher education, including**
12804 **striking the superfluous term "from time to time" per Code Commission policy.**

12805 § ~~23-93~~ 23.1-2501. ~~Appointment of visitors generally~~ Membership.

12806 A. The board ~~of visitors~~ shall consist of ~~sixteen visitors to be appointed by the Governor~~
12807 ~~and the Adjutant General, ex officio~~ 17 members, of whom 16 shall be appointed by the
12808 Governor and one shall be the Adjutant General, who shall serve ex officio. Of the ~~visitors~~ 16
12809 members appointed by the Governor, ~~twelve~~ (i) 12 shall be alumni of the Institute, of whom
12810 eight shall be residents of the Commonwealth and four shall be nonresidents, and (ii) four shall
12811 ~~not be alumni of the Institute~~ be nonalumni residents of the Commonwealth. ~~The four visitors~~
12812 ~~appointed by the Governor who are not alumni of the Institute shall be residents of the~~
12813 ~~Commonwealth. Until June 30, 1985, nine of the twelve alumni visitors shall be residents of the~~
12814 ~~Commonwealth. Thereafter eight of the twelve alumni visitors shall be residents of the~~
12815 ~~Commonwealth. The remaining alumni visitors shall be nonresidents.~~

12816 B. ~~Each appointive visitor in office on July 1, 1980, shall continue in office until the~~
12817 ~~expiration of the term for which he was appointed. Of the visitors to be appointed for terms~~
12818 ~~commencing July 1, 1980, four shall be appointed for terms of three years and four for terms of~~
12819 ~~four years. One of such visitors appointed for a four year term and one appointed for a three-~~
12820 ~~year term shall not be alumni of the Institute. One of such visitors appointed for a four year term~~
12821 ~~and one appointed for a three year term shall be nonresident alumni. Thereafter all appointments~~
12822 ~~shall be for terms of four years and one visitor appointed each year shall not be an alumnus of~~
12823 ~~the Institute. Beginning in 1985 and thereafter, one visitor appointed each year shall be a~~
12824 ~~nonresident alumnus.~~

12825 ~~All appointments for full terms, as well as to fill vacancies, shall be made by the~~
12826 ~~Governor subject to confirmation by the General Assembly. The alumni association of the~~
12827 ~~Institute may submit to the Governor a list of not more than three nominees for each vacancy on~~
12828 ~~the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may~~
12829 ~~appoint a member from the list of nominees.~~

12830 **Drafting note: Existing provisions relating to the membership of the board of**
12831 **visitors are logically combined in this proposed section, existing provisions relating to the**
12832 **terms and removal of members of the board are stricken and incorporated instead into**
12833 **proposed § 23.1-1300, and technical changes are made to conform the language to that of**
12834 **each other baccalaureate public institution of higher education.**

12835 ~~§ 23-94. Appointment of visitors from nominees of alumni association; nonalumni~~
12836 ~~visitors.~~

12837 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him~~
12838 ~~by the alumni association of the Virginia Military Institute, on or before the first day of April of~~
12839 ~~any year in which the terms of any visitors will expire.~~

12840 ~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall~~
12841 ~~certify this fact to the association and nominations may be submitted of qualified persons and~~

12842 ~~the Governor may fill the vacancy, if his discretion so dictates, from among the eligible~~
12843 ~~nominees of the association.~~

12844 ~~(c) Every list shall contain not more than three names for each vacancy to be filled.~~

12845 ~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

12846 ~~(e) [Repealed.]~~

12847 **Drafting note: The provisions of existing § 23-94 are stricken and incorporated**
12848 **instead into proposed § 23.1-2501.**

12849 ~~§ 23-95. Eligibility to serve more than two successive terms.~~

12850 ~~No person except ex officio members shall be eligible to serve for or during more than~~
12851 ~~two successive four year terms; but after the expiration of the remainder of an unexpired term to~~
12852 ~~which appointed, two additional four year terms may be served by such a member if appointed~~
12853 ~~thereto.~~

12854 **Drafting note: The provisions of existing § 23-95 are stricken and incorporated**
12855 **instead into proposed § 23.1-1300.**

12856 ~~§ 23-96. Quorum.~~

12857 ~~Six visitors shall constitute a quorum for business.~~

12858 **Drafting note: The provisions of existing § 23-96 are stricken and incorporated**
12859 **instead as subsection B of proposed § 23.1-2502.**

12860 ~~§ 23-97. Suits by and against board.~~

12861 ~~The board of visitors may sue and be sued for any cause or matters which have~~
12862 ~~heretofore arisen, or which hereafter arise.~~

12863 **Drafting note: The provisions of existing § 23-97 are stricken here: the board's**
12864 **power to sue and be sued is a corporate power that is already contemplated in the first**
12865 **section of this proposed chapter.**

12866 ~~§ 23-98 23.1-2502. Meetings of board; president and secretary; superintendent of~~
12867 ~~Institute; officers; committees.~~

12868 A. The board ~~of visitors~~ shall meet at the Institute at least once a year ~~or more often~~ and
12869 at any other times and places, ~~when, in its opinion, or that of the superintendent of the Institute,~~
12870 ~~or president of the board of visitors, it shall be necessary to do so as determined by the board,~~
12871 ~~the superintendent of the Institute, or the president of the board.~~ ~~It shall appoint a superintendent~~
12872 ~~of the Institute with such duties as may be prescribed by the board.~~ Special meetings may ~~also~~
12873 be called at any time by the superintendent of the Institute, or the president of the board ~~of~~
12874 ~~visitors, when either may deem it advisable; and the board may adjourn from time to time.~~
12875 Notice of the time and place of each meeting shall be provided to each member.

12876 B. Six members shall constitute a quorum.

12877 C. The board shall appoint from its ~~own body~~ membership a president, and shall ~~also~~
12878 appoint a secretary to the board.

12879 ~~In~~ D. The board may appoint a president pro tempore or secretary pro tempore to preside
12880 in the absence of the president or secretary ~~at any meeting, the board may appoint a president or~~
12881 ~~secretary pro tempore, and vacancies.~~

12882 E. Vacancies in the offices of president ~~or and~~ secretary may be filled by the board for
12883 the unexpired term. ~~Notice of the time and place of meeting shall be given to every member of~~
12884 ~~the board.~~

12885 ~~§ 23-95.1. Executive committee.~~

12886 F. The board ~~of visitors~~ may appoint an executive committee ~~from its own body~~ for the
12887 ~~purpose of transacting transaction of~~ business during the recess of the board. ~~Such executive~~
12888 ~~committee shall consist, consisting~~ of ~~not less than at least~~ three ~~nor and not~~ more than five
12889 members, one of whom shall be the president.

12890 **Drafting note: Existing provisions relating to meetings, officers, and committees of**
12891 **the board of visitors are logically combined in this proposed section, including**
12892 **incorporating existing § 23-95.1 as subsection F. Technical changes are made to conform**
12893 **the language to that of each other baccalaureate public institution of higher education,**
12894 **including striking the superfluous term "from time to time" per Code Commission policy.**

12895 ~~§ 23-99. Bylaws and regulations.~~

12896 ~~The board may make bylaws and regulations for their own government and the~~
12897 ~~management of the affairs of the Institute, and may, for the purpose of transacting such business~~
12898 ~~as, in its opinion, can be properly transacted by a less number than the majority, authorize not~~
12899 ~~less than four members to constitute a quorum.~~

12900 **Drafting note: The quorum provisions of existing § 23-99 are stricken as**
12901 **inconsistent with subsection B of proposed § 23.1-2502, which was derived from existing §**
12902 **23-96. The provisions on bylaws and regulations are stricken here and incorporated**
12903 **instead into proposed §§ 23.1-1303 and 23.1-1301, respectively.**

12904 ~~§ 23-100. Power to borrow money and secure its payment.~~

12905 ~~The act entitled "an act to authorize the Virginia Military Institute to borrow money and~~
12906 ~~to secure the same by creating a lien on real estate," approved December 19, 1874; and the third~~
12907 ~~and fourth sections of the act entitled "an act for the relief of the Virginia Military Institute,"~~
12908 ~~approved March 15, 1884, shall continue in force until all the objects of the acts shall have been~~
12909 ~~fully accomplished.~~

12910 **Drafting note: Existing § 23-100 is recommended for repeal as obsolete.**

12911 ~~§ 23-100.1~~ 23.1-2503. Power to receive gifts, grants, devises and bequests.

12912 ~~The Virginia Military Institute, or its the board of visitors on its behalf, upon with the~~
12913 ~~prior written consent of the Governor is empowered to, may receive, take, hold, and enjoy any~~
12914 ~~and every gift, grant, devise, or bequest heretofore or hereafter made to the Institute or its board~~
12915 ~~of visitors for charitable or educational purposes; and to use and administer same any such gift,~~
12916 ~~grant, devise, or bequest for the uses and purposes designated by the donor if designation be~~
12917 ~~made; or for the general purposes of the Institute if no such designation be is made.~~

12918 **Drafting note: Technical changes.**

12919 ~~§§ 23-101, 23-102.~~

12920 **Drafting note: Repealed by Acts 2005, c. 633, cl. 2.**

12921 ~~§ 23-103~~ 23.1-2504. Appointment, Powers; removal ~~and salaries~~ of professors.

12922 ~~The A majority of the board of visitors shall appoint professors to give instruction in~~
12923 ~~military science and in such other branches of knowledge as they may deem proper. The board~~
12924 ~~shall fix the salaries of professors, and may remove them professors for good cause; but no~~
12925 ~~order to remove a professor shall be made without the concurrence therein of a majority of the~~
12926 ~~whole number of visitors, and the board shall forthwith communicate to the Governor a full~~
12927 ~~statement of the reasons for making the removal.~~

12928 **Drafting note: The provisions of existing § 23-103 related to appointment and**
12929 **salaries of professors are stricken here and incorporated instead into proposed § 23.1-**
12930 **1301. The provisions of existing § 23-103 related to communicating to the Governor the**
12931 **removal of professors for good cause are recommended for repeal as obsolete. Technical**
12932 **changes are made.**

12933 ~~§ 23-104 23.1-2505. Admission of pay Pay cadets; course of instruction, etc.~~

12934 The board ~~of visitors~~ shall prescribe the terms upon which pay cadets may be admitted,
12935 their number, the course of their instruction, and the nature and duration of their service, ~~and the~~
12936 ~~duration thereof.~~

12937 **Drafting note: Technical changes.**

12938 ~~§ 23-105 23.1-2506. Admission of state State cadets.~~

12939 A. The board shall admit annually as state cadets upon evidence of fair moral character,
12940 a ~~sufficient young men and women~~ number of individuals selected from the Commonwealth at
12941 large, who ~~shall be not less than sixteen nor are at least 16 but not~~ more than ~~twenty five~~ 25
12942 years of age.

12943 ~~§ 23-106. Financial assistance for state cadets.~~

12944 B. The board shall provide financial assistance equal to ~~the~~ a state cadet applicant's
12945 demonstrated need up to the Institute's prevailing charges for tuition ~~and board,~~ mandatory fees,
12946 and other necessary charges.

12947 ~~§ 23-107. Service requirement.~~

12948 C. Each state cadet ~~received on state account and~~ who ~~shall have remained~~ remains
12949 enrolled in the Institute ~~during the period of for~~ two years or more, shall ~~act in the capacity of~~
12950 teacher (i) teach in ~~some a public elementary or secondary~~ school in ~~this the~~ Commonwealth for
12951 two years, ~~and such cadet shall be required to discharge his obligation as teacher~~ within the
12952 three years immediately after leaving the Institute, and ~~he shall~~ report in writing to the
12953 superintendent of the Institute on or before the first day of June of each year succeeding the date
12954 of his leaving the Institute until he ~~shall have~~ has discharged fully such obligation to the
12955 Commonwealth; ~~or, at his option, such cadet may, (ii) serve an enlistment in the National Guard~~
12956 ~~of the Commonwealth, or (iii) serve for a period of~~ two years as an engineer for the
12957 Commonwealth Transportation Board ~~or for a period of, (iv) serve for~~ two years as an engineer
12958 with the State Department of Health, ~~or (v) serve on active duty for a period of~~ two years as a
12959 member of some component of the armed services of the United States ~~of America~~, or, (vi) with
12960 the approval of the board ~~of visitors~~, serve ~~for a period of~~ two years in any capacity as an
12961 employee of the Commonwealth ~~of Virginia~~.

12962 D. Any cadet ~~failing who fails~~ to fulfill his ~~or her~~ obligation pursuant to subsection C
12963 shall repay all funds received from the Commonwealth. The board ~~of visitors~~ may excuse such
12964 cadet from any ~~and or~~ all of these obligations in such cases as ~~they deem proper it determines is~~
12965 appropriate.

12966 **Drafting note: The provisions of existing §§ 23-105, 23-106, and 23-107 are logically**
12967 **combined into this single section on state cadets. The term "young men and women" is**
12968 **stricken in favor of the more general "individuals." Technical changes are made.**

12969 § ~~23-107.1~~ 23.1-2507. ~~Admission of military~~ Military scholarship cadets.

12970 A. The board ~~shall may~~ admit annually as military scholarship cadets; up to 40 ~~young~~
12971 ~~men and women; individuals~~ who ~~shall be not less than~~ are at least 16 ~~nor but not~~ more than 25
12972 years of age.

12973 B. The board shall provide financial assistance to such military scholarship cadets for
12974 tuition, mandatory fees, ~~room and board and other necessary charges~~ entirely from federal

12975 funds, Virginia National Guard funds, or private gifts. The federal funds, Virginia National
 12976 Guard funds, or private gifts shall have no matching requirement.

12977 ~~§ 23-107.2. Military scholarship cadet to serve as a commissioned officer in the Virginia~~
 12978 ~~National Guard.~~

12979 C. Each military scholarship cadet shall agree to serve as a commissioned officer in the
 12980 Virginia National Guard for a term in accordance with Guard policy and regulation. Any cadet
 12981 failing to fulfill his ~~or her~~ obligation to serve shall repay all funds received in support of his ~~or~~
 12982 ~~her~~ cost of education. The board ~~of visitors~~, in consultation with the Virginia National Guard,
 12983 may excuse such cadet from any ~~and or~~ all of these obligations in such cases as ~~they deem~~
 12984 proper it determines is appropriate.

12985 **Drafting note: The provisions of existing §§ 23-107.1 and 23-107.2 are logically**
 12986 **combined into this single section on military scholarship cadets. The term "young men and**
 12987 **women" is stricken in favor of the more general "individuals." Technical changes are**
 12988 **made.**

12989 ~~§ 23-108. Commissioned officers may become students.~~

12990 ~~Any commissioned officer of the organized militia and Governor's military staff of the~~
 12991 ~~Commonwealth may become a student at any state institution of higher education for a period~~
 12992 ~~not exceeding 10 months, and receive instruction in any or all the departments of military~~
 12993 ~~science, emergency management, emergency services, public safety, and disaster management~~
 12994 ~~taught therein without being required to pay any fee or charge for tuition.~~

12995 **Drafting note: The provisions of existing § 23-108 are stricken here and**
 12996 **incorporated instead into proposed § 23.1-605 of Chapter 6.**

12997 ~~§ 23-109~~ 23.1-2508. Cadets a military corps; arsenal.

12998 A. The cadets shall be a military corps under the command of the superintendent; and
 12999 constitute the guard of the Institute.

13000 B. The arsenal and all its grounds and buildings shall ~~be considered as belonging belong~~
 13001 to the Institute, and the board shall ~~cause the same and all the~~ guard and preserve the arsenal, all

13002 its grounds and buildings, and all arms and other property ~~therein, or belonging thereto, to be~~
13003 ~~guarded and preserved in its grounds and buildings.~~

13004 **Drafting note: Technical changes.**

13005 § ~~23-110~~ 23.1-2509. Conferring of degrees.

13006 A. The Governor ~~and,~~ the board ~~of visitors,~~ and the faculty of the Institute may confer a
13007 degree upon any qualified graduate ~~found qualified to receive it, after examination upon such of~~
13008 ~~the branches of the arts and sciences and of literature taught at the Institute as the board may~~
13009 ~~deem requisite.~~

13010 B. The board may ~~also, in its discretion,~~ confer honorary degrees or diplomas of
13011 distinguished merit.

13012 **Drafting note: Technical changes.**

13013 § ~~23-111.~~

13014 **Drafting note: Repealed by Acts 1984, c. 734.**

13015 § ~~23-112~~ 23.1-2510. Musicians, ~~how enlisted and paid.~~

13016 The superintendent may enlist musicians for service at the Institute; to be paid out of the
13017 annual appropriation provided for in § ~~23-92~~ 23.1-2500.

13018 **Drafting note: Technical changes.**

13019 § ~~23-113~~ 23.1-2511. Supply of water.

13020 ~~To enable the~~ The Institute ~~to procure a supply of water, it shall have authority to~~
13021 ~~proceed under the provisions of Title 25.1 to~~ may acquire pursuant to Title 25.1 such springs,
13022 lands, and rights-of-way as may be necessary to procure a supply of water.

13023 **Drafting note: Technical changes.**

13024 CHAPTER ~~11~~ 26.

13025 VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY.

13026 **Drafting note: Existing Chapter 11 of Title 23 is logically reorganized as proposed**
13027 **Chapters 13 and 26 of Title 23.1. Existing provisions that apply generally to governing**
13028 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**

13029 Existing provisions relating to the incorporation, membership and meetings, and powers
13030 and duties of the governing board that are unique to the University are retained in
13031 proposed Chapter 26.

13032 Article 1.

13033 General Provisions.

13034 **Drafting note: Existing provisions relating to the incorporation, membership and**
13035 **meetings, and powers and duties of the board of visitors are consolidated in Article 1 and**
13036 **technical changes are made.**

13037 ~~§ 23-114 23.1-2600. Board of visitors a corporation and under control of General~~
13038 ~~Assembly Corporate name; name of the University.~~

13039 A. The board of visitors shall be and remain of Virginia Polytechnic Institute and State
13040 University (the board) is a corporation under the name and style of the "Virginia Polytechnic
13041 Institute and State University" and has, in addition to its other powers, all the corporate powers
13042 given to corporations by the provisions of Title 13.1 except those powers that are confined to
13043 corporations created pursuant to Title 13.1. The board shall at all times be under the control of
13044 the General Assembly.

13045 B. The institution shall be known as Virginia Polytechnic Institute and State University
13046 (the University).

13047 C. All acts and parts of acts and statutes laws relating to Virginia Polytechnic Institute,
13048 its predecessors ~~by whatever name known, or to, its board of visitors, or the boards board~~ of
13049 visitors ~~thereof, of each of its predecessors~~ shall be construed as relating to the ~~Virginia~~
13050 ~~Polytechnic Institute and State~~ University.

13051 **Drafting note: Technical changes are made to conform the language in this section**
13052 **to that of each other baccalaureate public institution of higher education.**

13053 ~~§ 23-115 23.1-2601. Appointment of visitors generally; number and eligibility~~
13054 ~~Membership.~~

13055 A. The board ~~of visitors is to~~ shall consist of ~~fourteen~~ 14 members, ~~thirteen~~ of whom 13
13056 shall be appointed by the Governor; and one ~~of whom~~ shall be the ~~President~~ president of the
13057 Board of Agriculture and Consumer Services, who shall serve ex officio. Of the 13 members
13058 appointed by the Governor, ~~three may be nonresidents~~ at least 10 members shall be residents of
13059 the Commonwealth and at least six members shall be alumni of the University. ~~The visitors in~~
13060 ~~the office on April 9, 1945, are continued in office until the end of their respective terms, or~~
13061 ~~until June 30, 1945, whichever last occurs.~~

13062 ~~As soon as practicable after April 9, 1945, the Governor shall appoint four members to~~
13063 ~~fill the unexpired portions of the terms which began on July 1, 1944, and shall appoint three~~
13064 ~~additional members for new terms of two years and two for new terms of four years, each term~~
13065 ~~beginning July 1, 1945. He shall, in addition, appoint the President of the State Board of~~
13066 ~~Agriculture and Consumer Services as an ex officio member for a term of four years to begin~~
13067 ~~July 1, 1945; provided that, if the tenure in office as President of such ex officio member expires~~
13068 ~~within that time, the Governor shall appoint such member's successor to fill the unexpired term.~~
13069 ~~Such President shall remain eligible for appointment as an ex officio member so long as he~~
13070 ~~continues in office as President. All appointments for full terms, as well as to fill vacancies,~~
13071 ~~shall be made~~ by the Governor are subject to confirmation by the Senate.

13072 B. The alumni association of the University may submit to the Governor a list of three
13073 nominees for each vacancy on the board, whether it occurs by expired term or otherwise. The
13074 Governor may appoint a member from the list of nominees.

13075 **Drafting note: Existing provisions relating to the membership of the board of**
13076 **visitors are logically combined in this proposed section, existing provisions relating to the**
13077 **terms and removal of members of the board are stricken and incorporated into proposed §**
13078 **23.1-1300, and technical changes are made to conform the language to that of each other**
13079 **baccalaureate public institution of higher education. Obsolete language is recommended**
13080 **for repeal.**

13081 ~~§ 23-116. Appointment of visitors from nominees of alumni association.~~

13082 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him~~
13083 ~~by the alumni association of the University on or before the first day of April of any year in~~
13084 ~~which the terms of any visitors will expire.~~

13085 ~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall~~
13086 ~~certify this fact to the association and nominations may be submitted of qualified persons and~~
13087 ~~the Governor may fill the vacancy, if his discretion so dictates, from among the eligible~~
13088 ~~nominees of the association, whether or not alumni or alumnae.~~

13089 ~~(c) Every list shall contain at least three names for each vacancy to be filled.~~

13090 ~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

13091 ~~(e) At no time shall less than six of the appointive visitors be alumni or alumnae of the~~
13092 ~~University.~~

13093 **Drafting note: The provisions of existing § 23-116 are stricken and incorporated**
13094 **into proposed § 23.1-2601.**

13095 ~~§ 23-117. Eligibility to serve for more than two successive terms.~~

13096 ~~No person, except the ex officio member, shall be eligible to serve for or during more~~
13097 ~~than two successive four-year terms; but after the expiration of a term of two years or less, or~~
13098 ~~after the expiration of the remainder of a term to which appointed to fill a vacancy, two~~
13099 ~~additional four-year terms may be served by such a member if appointed thereto. Incumbents on~~
13100 ~~April 5, 1945, appointed for full terms prior to June 1, 1944, shall be deemed to be serving their~~
13101 ~~first terms.~~

13102 **Drafting note: The provisions of existing § 23-117 are stricken and incorporated**
13103 **into proposed § 23.1-1300.**

13104 ~~§ 23-118 23.1-2602. Officers and committees of the board; officers of the University~~
13105 ~~Meetings; officers; committees.~~

13106 ~~A. The board shall meet in Blacksburg, in the County of Montgomery, at least once a~~
13107 ~~year and at such other times and places as it determines. Special meetings of the board may be~~

13108 called by the Governor, the rector, or any three members. Notice of the time and place of each
13109 meeting shall be provided to each member.

13110 B. A majority of the board shall constitute a quorum. A majority of each committee shall
13111 constitute a quorum.

13112 C. The board ~~of visitors~~ shall appoint from ~~their own body~~ its membership a rector, ~~who~~
13113 shall to preside at ~~their~~ its meetings; and, ~~in his absence,~~ a president pro tempore to preside at its
13114 meetings in the absence of the rector. ~~The board may appoint a vice president of the University~~
13115 ~~and, by appropriate regulations, prescribe his authority, duties, and compensation, if any, and he~~
13116 ~~shall hold office at the pleasure of the board.~~

13117 D. The board shall appoint a secretary.

13118 E. The board shall also appoint from its membership an executive committee of ~~not less~~
13119 than at least three ~~nor but not~~ more than six, ~~which, during the interim between board meetings,~~
13120 shall be members that are empowered during the interim between board meetings to exercise ~~all~~
13121 or ~~such part of the~~ such powers of the board as the board may ~~by resolution~~ prescribe by
13122 resolution.

13123 F. The board may ~~likewise~~ appoint special committees and prescribe their duties and
13124 powers.

13125 ~~The executive~~ G. Each committee, ~~and other committees~~ shall ~~make reports~~ report its
13126 actions to the board; at ~~its~~ the board's annual meeting ~~or oftener if required,~~ ~~of the acts~~
13127 ~~performed by them from time to time and at such other times as the board may require.~~ The
13128 ~~board shall also appoint a treasurer of the University and may appoint a secretary thereof, and~~
13129 ~~also a clerk to the board, and such other officers, assistants and deputies as they deem advisable~~
13130 ~~to conduct the business and affairs of the University.~~

13131 **Drafting note: Technical changes are made to conform provisions relating to**
13132 **meetings, officers, and committees of the board of visitors to those of each other**
13133 **baccalaureate public institution of higher education, including striking the superfluous**
13134 **term "from time to time" per Code Commission policy.**

13135 ~~§ 23-119. Quorum of board and of committees.~~

13136 ~~A majority of the board and also of all committees appointed pursuant to § 23-118 shall~~
13137 ~~constitute a quorum.~~

13138 **Drafting note: The provisions of existing § 23-119 are stricken and incorporated**
13139 **into proposed § 23.1-2602.**

13140 ~~§ 23-120.~~

13141 **Drafting note: Repealed by Acts 2015, c. 560.**

13142 ~~§ 23-121. Meetings of board.~~

13143 ~~The board shall meet at Blacksburg, in the County of Montgomery, at least once a year,~~
13144 ~~and at such other times or places as they shall determine, the days of meeting to be fixed by~~
13145 ~~them. Special meetings of the board may be called by the Governor, the rector, or any three~~
13146 ~~members. In either of such cases, notice of the time and place of meeting shall be given to every~~
13147 ~~other member.~~

13148 **Drafting note: The provisions of existing § 23-121 are stricken and incorporated**
13149 **into proposed § 23.1-2602.**

13150 ~~§ 23-122 23.1-2603. Powers and duties of board generally; expenses.~~

13151 A. The board ~~shall be~~ is charged with the care ~~and,~~ preservation, and improvement of the
13152 property belonging to the University; and with the protection and safety of students and other
13153 persons residing on the such property; ~~and in pursuance thereof shall be empowered to. Pursuant~~
13154 to such duties, the board may change roads or driveways on the property belonging to the
13155 University or entrances ~~thereto to such property, or to~~ close temporarily or permanently the
13156 roads; and driveways on such property and entrances; ~~to to such property,~~ prohibit ~~entrance to~~
13157 ~~the property of~~ undesirable and disorderly persons from entering such property, ~~or to~~ eject such
13158 persons from the such property, and ~~to~~ prosecute under ~~the laws of the~~ state law trespassers and
13159 persons committing offenses on the such property.

13160 B. The board shall regulate the government and discipline of the students; ~~and,~~
13161 ~~generally, in respect to the government of the University, may make such regulations as they~~

13162 ~~deem expedient, not contrary to law. Such reasonable expenses as the visitors may incur in the~~
13163 ~~discharge of their duties shall be paid out of the funds of the University.~~

13164 **Drafting note: Several provisions of existing the second paragraph of § 23-122 are**
13165 **stricken and incorporated into proposed §§ 23.1-1301 and 23.1-1307. Technical changes**
13166 **are made.**

13167 ~~§ ~~23-122.1~~ 23.1-2604. Investment of endowment funds, endowment income, ~~and gifts;~~
13168 ~~standard of care; liability; exemption from the Virginia Public Procurement Act etc.~~~~

13169 A. As used in this section:

13170 "Derivative" means a contract or financial instrument or a combination of contracts and
13171 financial instruments, including any contract commonly known as a "swap," that gives the
13172 University the right or obligation to deliver, receive delivery of, or make or receive payments
13173 based on changes in the price, value, yield, or other characteristic of a tangible or intangible
13174 asset or group of assets or changes in a rate, index of prices or rates, or other market indicator
13175 for an asset or group of assets.

13176 "Option" means an agreement or contract whereby the University may grant or receive
13177 the right to purchase, sell, or pay or receive the value of any personal property asset, including
13178 any agreement or contract that relates to any security, contract, or agreement.

13179 "Financial security" means any note, stock, treasury stock, bond, debenture, evidence of
13180 indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of
13181 subscription, transferable share, investment contract, voting-trust certificate, certificate of
13182 deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; any put,
13183 call, straddle, option, or privilege on any security, certificate of deposit, or group or index of
13184 securities (including any interest therein or based on the value thereof); any put, call, straddle,
13185 option, or privilege entered into on a national securities exchange relating to foreign currency; in
13186 general, any interest or instrument commonly known as a "security;" or any certificate of
13187 interest or participation in, temporary or interim security for, receipt for, guarantee of, or
13188 warrant or right to subscribe to or purchase any financial security.

13189 B. The board ~~of visitors~~ shall invest and manage the endowment funds, endowment
13190 income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the
13191 University in accordance with this section and the provisions of the Uniform Prudent
13192 Management of Institutional Funds Act (§ 64.2-1100 et seq.).

13193 B.C. No member of the board ~~of visitors shall be~~ is personally liable for losses suffered
13194 by ~~an any~~ endowment fund, endowment income, ~~gifts gift, all~~ other nongeneral fund ~~reserves~~
13195 reserve and ~~balances~~ balance, or local funds of or held by the University, arising from
13196 investments made pursuant to the provisions of subsection A.

13197 C.D. The investment and management of endowment funds, endowment income, gifts,
13198 all other nongeneral fund reserves and balances, or local funds of or held by the University ~~shall~~
13199 are not ~~be~~ subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

13200 D.E. In addition to the investment practices authorized by the Uniform Prudent
13201 Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board ~~of visitors~~ may ~~also~~
13202 invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund
13203 reserves and balances, and local funds of or held by the University in derivatives, options, and
13204 financial securities.

13205 ~~1. In this section, "derivative" means a contract or financial instrument or a combination~~
13206 ~~of contracts and financial instruments, including, without limitation, any contract commonly~~
13207 ~~known as a "swap," which gives the University the right or obligation to deliver or receive~~
13208 ~~delivery of, or make or receive payments based on, changes in the price, value, yield or other~~
13209 ~~characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index~~
13210 ~~of prices or rates, or other market indicator for an asset or a group of assets.~~

13211 ~~2. In this section, an "option" means an agreement or contract whereby the University~~
13212 ~~may grant or receive the right to purchase or sell, or pay or receive the value of, any personal~~
13213 ~~property asset including, without limitation, any agreement or contract that relates to any~~
13214 ~~security, contract, or agreement.~~

13215 ~~3. In this section, "financial security" means any note, stock, treasury stock, bond,~~
13216 ~~debenture, evidence of indebtedness, certificate of interest, collateral trust certificate,~~
13217 ~~preorganization certificate of subscription, transferable share, investment contract, voting trust~~
13218 ~~certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other~~
13219 ~~mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit,~~
13220 ~~or group or index of securities (including any interest therein or based on the value thereof), or~~
13221 ~~any put, call, straddle, option, or privilege entered into on a national securities exchange relating~~
13222 ~~to foreign currency, or in general, any interest or instrument commonly known as a "security,"~~
13223 ~~or any certificate of interest or participation in, temporary or interim security for, receipt for,~~
13224 ~~guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

13225 E.F. The authority ~~as~~ provided in this section ~~as it relates~~ to invest and reinvest
13226 nongeneral fund reserves and balances of or held by the University is predicated upon an
13227 approved management agreement between the University and the Commonwealth ~~of Virginia~~.

13228 **Drafting note: Technical changes.**

13229 ~~§ 23-123.~~

13230 **Drafting note: Repealed by Acts 1981, c. 319.**

13231 ~~§ 23-124. Appointment of professors; removal of professors and officers.~~

13232 ~~The board shall appoint as many professors as they deem proper, and, with the assent of~~
13233 ~~two-thirds of the members of the board, may remove any professor or, subject to the provisions~~
13234 ~~of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, any other officer of the University.~~

13235 **Drafting note: The provisions of existing § 23-124 related to the appointment of**
13236 **professors are stricken and incorporated into proposed § 23.1-1301. The provisions of**
13237 **existing § 23-124 related to the removal of professors are stricken and incorporated into**
13238 **proposed § 23.1-2605.**

13239 ~~§ 23-125. Prescribing duties of professors and course of instruction.~~

13240 ~~The board shall prescribe the duties of each professor and the course and mode of~~
13241 ~~instruction.~~

13242 **Drafting note: The provisions of existing § 23-125 are stricken and incorporated**
13243 **into proposed § 23.1-2605.**

13244 ~~§ 23-126 23.1-2605. Appointment of president; employment of agents or servants~~
13245 ~~Employees.~~

13246 ~~The board shall appoint a president of the University and~~A. The board shall appoint a
13247 treasurer of the University. The treasurer or the officer who controls the funds of the University
13248 shall give bond in the sum of \$50,000, payable to the Commonwealth, with condition for the
13249 faithful discharge of the duties of his office. The bond shall be approved by the board, entered
13250 on the board's journal, and transmitted to the Comptroller and shall remain filed in the
13251 Comptroller's office.

13252 B. The board may appoint a vice-president of the University and prescribe his authority,
13253 duties, and compensation, if any. The vice-president shall hold office at the pleasure of the
13254 board.

13255 C. The board may employ a secretary of the University, a clerk to the board, and such
13256 other agents or servants, officers, assistants, and deputies as may be necessary to conduct the
13257 business and affairs of the University.

13258 D. The board may remove any officer of the University with the assent of two-thirds of
13259 its members, subject to such human resources programs as may be established by the board
13260 pursuant to § 23.1-1021.

13261 E. The board shall prescribe the duties of professors and the course and mode of
13262 instruction. The board may remove any professor with the assent of two-thirds of its members.

13263 **Drafting note: Provisions related to specific employees and officers of the**
13264 **University contained in existing §§ 23-124, 23-125, § 23-126, and 23-127 are consolidated**
13265 **in proposed § 23.1-2605. Subsection D makes necessary reference to the board's power to**
13266 **establish an alternative human resources program pursuant to proposed § 23-38.1021.**
13267 **Technical changes are made.**

13268 ~~§ 23-127. Bond of treasurer.~~

13269 ~~The board shall require the treasurer, or the officer in whose hands the funds of the~~
13270 ~~University may be placed, to give bond in the sum of \$50,000, payable to the Commonwealth,~~
13271 ~~with condition for the faithful discharge of the duties of his office, which bond being approved~~
13272 ~~by the board and entered at large on its journal, shall be transmitted to the Comptroller, and~~
13273 ~~remain filed in his office.~~

13274 **Drafting note: The provisions of existing § 23-127 are stricken and incorporated**
13275 **into proposed § 23.1-2605.**

13276 ~~§ 23-128. Professors' salaries; fees of students.~~

13277 ~~Each professor shall receive a stated salary, to be fixed by the board of visitors. The~~
13278 ~~board shall fix the fees to be charged for tuition of students, other than those allowed~~
13279 ~~scholarships under § 23-31, which shall be a credit to the fund of the University.~~

13280 **Drafting note: The provisions of existing § 23-128 are stricken and incorporated**
13281 **into proposed § 23.1-1301.**

13282 ~~§ 23-129.~~

13283 **Drafting note: Repealed by Acts 1981, c. 319.**

13284 ~~§ 23-130~~ 23.1-2606. Curriculum.

13285 The curriculum of the ~~Virginia Polytechnic Institute and State~~ University shall embrace
13286 such branches of learning as relate to agriculture and the mechanic arts; without excluding other
13287 scientific and classical studies; and ~~including~~ military tactics.

13288 **Drafting note: Technical changes.**

13289 ~~§ 23-131. School of mines continued.~~

13290 ~~The school of mines now established at the Virginia Polytechnic Institute and State~~
13291 ~~University is continued, and shall receive for its support such sums as may be appropriated by~~
13292 ~~law for the purpose.~~

13293 **Drafting note: The provisions of existing § 23-131 are recommended for repeal as**
13294 **obsolete.**

13295 ~~§ 23-132.~~

13296 **Drafting note: Repealed by Acts 1972, c. 48.**

13297 § ~~23-155.05~~ 23.1-2607. Purchase of electric power and energy; ~~duration of contracts;~~
13298 ~~source of payments.~~

13299 A. For purposes of this section:

13300 "Other party" means any other entity, including ~~but not limited to any~~ (i) ~~another~~
13301 ~~municipality or,~~ public institution of higher education, ~~or any~~ political subdivision, public
13302 authority, agency, or instrumentality of the Commonwealth, ~~another or~~ state, or the United
13303 States ~~of America~~ or (ii) ~~a~~ partnership, limited liability company, ~~not for profit~~ nonprofit
13304 corporation, electric cooperative, or investor-owned utility, whether created, incorporated, or
13305 otherwise organized and existing under the laws of the Commonwealth or ~~another~~ state or the
13306 United States ~~of America~~.

13307 "Project" means any (i) system or facilities for the generation, transmission,
13308 transformation, or supply of electrical power and energy by any means whatsoever, including
13309 ~~but not limited to~~ fuel, fuel transportation, and fuel supply resources ~~and other related facilities,~~
13310 ~~any one or more;~~ (ii) electric generating ~~units~~ unit situated at a particular site, in the continental
13311 United States ~~of America, or any;~~ (iii) interest in ~~the foregoing such system, facilities, or unit,~~
13312 whether an undivided interest as a tenant in common or otherwise; ~~or any~~ (iv) right to the
13313 output, capacity, or services ~~thereof of such system, facilities, or unit.~~

13314 B. ~~Virginia Polytechnic Institute and State~~ The University may contract with any other
13315 party to buy power and energy ~~required for to meet~~ its present or future requirements. ~~Such~~
13316 ~~contracts~~ Any such contract may provide that (i) the source of such power and energy is limited
13317 to a specified project ~~or may include provision for;~~ (ii) replacement power and energy. ~~Any such~~
13318 ~~contract may provide that shall be provided;~~ or (iii) the University shall be obligated to make
13319 payments required by the contract whether ~~or not a~~ the project is completed, operable, or
13320 operating and notwithstanding the suspension, interruption, interference, reduction, or
13321 curtailment of the output of a project or the amount of power and energy contracted for, ~~and that~~
13322 ~~such;~~ (iv) payments ~~under required by~~ the contract ~~shall (a) are~~ not ~~be~~ subject to any reduction,

13323 whether by offset or otherwise, ~~and shall (b) are~~ not ~~be~~ conditioned upon the performance or
13324 nonperformance ~~by of~~ any other party. ~~Such contracts, with respect to any project, may also~~
13325 ~~provide, in the event of default by the University or any other party to any such contract for such~~
13326 ~~project in the performance of its obligations thereunder, for the University or other party to any~~
13327 ~~such contract for such project to succeed to the rights and interests and assume the obligations~~
13328 ~~of the defaulting party, pro rata or otherwise as may be agreed upon in such contracts. Such~~
13329 ~~contracts may provide that the other party is not obligated to provide power and energy in the~~
13330 ~~event that the project specified to be the source of power and energy to be purchased and sold~~
13331 ~~under such contracts is inoperable or in the case of the suspension, interference, reduction or~~
13332 ~~curtailment of the output of such project or in events of force majeure.~~

13333 ~~Notwithstanding the provisions of any other law or charter provision to the contrary, any~~
13334 ~~such contract, with respect to the sale or purchase of capacity, output, power, or energy from a~~
13335 ~~project, may extend for a period not exceeding 50 years from the date a project is estimated to~~
13336 ~~be placed in normal continuous operation; and the execution and effectiveness thereof shall not~~
13337 ~~be subject to any authorizations or approvals by the Commonwealth or any agency, commission,~~
13338 ~~or instrumentality or political subdivision thereof except as specifically required by law.~~

13339 ~~Any such contract shall provide that payments by the University under any such~~
13340 ~~contract, (c) shall~~ be made solely from, ~~and may be secured by a pledge of and lien upon,~~ the
13341 revenues derived by the University from the ownership and operation of the electric system of
13342 the University, ~~(d) may be secured by a pledge of~~ and ~~such payments~~ lien upon the electric
13343 system of the University, and (e) shall constitute an operating expense of ~~such the~~ electric
13344 system of the University; (v) in the event of default by the University or any other party to the
13345 contract in the performance of its obligations for any project, the University or any other party
13346 to the contract for such project shall succeed to the rights and interests and assume the
13347 obligations of the defaulting party, either pro rata or as may be otherwise agreed upon in the
13348 contract; or (vi) no other party shall be obligated to provide power and energy in the event that

13349 (a) the project is inoperable, (b) the output of the project is subject to suspension, interference,
13350 reduction or curtailment, or (c) a force majeure occurs.

13351 C. Notwithstanding any other charter or provision of law to the contrary, no such
13352 contract, with respect to the sale or purchase of capacity, output, power, or energy from a
13353 project, shall exceed 50 years from the date that the project is estimated to be placed in normal
13354 continuous operation.

13355 D. The execution and effectiveness of any such contract are not subject to any
13356 authorizations and approvals by the Commonwealth or any agency, commission,
13357 instrumentality, or political subdivision of the Commonwealth except as specifically required by
13358 law.

13359 E. No obligation under any such contract shall constitute a legal or equitable pledge,
13360 charge, lien, or encumbrance upon any property of the University or upon any of its income,
13361 receipts, or revenues, except the revenues of its electric system, and the faith and credit of the
13362 University ~~are not, or may shall~~ not be, pledged for the payment of any obligation under any
13363 such contract.

13364 F. The University shall ~~be obligated to~~ fix, charge, and collect rents, rates, fees, and
13365 charges for electric power and energy and other services, facilities, and commodities sold,
13366 furnished, or supplied through its electric system sufficient to provide revenues adequate to
13367 meet its obligations under any such contract and to pay any and all other amounts payable from
13368 or constituting a charge and lien upon such revenues, including amounts sufficient to pay the
13369 principal of and interest on bonds of the University ~~heretofore or hereafter~~ issued for purposes
13370 related to its electric system. Any pledge made by the University pursuant to this ~~paragraph~~
13371 ~~shall be~~ subsection is governed by the laws of the Commonwealth.

13372 **Drafting note: The provisions of the single section in existing Article 7 (§ 23-155.05)**
13373 **of Chapter 11 are logically relocated as proposed § 23.1-2607 of Article 1 of Chapter 26.**
13374 **Technical changes are made.**

13375 Article ~~1.1~~ 2.

13376 Virginia Cooperative Extension Service and Agricultural Experiment Station Division;
13377 Hampton Roads and Eastern Shore Agricultural Research and Extension Centers.

13378 **Drafting note: Article 2 logically combines provisions on the closely related**
13379 **Virginia Cooperative Extension and Agricultural Experiment Station Division and the**
13380 **Hampton Roads and Eastern Shore Agricultural Research and Extension Centers.**
13381 **Technical changes are made.**

13382 § ~~23-132.1~~ 23.1-2608. Definitions: Virginia Cooperative Extension Service and
13383 Agricultural Experiment Station Division established; Cooperative Extension Service Program
13384 recognized.

13385 A. For the purposes of this article:

13386 "Cooperative extension service" means the function traditionally associated with the
13387 term "extension" that traditionally focuses on agriculture, including horticulture and silviculture,
13388 agribusiness, home economics, community resource development, and 4-H Clubs.

13389 "Extension" means the joint federal, state, and local program designed to aid the transfer
13390 of information and research capabilities of land-grant universities to citizens.

13391 B. There is hereby established within the ~~Virginia Polytechnic Institute and State~~
13392 University a division to be known as the Virginia Cooperative Extension Service and
13393 Agricultural Experiment Station Division, ~~hereinafter referred to as~~ (the Division), which shall
13394 encompass and administer the Virginia Cooperative Extension Service (the Service) and the
13395 Agricultural Experiment Station (the Station) with appropriate supporting programs.

13396 ~~Further, the~~ C. The Cooperative Extension Service Program within Virginia State
13397 University, ~~hereinafter referred to as~~ "(the Service Program,") is hereby recognized. The
13398 ~~Cooperative Extension Service~~ Program shall be operated cooperatively by ~~Virginia Polytechnic~~
13399 ~~Institute and State~~ the University and Virginia State University, with ~~agreed upon~~ agreed-upon
13400 areas of program and service emphasis as set forth in the unified plan submitted by the two
13401 institutions to the U.S. Department of Agriculture.

13402 **Drafting note: Proposed subsection A incorporates explanatory statements**
13403 **contained in existing § 23-132.7. Technical changes are made.**

13404 § ~~23-132.2~~ 23.1-2609. Administration of the Division.

13405 The board ~~of visitors of the Virginia Polytechnic Institute and State University~~ shall
13406 provide for the administration of ~~such~~ the Division through the regular administrative and fiscal
13407 officers of the ~~Virginia Polytechnic Institute and State~~ University and shall make appointments
13408 to the administrative and research staff on recommendation of the president of the ~~Virginia~~
13409 ~~Polytechnic Institute and State~~ University.

13410 **Drafting note: Technical changes.**

13411 § ~~23-132.3~~ 23.1-2610. Duties of ~~Division; how work to be performed, the Service, the~~
13412 Program, and the Station.

13413 A. The ~~Virginia Cooperative Extension~~ Service shall provide the people of the
13414 Commonwealth with useful and practical information and knowledge on ~~subjects related to~~
13415 agriculture, including horticulture and silviculture, agribusiness, home economics, community
13416 resource development, 4-H Clubs, and related subjects ~~relating thereto~~, through instruction and
13417 the dissemination of useful and practical information through demonstrations, conferences,
13418 courses, workshops, publications, meetings, ~~and~~ mass media, and other educational programs.
13419 The necessary printing and distribution of information in connection with ~~the foregoing and this~~
13420 work of the Service shall be ~~carried on performed~~ in such manner as may be mutually agreed
13421 upon by ~~Virginia Polytechnic Institute and State~~ the University ~~for the work of the Division, the~~
13422 Virginia State University ~~for the work of the Service Program~~, the Governor or his ~~designated~~
13423 representative designee, the ~~United States U.S.~~ Secretary of Agriculture, the ~~United States U.S.~~
13424 Secretary of Commerce, and other participating bodies.

13425 B. The ~~Cooperative Extension Service~~ Program shall also conduct educational programs
13426 and disseminate useful and practical information to the people of the Commonwealth.

13427 § ~~3-2-503. Duties of Extension Division of Virginia Polytechnic Institute and State~~
13428 University.

13429 ~~A. C.~~ Personnel of the ~~Extension Division of Virginia Polytechnic Institute and State~~
13430 ~~University Service~~ shall inform local governing bodies of the Commonwealth whenever
13431 agricultural conditions are present in such localities that would warrant the declaration of a
13432 disaster pursuant to Section 301 of Public Law 93-288, 42 U.S.C. § 5141.

13433 ~~B. D.~~ Personnel of the ~~Extension Division of Virginia Polytechnic Institute and State~~
13434 ~~University Service~~ shall provide farmers and local governing bodies with such assistance and
13435 information as is available concerning federal and state disaster relief programs.

13436 ~~C. E.~~ The ~~Agricultural Experiment~~ Station shall conduct research and investigations and
13437 establish, publish, and distribute results in such forms as will tend to increase the economy,
13438 efficiency, and safety of the various enterprises and activities of interest to the Commonwealth
13439 and the nation, and promote the conservation and economic utilization of its natural and human
13440 resources.

13441 **Drafting note: Subsections D and E logically incorporate the provisions of existing**
13442 **§ 3.2-503. Technical changes are made.**

13443 ~~§ 23-132.4 23.1-2611. Selection of personnel; rules and regulations; work may be~~
13444 ~~conducted with both adults and youth~~ Personnel; local units.

13445 ~~It shall be the duty of the Virginia Polytechnic Institute and State~~ A. The University and
13446 ~~of the~~ Virginia State University, in cooperation with the departments and agencies of the federal
13447 government, ~~to shall~~ exercise great care in the selection of personnel to carry out and supervise
13448 the work ~~and to supervise the work to see that it is properly done throughout the Commonwealth~~
13449 of the Service. The work shall be conducted under such ~~rules and~~ regulations as may be adopted
13450 by the ~~Virginia Polytechnic Institute and State~~ University for the work of the Division and by
13451 the University and Virginia State University, in cooperation with the U.S. Department of
13452 Agriculture, for the work of the Service ~~in cooperative relation to the United States Department~~
13453 ~~of Agriculture~~.

13454 ~~B. The Virginia Polytechnic Institute and State University through the~~ Division and the
13455 ~~Virginia State University through the Service are authorized to conduct~~ Program may work with

13456 both adults and youth through local units to be known as "departments of extension and
13457 continuing education."

13458 **Drafting note: Technical changes are made, including use of "regulations" rather**
13459 **than "rules and regulations" per recommendation of the Code Commission.**

13460 ~~§ 23-132.5 23.1-2612. Sources from which moneys may be received; disposition of~~
13461 ~~receipts~~ Division; funding sources.

13462 The Division may receive moneys from the Commonwealth, the federal government ~~or,~~
13463 and private sources ~~and all.~~ All receipts of the Division shall be deposited to the credit of the
13464 general fund of the state treasury and ~~are hereby~~ appropriated to the ~~Virginia Polytechnic~~
13465 ~~Institute and State~~ University to be used exclusively for the purposes of the Division.

13466 **Drafting note: Technical changes.**

13467 ~~§ 23-132.6 23.1-2613. Appropriations~~ The Division and the Program; appropriations by
13468 the General Assembly.

13469 ~~There is hereby authorized to be appropriated for the purposes of this chapter such sums~~
13470 ~~as the~~ A. The General Assembly may ~~from time to time determine to be~~ appropriate such funds
13471 to the Division and the Program as it deems necessary. Any ~~money that may be appropriated~~
13472 ~~from the general fund of the state treasury, or received and appropriated~~ general funds and funds
13473 received from any agency or department of the federal government for the purposes of carrying
13474 out this ~~chapter article~~ shall be expended by the ~~Virginia Polytechnic Institute and State~~
13475 University through the Division and by ~~the~~ Virginia State University through the ~~Service,~~
13476 Program and shall be accounted for in the manner prescribed by applicable law or regulations.

13477 B. Funds appropriated by the General Assembly shall be used by the University and
13478 Virginia State University for the purpose of conducting cooperative extension services in the
13479 Commonwealth. Such funds may be used to defray all necessary expenses, including salaries,
13480 travel expenses, equipment, supplies, or other authorized expenses.

13481 **Drafting note: Subsection B incorporates the provisions of existing § 23-132.7 with**
13482 **the exception of the explanatory provisions contained in that section. Technical changes**

13483 are made, including striking the superfluous term "from time to time" per Code
13484 Commission policy.

13485 ~~§ 23-132.7. For what purposes funds may be used.~~

13486 ~~The funds appropriated by the General Assembly as provided in § 23-132.6 shall be used~~
13487 ~~by the Virginia Polytechnic Institute and State University and by the Virginia State University~~
13488 ~~for the purpose of conducting cooperative extension services in the Commonwealth of Virginia~~
13489 ~~and in cooperation with the several counties, cities, and other participating bodies therein so far~~
13490 ~~as said funds will permit. "Cooperative extension service" is the function traditionally associated~~
13491 ~~with the term "extension," which is the joint federal, state, and local program designed to aid~~
13492 ~~transfer of information and research capabilities of land grant universities to citizens.~~
13493 ~~Traditionally, the cooperative extension services focus on agriculture, including horticulture and~~
13494 ~~silviculture, agribusiness, home economics, community resource development, and 4-H Clubs.~~
13495 ~~These funds may be used for defraying all necessary expenses, including the payment of salaries~~
13496 ~~and travel expenses, buying of equipment and supplies, and for other authorized expenses in~~
13497 ~~connection with carrying out the work.~~

13498 **Drafting note: With the exception of explanatory statements, the provisions of**
13499 **existing § 23.1-132.7 are stricken and incorporated into proposed § 23.1-2613. Explanatory**
13500 **statements are stricken and incorporated into § 23.1-2608.**

13501 ~~§ 23-132.8~~ 23.1-2614. Appropriations The Division; appropriations by local governing
13502 bodies.

13503 ~~The~~ Any local governing ~~bodies of the several counties and cities~~ body of the
13504 Commonwealth ~~are hereby authorized and empowered to~~ may appropriate ~~out of the county or~~
13505 ~~city funds for the support of such,~~ to be supplemented by funds appropriated by the General
13506 Assembly to the University for the Division and such other funds as the University may
13507 allocate, to support the activities of the Division ~~such sums as said governing bodies may deem~~
13508 ~~proper; the sums so appropriated are to be used in cooperation with the Virginia Polytechnic~~
13509 ~~Institute and State University for paying such portions of the expenses of the Division and in~~

13510 such manner as may be agreed upon by the ~~Virginia Polytechnic Institute and State~~ University
13511 and the local governing body. ~~Funds appropriated by the governing bodies of the county or city~~
13512 ~~are to be supplemented by a sum or sums to be paid out of funds appropriated by the General~~
13513 ~~Assembly to the Virginia Polytechnic Institute and State University for the Division and such~~
13514 ~~funds as may be allotted from funds under its control.~~

13515 **Drafting note: Technical changes.**

13516 § ~~23-132.9~~ 23.1-2615. ~~Soil Station; soil~~ survey.

13517 For the purpose of continuing a survey of the soils of the Commonwealth ~~which that~~ was
13518 begun by the ~~United States~~ U.S. Department of Agriculture, ~~there is hereby authorized and~~
13519 ~~directed to be made under the direction and supervision of such agricultural experiment station,~~
13520 the Station shall direct and supervise a comprehensive soil survey of the Commonwealth of such
13521 a character and along such lines as to obtain an inventory of the soil resources of the
13522 Commonwealth and to determine their adaptability to various crops, forestry, and livestock
13523 enterprises ~~in order~~ to promote the utilization of the lands of the Commonwealth in the most
13524 practical and economical way. It is contemplated that the ~~experiment station~~ Station will make
13525 this such soil survey in cooperation with the ~~United States~~ U.S. Department of Agriculture.

13526 **Drafting note: Technical changes.**

13527 § ~~23-132.10~~ 23.1-2616. ~~Agricultural Station; agricultural~~ survey.

13528 ~~There is authorized to be made under the direction and supervision of such agricultural~~
13529 ~~experiment station, The Station may direct and supervise~~ a thorough and comprehensive
13530 agricultural survey of the Commonwealth according to the most approved methods in practice,
13531 ~~or which may be devised, for the purpose of gathering to gather~~ facts and information ~~in regard~~
13532 ~~to on~~ existing agricultural conditions in ~~Virginia, the Commonwealth~~ and data upon which to
13533 base a study of agricultural economics and a constructive program for the development of
13534 agriculture and agricultural resources, ~~which survey shall include matters pertaining to. The~~
13535 survey shall examine (i) soils and soil fertility and management; (ii) soil erosion and drainage
13536 problems affecting soil fertility and productivity; (iii) the adaptation of various soil types,

13537 elevations, and seasonable conditions to crops produced or ~~which that~~ may suitably be
 13538 produced; (iv) farm layout and selection ~~and;~~ (v) arrangement of fields for the use of labor-
 13539 saving machinery, ~~and;~~ (vi) economy and convenience in cultivation and farm operations; (vii)
 13540 methods of cultivation, production, and handling of crops, ~~and;~~ (viii) general farm management;
 13541 (ix) the various crops produced on farms; and their yield and gross value compared with the cost
 13542 of production and courses of low yield; (x) farm labor; and its distribution and efficiency; (xi)
 13543 labor incomes of the various classes of farm labor; (xii) the relation of various farm products to
 13544 public needs and local and general supply and demand; (xiii) farm incomes and income sources;
 13545 (xiv) capital investment and return; (xv) distribution of capital investment; (xvi) the character
 13546 and extent of idle lands and their suitability for cultivation or other agricultural purposes in the
 13547 various localities and what, if any, profitable use may be made of them through the introduction
 13548 of livestock or crops adapted to such soils, by individuals or on a community plan, with
 13549 notations of elevation, topography, temperatures, and seasonal conditions ~~as affecting fruit~~
 13550 production of fruit, cotton ~~or,~~ and other crops; and (xvii) any other information or studies ~~which~~
 13551 that may seem advisable in determining methods for the betterment of agricultural conditions
 13552 and the development of the agricultural resources of the Commonwealth.

13553 ~~It is contemplated that in making the foregoing survey that the agricultural experiment~~
 13554 ~~station will, and is hereby authorized to, The Station is authorized to and it is contemplated that~~
 13555 the Station will work in conjunction with and cooperate with similar agencies of the federal
 13556 government to make such agricultural survey whenever a suitable and satisfactory arrangement
 13557 can be made for such cooperation.

13558 **Drafting note: Technical changes.**

13559 ~~Article 6.~~

13560 ~~Virginia Truck and Ornamentals Research Station.~~

13561 **Drafting note: Existing Article 6 (§ 23-155.01 et seq.) of Chapter 11 is stricken and**
 13562 **its four sections are relocated to this proposed Article 2 with technical changes to reflect its**
 13563 **name in current use.**

13564 § ~~23-155.01~~ 23.1-2617. ~~Established~~ Hampton Roads and Eastern Shore Agricultural
 13565 Research and Extension Centers established.

13566 The ~~Virginia Truck and Ornamentals~~ Hampton Roads and Eastern Shore Agricultural
 13567 ~~Research Station is hereby abolished as a permanent state institution and is reestablished and~~
 13568 Extension Centers (Centers) are established as a component of the ~~Virginia Agricultural~~
 13569 Experiment Station which is, by the provisions of § 23-132.1, part of the Research Division at
 13570 the Virginia Polytechnic Institute and State University and shall be retained as active research
 13571 and extension centers.

13572 **Drafting note: Existing § 23-155.01 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is**
 13573 **logically relocated as proposed § 23.1-2617. This proposed section incorporates the last**
 13574 **sentence of existing § 23-155.03. Technical changes are made.**

13575 § ~~23-155.02~~ 23.1-2618. ~~Function Centers; function.~~

13576 The ~~Virginia Truck and Ornamentals Research Station, at times hereafter referred to as~~
 13577 the "Station," Centers shall conduct basic and applied research in the fields ~~of horticulture, plant~~
 13578 breeding and variety testing, entomology, nematology, plant pathology, plant physiology, and
 13579 soil science which that may bear directly on the interests of commercial growers of vegetable
 13580 and ornamental crops in ~~Tidewater Virginia~~ the Commonwealth. The ~~station~~ Centers shall
 13581 coordinate its research with related work of the ~~Virginia Agricultural Experiment~~ Station to
 13582 avoid unnecessary duplication of effort. The ~~information acquired~~ Centers shall disseminate the
 13583 results of its research conducted pursuant to this section ~~shall be disseminated. The Norfolk and~~
 13584 Eastern Shore branches of the station will be retained as active research stations.

13585 **Drafting note: Existing § 23-155.02 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is**
 13586 **logically relocated as proposed § 23.1-2618. Technical changes are made.**

13587 § ~~23-155.03~~ 23.1-2619. ~~Board of Directors~~ Advisory board of directors.

13588 A. A ~~Board~~ board of ~~Directors~~ directors (board) shall serve as an advisory body
 13589 representing to the Centers that represents local agricultural interests. The ~~Board will~~ board shall
 13590 consist of five members, ~~all~~ appointed by the ~~Dean~~ dean of the College of Agriculture and Life

13591 Sciences. ~~Three of the appointive members shall be selected from the membership of the~~
 13592 ~~Association of Virginia Potato and Vegetable Growers, Incorporated. Two of the appointive~~
 13593 ~~members shall be selected from the membership of the Virginia Nurseryman's Association,~~
 13594 ~~Incorporated~~ Each appointed member shall represent an industry that is relevant to the missions
 13595 of the Centers.

13596 ~~The term of office of the appointive members~~ B. Members of the board shall be serve for
 13597 terms of four years.

13598 C. The members of the ~~Board~~ board shall name one of its members chairman ~~and three.~~

13599 D. Three members of the ~~Board~~ board shall constitute a quorum for the transaction of
 13600 business.

13601 E. The ~~Board~~ board shall hold at least one meeting annually at either the ~~Norfolk or~~
 13602 Hampton Roads center or the Eastern Shore ~~branch research stations center~~ and such other
 13603 meetings as may be necessary at such times and places as the chairman or any three members
 13604 may designate.

13605 **Drafting note: A substantive change is made in subsection A to remove specific**
 13606 **qualifications of advisory board members in favor of more general qualifications. This**
 13607 **substantive change reflects the current appointment method for such advisory board.**
 13608 **Technical changes are made.**

13609 ~~§ 23-155.04 23.1-2620. Executive Director Centers; executive director.~~

13610 An ~~Executive Director~~ executive director shall be appointed to administer the ~~Norfolk~~
 13611 ~~and Eastern Shore branches of the station~~ Centers and ~~to~~ carry out the ~~station's program of~~
 13612 ~~research~~ research programs at the Centers. The ~~Executive Director~~ executive director shall serve
 13613 at the pleasure of and be answerable to the Dean of the College of Agriculture and Life Sciences
 13614 of the University.

13615 **Drafting note: Existing § 23-155.04 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is**
 13616 **logically relocated as proposed § 23.1-2620. Technical changes are made.**

13617 ~~§ 23-132.11 23.1-2621. Reports The Division and the Program; reports.~~

13618 A. The ~~Virginia Polytechnic Institute and State~~ University shall file such reports on the
 13619 activities of the Division; ~~the Virginia State University shall file such reports on the activities of~~
 13620 ~~the Service Program~~ as may be required by law or requested by the Governor; ~~and the two~~
 13621 ~~institutions.~~

13622 B. Virginia State University shall file such reports on the activities of the Program as
 13623 may be required by law or requested by the Governor.

13624 C. The University and Virginia State University shall file such reports on the unified
 13625 plan as may be required by law or requested by the Governor.

13626 **Drafting note: Technical changes.**

13627 § ~~23-132.12~~ 23.1-2622. Construction of acts relating to the ~~Virginia Cooperative~~
 13628 ~~Extension Service and Agricultural Experiment Station Division of Virginia Polytechnic~~
 13629 ~~Institute and State University Service and the Station.~~

13630 All acts ~~and parts of acts~~ relating to the ~~Virginia Cooperative Extension Service and~~
 13631 ~~Agricultural Experiment Station Division of the Virginia Polytechnic Institute and State~~
 13632 ~~University Service and the Station~~ shall be construed as relating to the Division as established
 13633 by this article; and no such act ~~or part of an act~~ shall be construed as limiting the provisions of
 13634 this article.

13635 **Drafting note: Technical changes.**

13636 ~~Article 2.~~

13637 ~~Research Division.~~

13638 ~~§§ 23-133 through 23-135.7.~~

13639 **Drafting note: Repealed by Acts 1994, c. 433.**

13640 ~~Article 2.01 3.~~

13641 Virginia Center for Coal and Energy Research.

13642 **Drafting note: Technical changes.**

13643 § ~~23-135.7:1~~ 23.1-2623. ~~Created~~ Virginia Center for Coal and Energy Research
 13644 established.

13645 The Virginia Center for Coal and Energy Research (the Center) is ~~hereby created to be~~
13646 ~~located at Virginia Polytechnic Institute and State University, hereinafter referred to as the~~
13647 ~~Center.~~

13648 ~~§ 23-135.7:2. Function.~~

13649 ~~The Center shall be established as~~ an interdisciplinary study, research, information, and
13650 resource facility for the Commonwealth ~~of Virginia utilizing and shall utilize~~ the full
13651 capabilities of faculty, staff, libraries, and laboratories for the benefit of Virginians and the
13652 expansion of knowledge pertaining to coal and energy research and development. The Center
13653 shall be located at the University.

13654 **Drafting note: Existing §§ 23-135.7:1 and 23-135.7:2 are logically combined in**
13655 **proposed § 23.1-2623. Technical changes are made.**

13656 ~~§ 23-135.7:3~~ 23.1-2624. Control and supervision.

13657 The Center ~~shall be~~ is subject to the control and supervision of the board ~~of visitors of~~
13658 Virginia Polytechnic Institute and State University.

13659 **Drafting note: Technical changes.**

13660 ~~§ 23-135.7:4~~ 23.1-2625. ~~Appointment of executive~~ Executive director.

13661 The board ~~of visitors of Virginia Polytechnic Institute and State University~~ shall appoint
13662 an executive director for the Center.

13663 ~~§ 23-135.7:5. Powers and duties of executive director.~~

13664 ~~The executive director with~~ who, subject to the approval of the board ~~of visitors of~~
13665 Virginia Polytechnic Institute and State University, shall ~~have the following powers and duties:~~

- 13666 1. Exercise all powers and perform all duties imposed upon him by law; ~~and~~
- 13667 2. Carry out the specific duties imposed upon him by the board ~~of visitors of Virginia~~
13668 Polytechnic Institute and State University; and
- 13669 3. Employ such personnel and contract for such services as may be required to carry out
13670 the purposes of this article.

13671 **Drafting note: Existing §§ 23-135.7:4 and 23-135.7:5 are logically combined in this**
13672 **proposed § 23.1-2625. Technical changes are made.**

13673 § ~~23-135.7:6~~ 23.1-2626. Powers and duties of the Center.

13674 The Center, under the direction of the executive director, shall ~~have the following~~
13675 ~~powers and duties~~:

13676 1. ~~To develop~~ Develop a degree program in energy production and conservation research
13677 at the master's level in conjunction with the ~~State Council on Higher Education~~;

13678 2. ~~To develop~~ Develop and provide programs of continuing education and in-service
13679 training for persons who work in the ~~field~~ fields of coal or other energy research, development,
13680 or production;

13681 3. ~~To operate in conjunction~~ Collaborate with other departments of ~~Virginia Polytechnic~~
13682 ~~Institute and State~~ the University, including ~~but not limited to~~ the Department of Mining and
13683 Minerals Engineering;

13684 4. ~~To conduct~~ Conduct research in the fields of coal, coal utilization, migrating natural
13685 gases such as methane and propane, and other ~~energy-related~~ energy-related work;

13686 5. ~~To collect~~ Collect and maintain data on energy production, development, and
13687 utilization;

13688 6. ~~To foster~~ Foster the utilization of research information, discoveries, and data;

13689 7. ~~To coordinate~~ Coordinate the functions of the Center with each of the Center's energy
13690 research facilities to prevent duplication of effort;

13691 8. ~~To apply~~ Apply for and accept grants from the ~~United States federal~~ government ~~and~~
13692 ~~the~~ state government ~~and agencies and instrumentalities thereof~~, and ~~from~~ any other source ~~in~~
13693 ~~carrying to carry~~ out the purposes of this article. ~~To these ends, the~~ The Center ~~shall have the~~
13694 ~~power to may~~ comply with such conditions and execute such agreements as may be necessary to
13695 accept such grants;

13696 9. ~~To accept~~ Accept gifts, bequests, and any other thing of value ~~to be used for carrying~~
13697 carry out the purposes of this article;

13698 10. ~~To receive~~ Receive, administer, and expend all funds and other assistance made
13699 available to the Center ~~for to carry out~~ the purposes of ~~carrying out~~ this article;

13700 11. ~~To consult~~ Consult with the Division of Energy of the Department of Mines,
13701 Minerals and Energy in the preparation of the Virginia Energy Plan pursuant to § 67-201; and

13702 12. ~~To do~~ Do all things necessary or convenient for the proper administration of this
13703 article.

13704 **Drafting note: Technical changes.**

13705 § ~~23-135.7:7~~ 23.1-2627. ~~Advisory Committee continued as~~ Virginia Coal Research and
13706 Development Advisory Board.

13707 The ~~Virginia Coal Research and Development Advisory Committee is continued and~~
13708 ~~shall hereafter be known as the~~ Virginia Coal Research and Development Advisory Board. ~~The~~
13709 ~~(the~~ Advisory Board) shall serve in an advisory capacity to the ~~Executive Director~~ executive
13710 director of the ~~Virginia~~ Center ~~for Coal and Energy Research~~.

13711 1. ~~The Advisory Board shall be authorized to advise on those matters set forth in § 23-~~
13712 ~~135.7:2.~~

13713 2. Representatives to the Advisory Board shall be appointed by the ~~Board of Visitors of~~
13714 ~~Virginia Polytechnic Institute and State University~~ board.

13715 3. The ~~Board of Visitors of Virginia Polytechnic Institute and State University~~ board
13716 shall ~~also~~ appoint such other individuals as ~~they deem it deems~~ necessary to the work of the
13717 Advisory Board.

13718 4. ~~Representatives~~ Members shall include representatives from the Department of
13719 Conservation and ~~Historic Resources~~ Recreation; the Department of Small Business and
13720 Supplier Diversity; the Department of Mines, Minerals and Energy; the Department of Labor
13721 and Industry; the Virginia Port Authority, ~~the institutions; and each public institution~~ of higher
13722 education, excluding ~~Virginia Polytechnic Institute and State~~ the University, ~~and the~~
13723 ~~Community College System~~ shall serve as the Advisory Board.

13724 **Drafting note: Technical changes are made, including correcting the name of the**
 13725 **Department of Conservation and Recreation.**

13726 Article ~~2.02~~ 4.

13727 Virginia Water Resources Research Center.

13728 **Drafting note: Technical changes.**

13729 § ~~23-135.7:8.~~ 23.1-2628. ~~Established~~ Virginia Water Resources Research Center
 13730 established.

13731 The Virginia Water Resources Research Center, ~~which came into existence as the result~~
 13732 ~~of the Water Resources Research Act of 1964 (P.L. 88-379), (the Water Center)~~ is hereby
 13733 established ~~as the Virginia Water Resources Research Center, hereinafter referred to as the~~
 13734 ~~Water Center, to be located at Virginia Polytechnic Institute and State University, for the~~
 13735 ~~purposes of developing, implementing and coordinating to develop, implement, and coordinate~~
 13736 water and related land research programs in the Commonwealth and ~~transferring transfer~~ the
 13737 results of research and new technology to potential users. The Water Center shall be located at
 13738 the University.

13739 **Drafting note: Technical changes.**

13740 § ~~23-135.7:10~~ 23.1-2629. Control and supervision.

13741 The Water Center ~~shall be is~~ a unit of ~~Virginia Polytechnic Institute and State the~~
 13742 University under the supervision and control of the ~~University's Board of Visitors~~ board.

13743 **Drafting note: Technical changes.**

13744 § ~~23-135.7:9~~ 23.1-2630. Functions, powers, and duties ~~of the Water Center.~~

13745 A. The Water Center shall: (i) consult with the General Assembly; federal, state, and
 13746 local agencies; water user groups; private industry; and other potential users of research; (ii)
 13747 establish and administer agreements with other ~~universities of the Commonwealth for the public~~
 13748 institutions of higher education and private institutions of higher education to conduct ~~of~~
 13749 research projects; (iii) ~~[Repealed.]~~ ~~(iv)~~ disseminate new information and facilitate the transfer
 13750 and application of new technology; ~~(v)~~ (iv) be a liaison between ~~Virginia~~ the Commonwealth

13751 and the federal research funding agencies ~~as an~~ and advocate for ~~Virginia's~~ the Commonwealth's
13752 water research needs; ~~(vi) and (v)~~ encourage the development of academic programs in water
13753 resources management in conjunction with the ~~State~~ Council ~~on Higher Education~~.

13754 B. ~~In addition, the~~ The Water Center shall facilitate and stimulate research that: (i) deals
13755 with policy issues facing the General Assembly; (ii) supports the state water resource agencies; ;
13756 and (iii) provides water planning and management organizations with tools to increase
13757 efficiency and effectiveness of water planning and management.

13758 **Drafting note: Technical changes.**

13759 § ~~23-135.7-11~~ 23.1-2631. ~~Appointment of an executive~~ Executive director.

13760 A. The principal administrative officer of the Water Center shall be an executive
13761 director, who shall be appointed by the ~~President~~ president of ~~Virginia Polytechnic Institute and~~
13762 State the University ~~with, subject to~~ the approval of the ~~Board of Visitors, and who~~ board. The
13763 executive director shall be under the supervision of the ~~President~~ president of ~~Virginia~~
13764 ~~Polytechnic Institute and State the~~ University.

13765 § ~~23-135.7-12~~. ~~Powers and duties of the Executive Director.~~

13766 B. The ~~Executive Director~~ executive director shall exercise all powers imposed upon
13767 him by law, carry out the specific duties imposed upon him by the ~~President~~ president of
13768 ~~Virginia Polytechnic Institute and State the~~ University, and develop appropriate policies and
13769 procedures, with the advice of the Virginia Water Resources Research Center Statewide
13770 Advisory Board, for (i) identifying priority research problems; (ii) collaborating with the
13771 General Assembly; federal, state, and local governmental agencies; and water user groups in the
13772 formulation of its research programs; (iii) selecting projects to be funded; and (iv) disseminating
13773 information and transferring technology designed to help resolve water and related land
13774 problems of the Commonwealth. He shall employ such personnel and secure such services as
13775 may be required to carry out the purposes of this article and expend appropriated funds and
13776 accept moneys for cost-sharing on projects funded with federal and private funds.

13777 **Drafting note: Existing §§ 23-135.7:11 and 23-135.7:12 are combined in proposed §**
 13778 **23.1-2631. Technical changes are made.**

13779 § ~~23-135.7:13~~ 23.1-2632. ~~Statewide Advisory Committee continued as~~ Virginia Water
 13780 Resources Research Center Statewide Advisory Board.

13781 The ~~Virginia Water Resources Research Center Statewide Advisory Committee is~~
 13782 ~~continued and shall hereafter be known as the~~ Virginia Water Resources Research Center
 13783 Statewide Advisory Board. ~~The~~ (the Statewide Advisory Board) shall serve in an advisory
 13784 capacity to the ~~Executive Director~~ executive director of the Water Center. Representatives of the
 13785 Statewide Advisory Board shall be appointed by the Governor, subject to confirmation by the
 13786 General Assembly, and shall include balanced representation from industries; federal, state, and
 13787 local agencies; water user groups; and concerned citizens. The Statewide Advisory Board shall
 13788 (i) recommend policy guidelines for implementing the functions of the Water Center ~~and, (ii)~~
 13789 evaluate the programs of the Water Center; ~~and (ii) (iii) advise and counsel with the Executive~~
 13790 ~~Director~~ executive director of the Water Center and make recommendations to assist him in
 13791 carrying out the purposes of this article.

13792 **Drafting note: Technical changes.**

13793 Article ~~2.03~~ 5.

13794 Virginia Center for Housing Research.

13795 **Drafting note: Technical changes.**

13796 § ~~23-135.7:14~~ 23.1-2633. Virginia Center for Housing Research established.

13797 The Virginia Center for Housing Research, ~~hereinafter referred to as~~ (the Housing
 13798 Center;) is ~~hereby created to established and shall~~ be located at ~~Virginia Polytechnic Institute~~
 13799 ~~and State~~ the University.

13800 **Drafting note: Technical changes.**

13801 § ~~23-135.7:15~~ 23.1-2634. Functions, powers, and duties ~~of the Housing Center.~~

13802 ~~A.~~ The Housing Center shall serve as an interdisciplinary study, research, and
 13803 information resource on housing for the Commonwealth ~~of Virginia.~~ The Housing Center shall:

13804 (i) consult with the General Assembly; federal, state, and local agencies; nonprofit
13805 organizations; private industry; and other potential users of research; (ii) establish and
13806 administer agreements with other ~~universities of the Commonwealth~~ public institutions of
13807 higher education and private institutions of higher education to carry out research projects; (iii)
13808 disseminate new information and research results; ~~and~~ (iv) facilitate the application and transfer
13809 of new technologies to housing.

13810 ~~B. In addition, the Housing Center shall;~~ and (v) stimulate and perform research that ~~(i)~~
13811 deals with housing policy issues facing the General Assembly and ~~(ii)~~ aids the Commonwealth's
13812 housing and housing finance agencies.

13813 **Drafting note: Technical changes.**

13814 § ~~23-135.7-16~~ 23.1-2635. Control and supervision.

13815 The Housing Center ~~shall be~~ is a unit of ~~Virginia Polytechnic Institute and State the~~
13816 University under the supervision and control of the ~~University's Board of Visitors~~ board.

13817 **Drafting note: Technical changes.**

13818 § ~~23-135.7-17~~ 23.1-2636. ~~Appointment of a~~ Director.

13819 A. The ~~President~~ president of the ~~Virginia Polytechnic Institute and State~~ University,
13820 with the approval of the ~~Board of Visitors~~ board, shall appoint a director to serve as the
13821 principal administrative officer of the Housing Center. The ~~Director~~ director shall be under the
13822 supervision of the ~~President~~ president of the ~~Virginia Polytechnic Institute and State~~ University
13823 or his designee.

13824 § ~~23-135.7-18~~. ~~Powers and duties of the Director.~~

13825 B. The ~~Director~~ director shall exercise all powers imposed upon him by law, carry out
13826 the specific duties imposed on him by the ~~President~~ president of ~~Virginia Polytechnic Institute~~
13827 ~~and State the~~ University, and develop appropriate policies and procedures, with the advice of the
13828 ~~Research Advisory~~ Board of Housing and Community Development, for (i) identifying priority
13829 research problems; (ii) cooperating with the General Assembly; federal, state, and local
13830 agencies; nonprofit organizations; and private industry in formulating its research programs; (iii)

13831 selecting research projects to be funded; and (iv) disseminating information and transferring
13832 technology related to housing and housing problems within the Commonwealth. The ~~Director~~
13833 director shall employ such personnel and secure such services as may be required to carry out
13834 the purposes of this article, expend appropriated funds, and accept moneys from federal or
13835 private sources for cost-sharing on projects.

13836 **Drafting note: Existing §§ 23-135.7:17 and 23-135.7:18 are combined as proposed §**
13837 **23.1-2636. Technical changes are made.**

13838 ~~§ 23-135.7:19.~~

13839 **Drafting note: Repealed by Acts 1992, c. 754.**

13840 ~~§ 23-135.7:20 23.1-2637. Board of Housing and Community Development to serve as~~
13841 ~~advisory~~ Advisory board.

13842 The Board of Housing and Community Development ~~established in § 36-135~~ shall ~~serve~~
13843 ~~in an advisory capacity to advise~~ the ~~Director~~ director of the Housing Center ~~for Housing~~
13844 ~~Research. The Board of Housing and Community Development shall be and is~~ authorized to
13845 advise the director on all matters set forth in § ~~23-135.7:15~~ 23.1-2634.

13846 **Drafting note: Technical changes.**

13847 ~~Article 2.1.~~

13848 ~~Roanoke Technical Institute.~~

13849 **Drafting note: Existing Article 2.1 (§ 23-135.8 et seq.) of Chapter 11 is**
13850 **recommended for repeal as obsolete.**

13851 ~~§ 23-135.8. Establishment and accreditation.~~

13852 ~~There is hereby established within the Virginia Polytechnic Institute and State University~~
13853 ~~a division to be known as the "Roanoke Technical Institute," hereinafter referred to as the~~
13854 ~~Institute. Such Institute shall be in all respects subject to the judgment, control and supervision~~
13855 ~~of the governing board of the Virginia Polytechnic Institute and State University in cooperation~~
13856 ~~with the State Board of Education, which said Institute shall offer courses appropriate to~~
13857 ~~establish accreditation practices in its field.~~

13858 **Drafting note: Existing § 23-135.8 is recommended for repeal as obsolete.**

13859 ~~§ 23-135.9. Purpose.~~

13860 ~~The purpose of the Institute shall be to train technicians in the industrial, scientific,~~
13861 ~~electrical and the mechanical arts and sciences in order to increase the economic efficiency and~~
13862 ~~safety of the manufacturing, engineering, and industrial enterprises of the Commonwealth and~~
13863 ~~to promote the economic utilization of its natural and human resources.~~

13864 **Drafting note: Existing § 23-135.9 is recommended for repeal as obsolete.**

13865 ~~§ 23-135.10. Administration.~~

13866 ~~The board of visitors of the Virginia Polytechnic Institute and State University in~~
13867 ~~cooperation with the State Board of Education shall provide for the administration of such~~
13868 ~~Institute through such persons as they determine proper and shall make such appointments to the~~
13869 ~~administrative and technical staff of the Institute as in their judgment appear best.~~

13870 **Drafting note: Existing § 23-135.10 is recommended for repeal as obsolete.**

13871 ~~§ 23-135.11. Contribution by City of Roanoke; gifts and donations.~~

13872 ~~The City of Roanoke shall provide a suitable site without cost to the Commonwealth and~~
13873 ~~assume an appropriate share of the cost of operation. For such purpose the city may accept and~~
13874 ~~expend gifts and donations from private individuals, firms, corporations and organizations,~~
13875 ~~which shall be considered for the purpose of this section as a contribution on the part of the city.~~

13876 **Drafting note: Existing § 23-135.11 is recommended for repeal as obsolete.**

13877 ~~Article 2.2.~~

13878 ~~Clifton Forge Covington Branch.~~

13879 **Drafting note: Existing Article 2.2 (§ 23-135.12 et seq.) of Chapter 11 is**
13880 **recommended for repeal as obsolete.**

13881 ~~§ 23-135.12. Establishment.~~

13882 ~~There is hereby established within the Virginia Polytechnic Institute and State University~~
13883 ~~a division to be known as the "Clifton Forge Covington Branch of the Virginia Polytechnic~~
13884 ~~Institute and State University," hereinafter referred to as the division. Such division shall be in~~

13885 ~~all respects subject to the judgment, control and supervision of the governing board of the~~
13886 ~~Virginia Polytechnic Institute and State University.~~

13887 **Drafting note: Existing § 23-135.12 is recommended for repeal as obsolete.**

13888 ~~§ 23-135.13. Administration.~~

13889 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall have~~
13890 ~~the same powers as to determining the fields of instruction to be offered; as to fixing tuition,~~
13891 ~~fees and other charges; as to the appointment and removal of administrative officers, professors,~~
13892 ~~agents and servants, and the making of rules and regulations as are now vested in said board~~
13893 ~~with respect to Virginia Polytechnic Institute and State University. The board of visitors shall~~
13894 ~~have the power of granting appropriate diplomas or certificates of successful completion of the~~
13895 ~~two-year curriculum of such division.~~

13896 **Drafting note: Existing § 23-135.13 is recommended for repeal as obsolete.**

13897 ~~§ 23-135.14. Courses of instruction.~~

13898 ~~The curriculum offered by the division shall be limited to courses of instruction which~~
13899 ~~are offered by the Virginia Polytechnic Institute and State University to resident students during~~
13900 ~~their first two years of enrollment and to such other terminal courses of no more than two years'~~
13901 ~~duration as may be authorized by the board of visitors to meet the post-high school educational~~
13902 ~~needs of the community.~~

13903 **Drafting note: Existing § 23-135.14 is recommended for repeal as obsolete.**

13904 ~~§ 23-135.15. Expenditure of appropriations.~~

13905 ~~Appropriations, directly or indirectly, from the Commonwealth to the division shall be~~
13906 ~~expended as directed by the board of visitors of the Virginia Polytechnic Institute and State~~
13907 ~~University.~~

13908 **Drafting note: Existing § 23-135.15 is recommended for repeal as obsolete.**

13909 ~~§ 23-135.16. Care and preservation of property; acquisition of site; gifts and donations.~~

13910 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall be~~
13911 ~~charged with the care and preservation of all property, real and personal, belonging to the~~

13912 ~~division. To this end, the board is authorized to acquire, by gift or purchase, a suitable site for~~
13913 ~~the division, and may accept and expend gifts and donations of any kind from individuals, firms,~~
13914 ~~corporations and organizations.~~

13915 **Drafting note: Existing § 23-135.16 is recommended for repeal as obsolete.**

13916 ~~Article 2.3.~~

13917 ~~Wytheville Branch.~~

13918 **Drafting note: Existing Article 2.3 (§ 23-135.17 et seq.) of Chapter 11 of Title 23 is**
13919 **recommended for repeal as obsolete.**

13920 ~~§ 23-135.17. Establishment.~~

13921 ~~There is hereby established within the Virginia Polytechnic Institute and State University~~
13922 ~~a division to be known as the "Wytheville Branch of the Virginia Polytechnic Institute and State~~
13923 ~~University," hereinafter referred to as the division. Such division shall be in all respects subject~~
13924 ~~to the judgment, control and supervision of the governing board of the Virginia Polytechnic~~
13925 ~~Institute and State University.~~

13926 **Drafting note: Existing § 23-135.17 is recommended for repeal as obsolete.**

13927 ~~§ 23-135.18. Administration.~~

13928 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall have~~
13929 ~~the same powers as to determining the fields of instruction to be offered; as to fixing tuition,~~
13930 ~~fees and other charges; as to the appointment and removal of administrative officers, professors,~~
13931 ~~agents and servants, and the making of rules and regulations as are now vested in said board~~
13932 ~~with respect to Virginia Polytechnic Institute and State University. The board of visitors shall~~
13933 ~~have the power of granting appropriate diplomas or certificates of successful completion of the~~
13934 ~~two-year curriculum of such division.~~

13935 **Drafting note: Existing § 23-135.18 is recommended for repeal as obsolete.**

13936 ~~§ 23-135.19. Courses of instruction.~~

13937 ~~The curriculum offered by the division shall be limited to courses of instruction which~~
13938 ~~are offered by the Virginia Polytechnic Institute and State University to resident students during~~

13939 ~~their first two years of enrollment and to such other terminal courses of no more than two years'~~
13940 ~~duration as may be authorized by the board of visitors to meet the post-high school educational~~
13941 ~~needs of the community.~~

13942 **Drafting note: Existing § 23-135.19 is recommended for repeal as obsolete.**

13943 ~~§ 23-135.20. Expenditure of appropriations.~~

13944 ~~Appropriations, directly or indirectly, from the Commonwealth to the college shall be~~
13945 ~~expended as directed by the board of visitors of the Virginia Polytechnic Institute and State~~
13946 ~~University.~~

13947 **Drafting note: Existing § 23-135.20 is recommended for repeal as obsolete.**

13948 ~~§ 23-135.21. Care and preservation of property; acquisition of site; gifts and donations.~~

13949 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall be~~
13950 ~~charged with the care and preservation of all property real and personal, belonging to the~~
13951 ~~college. To this end, the board is authorized to acquire, by gift or purchase, a suitable site for the~~
13952 ~~college, and may accept and expend gifts and donations of any kind from individuals, firms,~~
13953 ~~corporations and organizations.~~

13954 **Drafting note: Existing § 23-135.21 is recommended for repeal as obsolete.**

13955 ~~Article 3 6.~~

13956 ~~Governmental Aid and Individual Donations.~~

13957 **Drafting note: Technical changes.**

13958 ~~§ 23-136 23.1-2638. Institutions receiving interest accruing on proceeds of land scrip.~~

13959 ~~The General Assembly having accepted the donation of lands proffered to Virginia by~~
13960 ~~the act of Congress of July 2, 1862; and,~~

13961 ~~The authorities of the Commonwealth having received the land scrip it was entitled to~~
13962 ~~under such act of Congress; and,~~

13963 ~~The Board of Education having, in conformity with the acts of February seventh, and~~
13964 ~~March 19, 1872, made sale of the scrip and invested the proceeds in state bonds, which were~~
13965 ~~directed to be set apart and to constitute an education fund:~~

13966 The annual accruing interest from ~~such fund~~ the education fund resulting from the
13967 donation of lands by act of Congress on July 2, 1862, and the sale of such lands and the
13968 investment of the proceeds from such sale in state bonds by the Board of Education on February
13969 7 and March 19, 1872, shall ~~henceforth until otherwise provided by law~~ be paid one-third
13970 ~~thereof to the~~ Virginia State University, and two-thirds to the ~~board of visitors of the Virginia~~
13971 ~~Polytechnic Institute and State~~ University.

13972 **Drafting note: Technical changes.**

13973 § ~~23-137~~ 23.1-2639. Institutions receiving money allotted to Commonwealth under act
13974 of Congress.

13975 The Comptroller shall receive from the U.S. Secretary of the Interior ~~of the United States~~
13976 such sums of money as ~~shall be~~ are allotted to ~~Virginia the Commonwealth~~ under and in
13977 accordance with the act of Congress approved August 30, 1890, and shall pay ~~over the same as~~
13978 ~~follows:~~ one-third to the treasurer of ~~the~~ Virginia State University, and two-thirds to the
13979 treasurer of the ~~Virginia Polytechnic Institute and State~~ University, who shall receive and
13980 disburse the ~~same sums~~ as required by section two of ~~the such~~ the act of Congress ~~aforsaid~~.

13981 **Drafting note: Technical changes.**

13982 § ~~23-138~~ 23.1-2640. Experimental farms.

13983 A. A portion of the fund, not exceeding ~~ten per centum~~ 10 percent of ~~the proportion each~~
13984 sum assigned to Virginia State University and ~~Virginia Polytechnic Institute and State the~~
13985 University, may be expended, in the discretion of the ~~governing boards~~ board of visitors of ~~the~~
13986 ~~institutions, respectively~~ each institution, in the purchase of lands for experimental farms ~~for~~
13987 ~~each of them~~.

13988 B. The respective governing boards may use a portion of the accruing interest from such
13989 fund to purchase suitable and appropriate laboratories.

13990 **Drafting note: Existing §§ 23-138 and 23-139 are logically combined as proposed §**
13991 **23.1-2640. Technical changes are made.**

13992 § ~~23-139~~. Laboratories.

13993 ~~A portion of the accruing interest from such fund may be, from time to time, expended~~
13994 ~~by the respective governing boards of such institutions in the purchase of laboratories suitable~~
13995 ~~and appropriate for the institutions.~~

13996 **Drafting note: The provisions of existing § 23-139 are stricken and incorporated**
13997 **into proposed § 23.1-2640.**

13998 ~~§ 23-140~~ 23.1-2641. Reversion of property on withdrawal of annuity.

13999 If at any time such annuity should be withdrawn from the ~~Virginia Polytechnic Institute~~
14000 ~~and State~~ University, the property, real and personal, conveyed and appropriated to its use and
14001 benefit by the trustees of the Preston and Olin Institute, and ~~by~~ the County of Montgomery,
14002 under the provisions of Chapter 234 of the Acts of Assembly of 1871-1872, shall revert to the
14003 trustees and ~~to~~ the county, respectively, from which it was conveyed and appropriated.

14004 **Drafting note: Technical changes.**

14005 ~~§ 23-141~~ 23.1-2642. County subscriptions and individual donations.

14006 ~~It shall be lawful for the~~ The board ~~of visitors of the Institute to~~ may accept (i) the
14007 subscription of any county made under ~~an~~ the act to authorize subscriptions in aid of the
14008 ~~Institute, University~~ approved March 21, 1872; and ~~also the donation of any individual,~~ (ii)
14009 individual donations in aid of the purposes and objects of the ~~Institute; and such~~ University.
14010 Such donations and subscriptions, ~~when made,~~ shall be held by the board in trust for the benefit
14011 of the ~~Institute, on condition that the same~~ University and shall revert to the ~~several~~ donors ~~of~~
14012 and subscribers, ~~pari passu,~~ if ~~at any time~~ the Commonwealth ~~should withdraw~~ withdraws from
14013 the use of the ~~Institute~~ University the interest accruing on the proceeds of the land scrip; as
14014 provided in ~~§ 23-136~~ 23.1-2638.

14015 **Drafting note: Technical changes.**

14016 ~~Article 3.1.~~

14017 ~~Program on Food and Nutrition.~~

14018 ~~§§ 23-141.1 through 23-141.5. Expired.~~

14019 **Drafting note: Expired pursuant to Acts 1982, c. 283, cl. 2, effective June 30, 1986.**

14020 ~~Article 4.~~

14021 ~~Nautical School.~~

14022 **Drafting note: Existing Article 4 (§ 23-142 et seq.) of Chapter 11 is recommended**
14023 **for repeal as obsolete.**

14024 ~~§ 23-142. Establishment, management, etc.~~

14025 ~~There shall be established and maintained under the management, direction and control~~
14026 ~~of the board of visitors and faculty of the Virginia Polytechnic Institute and State University, a~~
14027 ~~nautical school for instruction in the science and practice of navigation, seamanship and~~
14028 ~~engineering and any such other subjects, to be prescribed by the proper authorities of the~~
14029 ~~University, as may be necessary for proper training for the position of deck or engine room~~
14030 ~~officers of the merchant marine. Such school shall be open to residents of the several counties~~
14031 ~~and cities of this Commonwealth, but the authorities of the University shall have the right to~~
14032 ~~limit the number of students attending the nautical school and to prescribe the necessary~~
14033 ~~physical and educational entrance requirements and standards of admission therefor, and the~~
14034 ~~government and discipline thereof, and to fix the terms and conditions upon which students shall~~
14035 ~~be received and instructed in the school and be graduated, discharged and suspended therefrom,~~
14036 ~~and to make all necessary requirements for its management.~~

14037 **Drafting note: Existing § 23-142 is recommended for repeal as obsolete.**

14038 ~~§ 23-143. Cost to students.~~

14039 ~~The students admitted to the nautical school shall have the privilege of attending the~~
14040 ~~same without charge for tuition, or for use of laboratories or public buildings, but the cost of~~
14041 ~~such students in the school for board, room, medical care and other necessary expenses shall be~~
14042 ~~the same as the cost to students in the engineering departments of the Institute.~~

14043 **Drafting note: Existing § 23-143 is recommended for repeal as obsolete.**

14044 ~~§ 23-144. Books and equipment; commander and instructors.~~

14045 ~~The authorities of the Institute shall provide the necessary books, charts, instruments,~~
14046 ~~apparatus and supplies required in the work of the nautical school or they may accept gifts or~~

14047 ~~loans of the same, and shall appoint and may remove a commander and all necessary instructors~~
14048 ~~and fix their duties and compensation, or they may appoint as commander or as instructors~~
14049 ~~therein such officers of the United States Navy as may be designated or detailed for that~~
14050 ~~purpose.~~

14051 **Drafting note: Existing § 23-144 is recommended for repeal as obsolete.**

14052 ~~§ 23-145. Governmental aid; donations, endowments, etc.~~

14053 ~~The authorities of the Institute shall likewise accept from the Commonwealth and from~~
14054 ~~the federal government, or either, such aid in the maintenance and conduct of the nautical school~~
14055 ~~as may be offered and which may be for the best interest of the school, including a suitable~~
14056 ~~vessel with her apparel, charts, books and instruments of navigation, and may receive from other~~
14057 ~~proper sources such funds, properties, donations and endowments as may be given, subscribed,~~
14058 ~~loaned or bequeathed for the support and maintenance of the nautical school, and all moneys so~~
14059 ~~appropriated or donated, subscribed or bequeathed shall be used or expended in accordance with~~
14060 ~~the provisions governing the same, provided such use or expenditures shall further the purpose~~
14061 ~~of the school and promote its usefulness and service.~~

14062 **Drafting note: Existing § 23-145 is recommended for repeal as obsolete.**

14063 ~~§ 23-146. Practical training aboard ship.~~

14064 ~~The authorities of the Institute shall, moreover, make provision for the necessary~~
14065 ~~practical training aboard ship or ships of students attending the nautical school in the science of~~
14066 ~~navigation, seamanship and engineering and such other subjects as may be prescribed, and no~~
14067 ~~student shall be received in the school until such provision has been made, nor shall any student~~
14068 ~~be graduated from the school who has not had such practical training in these and in such other~~
14069 ~~subjects as may be prescribed.~~

14070 **Drafting note: Existing § 23-146 is recommended for repeal as obsolete.**

14071 ~~Article 5.~~

14072 ~~Radford College, Woman's Division of the Virginia Polytechnic Institute.~~

14073 ~~§§ 23-147 through 23-155.~~

14074 **Drafting note: Repealed by Acts 1964, c. 50.**

14075 [Article 7.](#)

14076 [Purchase of Electric Power and Energy.](#)

14077 **Drafting note: Existing Article 7 (§ 23-155.05) of Chapter 11 is stricken. Its single**
14078 **section is relocated to proposed § 23.1-2607 in Article 1 with technical changes.**

14079 [CHAPTER 13 27.](#)

14080 VIRGINIA STATE UNIVERSITY.

14081 **Drafting note: Existing Chapter 13 of Title 23 is logically reorganized as proposed**
14082 **Chapters 13 and 27 of Title 23.1. Existing provisions that apply generally to governing**
14083 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
14084 **Existing provisions relating to the incorporation, membership and meetings, and powers**
14085 **and duties of the governing board that are unique to the University are retained in**
14086 **proposed Chapter 27.**

14087 [§ 23-165.](#)

14088 **Drafting note: Repealed by Acts 1964, c. 70.**

14089 [§ 23-165.1 23.1-2700. Corporation composed of board of visitors created; style](#)
14090 [Corporate name; name of the University.](#)

14091 [A. The corporation composed of the board of visitors of Virginia State College,](#)
14092 [heretofore established by law, is continued as the board of visitors of Virginia State University](#)
14093 [\(the board\) is a corporation under the name and style of "The Visitors of Virginia State](#)
14094 [University" in this chapter hereinafter referred to as the board and has, in addition to its other](#)
14095 [powers, all the corporate powers given to corporations by the provisions of Title 13.1 except](#)
14096 [those powers that are confined to corporations created pursuant to Title 13.1. The board shall at](#)
14097 [all times be under the control of the General Assembly.](#)

14098 [B. The institution shall be known as Virginia State University \(the University\).](#)

14099 [C. All laws relating to Virginia State College or the board of visitors of Virginia State](#)
14100 [College shall be construed as relating to Virginia State the University or the board, respectively.](#)

14101 **Drafting note: Subsection A incorporates the provisions of existing § 23-166.**
14102 **Subsection B incorporates the provisions of existing § 23-174. Technical changes are made**
14103 **to conform the language in this section to that of each other baccalaureate public**
14104 **institution of higher education.**

14105 ~~§ 23-165.2. Name of University.~~

14106 ~~The University shall be known as Virginia State University.~~

14107 **Drafting note: Existing § 23-165.2 is stricken and its provisions incorporated into §**
14108 **23.1-2700.**

14109 ~~§ 23-165.3. Transfer of property.~~

14110 ~~All the real estate and personal property now existing and heretofore standing in the~~
14111 ~~name of the Visitors of Virginia State College shall be transferred to and be known and taken as~~
14112 ~~standing in the name, and to be under the control, of the Visitors of Virginia State University.~~
14113 ~~Such real estate and personal property shall be the property of the Commonwealth.~~

14114 **Drafting note: The provisions of existing § 23-165.3 are stricken here and**
14115 **incorporated instead into § 23.1-1310.**

14116 ~~§ 23-165.4 23.1-2701. Members of board; appointment; terms; vacancies Membership.~~

14117 A. The board shall consist of 15 members appointed by the Governor, of whom at least
14118 three shall be alumni of the ~~university,~~ University and at least 10 shall be residents of ~~Virginia~~
14119 the Commonwealth. ~~All appointments shall be for a term of four years. No member shall serve~~
14120 ~~for more than two consecutive four-year terms. Vacancies shall be filled in the same manner as~~
14121 ~~the original appointments. Appointments to fill vacancies, other than by expiration of a term,~~
14122 ~~shall be for the unexpired terms. The remainder of any term to which a member is appointed to~~
14123 ~~fill a vacancy shall not constitute a term in determining the member's eligibility for~~
14124 ~~reappointment. Of the four additional members appointed to the board on July 1, 2008, the~~
14125 ~~Governor shall appoint two members for an initial term of four years, and two members for an~~
14126 ~~initial term of two years. Thereafter, such members and their successors shall be appointed for a~~
14127 ~~term of four years, in accordance with the provisions of this section.~~

14128 B. ~~The Governor may appoint alumni visitors from a list of qualified persons submitted~~
14129 ~~to him upon the recommendation of the National Alumni Association of Virginia State~~
14130 ~~University on or before July 1 of any year in which the terms of such visitors shall expire. The~~
14131 ~~alumni association shall submit the names of at least three qualified alumni for each such~~
14132 ~~vacancy. The alumni association of the University may submit to the Governor a list of three~~
14133 ~~nominees for each vacancy on the board of visitors, whether the vacancy occurs by expiration of~~
14134 ~~a term or otherwise. The Governor may appoint a member from the list of nominees.~~

14135 C. ~~All appointments shall be subject to the confirmation of the General Assembly.~~
14136 ~~Members shall continue to hold office until their successors have been appointed and have~~
14137 ~~qualified.~~

14138 **Drafting note: Existing provisions relating to the membership of the board of**
14139 **visitors are logically combined in this proposed section, existing provisions relating to the**
14140 **terms and removal of members of the board are stricken and incorporated into proposed §**
14141 **23.1-1300, and technical changes are made to conform the language to that of each other**
14142 **baccalaureate public institution of higher education.**

14143 ~~§ 23-165.5. Eligibility to serve more than two consecutive terms.~~

14144 ~~No person shall be eligible to serve more than two consecutive four-year terms, except~~
14145 ~~that a member may be appointed to a term of less than four years immediately prior to or~~
14146 ~~between the four-year terms.~~

14147 **Drafting note: The provisions of existing § 23-165.5 are stricken and incorporated**
14148 **into proposed § 23.1-1300.**

14149 ~~§ 23-165.6. Rights, powers and duties of board.~~

14150 ~~The board shall be vested with all the rights and powers conferred by the provisions of~~
14151 ~~this chapter insofar as the same are not inconsistent with the laws of the Commonwealth.~~

14152 ~~The board shall control and expend the funds of the University and any appropriation~~
14153 ~~hereafter provided, and shall make all needful rules and regulations concerning the University,~~

14154 ~~appoint the president, who shall be its chief executive officer, and all professors, teachers and~~
14155 ~~agents, and fix their salaries, and generally direct the affairs of the University.~~

14156 **Drafting note: Certain board duties set forth in existing § 23-165.6 are stricken and**
14157 **incorporated into proposed § 23.1-1303. Board duties related to appointing of professors,**
14158 **teachers, and agents and generally directing the affairs of the University are stricken here**
14159 **and incorporated instead into proposed § 23.1-2702.**

14160 ~~§ 23-165.7. Tuition, fees and charges.~~

14161 ~~The board may fix the rates charged the students of the University for tuition, fees and~~
14162 ~~other necessary charges.~~

14163 **Drafting note: The provisions of existing § 23-165.7 are stricken and incorporated**
14164 **into proposed § 23.1-1301.**

14165 ~~§ 23-165.8 23.1-2702. Degrees Powers and duties.~~

14166 A. The board shall appoint all professors, teachers, and agents, fix their salaries, and
14167 generally direct the affairs of the University.

14168 B. The board shall have the right to may confer degrees.

14169 **Drafting note: Subsection A incorporates board duties set forth in existing § 23-**
14170 **165.6. Subsection B incorporates the board's power to confer degrees set forth in existing §**
14171 **23-165.8. Technical changes are made.**

14172 ~~§ 23-165.9 23.1-2703. Curriculum.~~

14173 The curriculum of Virginia State the University shall ~~embrace branches of learning as~~
14174 ~~relate to include~~ agriculture, ~~home economics, commerce, industrial~~ education ~~and technology,~~
14175 the liberal arts and sciences, ~~teacher education, nursing education,~~ and ~~military science~~
14176 engineering.

14177 **Drafting note: Obsolete branches of learning are recommended for repeal.**
14178 **Technical changes are made.**

14179 ~~§ 23-165.10. School of agriculture to be continued.~~

14180 ~~The school of agriculture at Virginia State University shall be continued. The State~~
14181 ~~Council of Higher Education and the institutions of higher education concerned shall execute~~
14182 ~~such administrative actions as are necessary to carry out the purposes of this section.~~

14183 **Drafting note: The provisions of existing § 23-165.10 are recommended for repeal**
14184 **as obsolete.**

14185 ~~§ 23-165.11 23.1-2704. Cooperative Extension Service ~~Program recognized; funding~~~~
14186 ~~authority; unified plan; reports.~~

14187 A. A. For the purposes of this section:

14188 "Cooperative extension service" means the function traditionally associated with the
14189 term "extension" that traditionally focuses on agriculture, including horticulture and silviculture,
14190 agribusiness, home economics, community resource development, and 4-H Clubs.

14191 "Extension" means the joint federal, state, and local program designed to aid the transfer
14192 of information and research capabilities of land-grant universities to citizens.

14193 B. As provided in Article ~~1-1 2~~ (§ ~~23-132.1 23.1-2608~~ et seq.) of Chapter ~~11 of Title 23~~
14194 26 and subject to the federally required plan, the Cooperative Extension Service Program within
14195 Virginia State the University, ~~hereinafter referred to as "~~(the ~~Service~~ Program,~~"~~) is hereby
14196 recognized. The ~~Virginia State~~ University ~~is hereby empowered to~~ may accept grants, gifts, or
14197 donations for the ~~Cooperative Extension Service~~ Program from the local governing bodies ~~of the~~
14198 several counties and cities of the Commonwealth, other public or private agencies, and
14199 individual donors. The ~~Cooperative Extension~~ Service ~~Program~~ shall be operated cooperatively
14200 by Virginia Polytechnic Institute and State University and ~~Virginia State the~~ University, with
14201 ~~agreed upon~~ agreed-upon areas of program and service emphasis as set forth in the unified plan
14202 submitted by the two institutions to the U.S. Department of Agriculture. The ~~Virginia State~~
14203 University shall file such reports on the activities of the ~~Service~~ Program as may be required by
14204 law or requested by the Governor, and the two institutions shall file such reports on the unified
14205 plan as may be required by law or requested by the Governor.

14206 **Drafting note: Proposed subsection A incorporates explanatory statements**
14207 **contained in existing § 23-132.7. Technical changes are made.**

14208 ~~§ 23-166. University a body corporate under control of board.~~

14209 ~~The institution shall continue to be a body corporate under the name and style of the~~
14210 ~~"Virginia State University." It shall be under the management, supervision and control of the~~
14211 ~~board.~~

14212 **Drafting note: The provisions of existing § 23-166 are stricken and incorporated**
14213 **into § 23.1-2700.**

14214 ~~§ 23-167. Further powers and duties of board.~~

14215 ~~The powers and duties of the board shall be to direct and do all things not inconsistent~~
14216 ~~with the laws of this Commonwealth which to the board shall seem best adapted to accomplish~~
14217 ~~the legitimate objects of the University; to designate depositories, provide for the proper~~
14218 ~~bonding of financial officers and depositories, and provide for the disbursing of the funds of the~~
14219 ~~University consistent with the laws of the Commonwealth; and to grant to such as excel in any~~
14220 ~~field of knowledge or complete a prescribed course of study, such certificates, diplomas or~~
14221 ~~degrees as shall be deemed expedient and proper. All of which several functions they shall be~~
14222 ~~free to exercise by rules, bylaws, resolutions, orders, instructions, or otherwise.~~

14223 **Drafting note: Certain powers set forth in § 23-167 are stricken and incorporated**
14224 **into proposed § 23.1-1301. The power to confer certificates, diplomas, and degrees is**
14225 **stricken as duplicative of subsection B of proposed § 23.1-2702.**

14226 ~~§ 23-168, 23-169.~~

14227 **Drafting note: Repealed by Acts 1979, c. 147.**

14228 ~~§ 23-170 23.1-2705. Bequests and gifts Gifts, grants, devises, and bequests;~~
14229 ~~governmental aid.~~

14230 The board ~~shall have power to~~ may take, hold, receive, and enjoy any gift, grant, devise,
14231 or bequest to the ~~Visitors of Virginia State University board~~ or to or for the benefit of the

14232 University. Any such gift, grant, devise, or bequest shall be used for the purposes designated by
14233 the donor, ~~if any~~, or, if no purposes are so designated, for the general purposes of the board.

14234 The University shall receive the governmental aid designated in §§ ~~23-136 and 23-137~~
14235 23.1-2638 and 23.1-2639.

14236 **Drafting note: Technical changes.**

14237 ~~§ 23-171, 23-172.~~

14238 **Drafting note: Repealed by Acts 1964, c. 70.**

14239 ~~§ 23-173.~~

14240 **Drafting note: Repealed by Acts 1979, c. 147.**

14241 ~~§ 23-174. Control by General Assembly.~~

14242 ~~The University, and all its property and funds, shall, at all times and in all things, be~~
14243 ~~under the control of the General Assembly.~~

14244 **Drafting note: Existing § 23-174 is stricken and incorporated into proposed § 23.1-**
14245 **2700.**

14246 CHAPTER ~~5~~ 28.

14247 THE COLLEGE OF WILLIAM AND MARY ~~AND IN VIRGINIA~~; RICHARD BLAND
14248 COLLEGE.

14249 **Drafting note: Existing Chapter 5 of Title 23 is logically reorganized as proposed**
14250 **Chapters 13 and 28 of Title 23.1. Existing provisions that apply generally to governing**
14251 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
14252 **Existing provisions relating to the incorporation, membership and meetings, and powers**
14253 **and duties of the governing board that are unique to The College of William and Mary in**
14254 **Virginia and Richard Bland College are retained in proposed Chapter 28.**

14255 ~~§ 23-39~~ 23.1-2800. Corporate name: name of the University.

14256 A. The board of visitors of ~~the~~ The College of William and Mary in Virginia ~~shall be~~
14257 ~~(the board) is~~ a corporation under the name and style of "The College of William and Mary in
14258 Virginia-" and has, in addition to its other powers, (i) all the corporate powers given to

14259 corporations by the provisions of Title 13.1 except those powers that are confined to
14260 corporations created pursuant to Title 13.1 and (ii) all powers conferred by the ancient royal
14261 charter of The College of William and Mary in Virginia. The board shall at all times be under
14262 the control of the General Assembly.

14263 B. The institution shall be known as The College of William and Mary in Virginia (the
14264 University).

14265 **Drafting note: Technical changes are made to conform the language in this section**
14266 **to that of each other baccalaureate public institution of higher education.**

14267 ~~§ 23-40. Property transferred to College of William and Mary and owned by State.~~

14268 ~~All the real estate and personal property relating to the College of William and Mary in~~
14269 ~~Virginia, in Williamsburg, or relating to the Richard Bland College in Petersburg now existing~~
14270 ~~and standing in the name of the corporate body designated "The Colleges of William and Mary"~~
14271 ~~and all real estate and personal property standing in the name of or heretofore exclusively used~~
14272 ~~by the Virginia Institute of Marine Science shall be transferred to and be known and taken as~~
14273 ~~standing in the name, and to be under the control of the corporate body designated "The College~~
14274 ~~of William and Mary in Virginia." Such real estate and personal property shall be the property~~
14275 ~~of the Commonwealth.~~

14276 **Drafting note: The provisions of existing § 23-40 are stricken here and**
14277 **incorporated instead into § 23.1-1310.**

14278 ~~§ 23-41. 23.1-2801. Appointment of visitors generally; number and terms; vacancies~~
14279 Membership.

14280 A. The board of visitors is to shall consist of 17 members ~~to be~~ appointed by the
14281 Governor, ~~four of whom may be nonresidents of Virginia of whom at least 13 shall be residents~~
14282 of the Commonwealth.

14283 B. The alumni association of The University may submit to the Governor a list of at least
14284 three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a
14285 term or otherwise. The Governor may appoint a member from the list of nominees.

14286 ~~All appointments shall be for terms of four years each, except appointments to fill~~
14287 ~~unexpired vacancies which shall be made by the Governor for the remainder of the unexpired~~
14288 ~~terms. However, the term of the member holding the office of Rector on March 1, 2005, shall be~~
14289 ~~extended for one year to June 30, 2006. The Governor may make an appointment for the~~
14290 ~~member whose term is so extended to June 30, 2006, as though this service extension had not~~
14291 ~~been granted and the term had expired as scheduled.~~

14292 ~~The board of visitors may be expanded to no more than 18 members from July 1, 2005,~~
14293 ~~to June 30, 2006. Thereafter, the membership shall revert to 17 members. Reappointment by the~~
14294 ~~Governor of any member eligible for the service extension shall be for the term of four years.~~

14295 ~~No person shall be eligible to serve more than two consecutive four year terms, except~~
14296 ~~that a member may be appointed to a term of less than four years immediately prior to or~~
14297 ~~between the four year terms. For the purpose of determining service eligibility, any term of~~
14298 ~~service extended to June 30 of the respective year pursuant to this section shall be treated as a~~
14299 ~~four year term. Hereafter, all appointments shall expire June 30 of the year in which the term~~
14300 ~~expires.~~

14301 ~~All appointments are subject to confirmation by the General Assembly if in session~~
14302 ~~when such appointments are made, and if not in session, at its next succeeding session.~~

14303 **Drafting note: Existing provisions relating to the membership of the board of**
14304 **visitors are logically combined in this proposed section, existing provisions relating to the**
14305 **terms and removal of members of the board are stricken and incorporated into proposed §**
14306 **23.1-1300, and technical changes are made to conform the language to that of each other**
14307 **baccalaureate public institution of higher education. Subsection B incorporates the**
14308 **provisions of existing § 23-42. In addition, obsolete language is recommended for repeal.**

14309 ~~§ 23-42. Appointment of visitors from alumni.~~

14310 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him,~~
14311 ~~before or after induction into office, by the alumni association of the College of William and~~

14312 ~~Mary in Virginia, on or before the first day of December of any year next preceding a year in~~
14313 ~~which the terms of any visitors will expire.~~

14314 ~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall~~
14315 ~~certify this fact to the association and nominations may be submitted of qualified persons and~~
14316 ~~the Governor may fill the vacancy, if his discretion so dictates, from among the eligible~~
14317 ~~nominees of the association, whether or not alumni or alumnae.~~

14318 ~~(c) Every list shall contain at least three names for each vacancy to be filled.~~

14319 ~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

14320 **Drafting note: The provisions of existing § 23-42 are stricken and incorporated**
14321 **instead into proposed § 23.1-2801.**

14322 ~~§ 23-43.~~

14323 **Drafting note: Repealed by Acts 1975, c. 484.**

14324 ~~§ 23-44. Rights, powers and duties of board in general.~~

14325 ~~The board of visitors shall be vested with all the rights and powers conferred by the~~
14326 ~~provisions of this chapter and by the ancient royal charter of the College of William and Mary in~~
14327 ~~Virginia, insofar as the same are not inconsistent with the provisions of this chapter and the~~
14328 ~~general laws of the Commonwealth.~~

14329 ~~The board shall control and expend the funds of the colleges and any appropriation~~
14330 ~~hereafter provided, and shall make all needful rules and regulations concerning the colleges, and~~
14331 ~~generally direct the affairs of the colleges.~~

14332 **Drafting note: The provisions of existing § 23-44 are stricken and incorporated**
14333 **instead into proposed § 23.1-2802 and proposed § 23.1-1301.**

14334 ~~§ 23-46 23.1-2802. Conferring of degrees Powers and duties.~~

14335 ~~A. The board shall generally direct the affairs of the University and Richard Bland~~
14336 ~~College.~~

14337 ~~B. The board of visitors shall have the right to may confer degrees.~~

14338 **Drafting note: Subsection A incorporates the board's duty to generally direct the**
14339 **affairs of the University and College set forth in existing § 23-44 and subsection B**
14340 **incorporates the board's power to confer degrees set forth in existing § 23-46. Technical**
14341 **changes are made.**

14342 § ~~23-44.1~~ 23.1-2803. Investment of endowment funds, endowment income, ~~and gifts;~~
14343 ~~standard of care; liability; exemption from the Virginia Public Procurement Act etc.~~

14344 A. As used in this section:

14345 "Derivative" means a contract or financial instrument or a combination of contracts and
14346 financial instruments, including any contract commonly known as a "swap," that gives the
14347 University the right or obligation to deliver, receive delivery of, or make or receive payments
14348 based on changes in the price, value, yield, or other characteristic of a tangible or intangible
14349 asset or group of assets or changes in a rate, index of prices or rates, or other market indicator
14350 for an asset or group of assets.

14351 "Option" means an agreement or contract whereby the University may grant or receive
14352 the right to purchase, sell, or pay or receive the value of any personal property asset, including
14353 any agreement or contract that relates to any security, contract, or agreement.

14354 "Financial security" means any note, stock, treasury stock, bond, debenture, evidence of
14355 indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of
14356 subscription, transferable share, investment contract, voting-trust certificate, certificate of
14357 deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; any put,
14358 call, straddle, option, or privilege on any security, certificate of deposit, or group or index of
14359 securities (including any interest therein or based on the value thereof); any put, call, straddle,
14360 option, or privilege entered into on a national securities exchange relating to foreign currency; in
14361 general, any interest or instrument commonly known as a "security;" or any certificate of
14362 interest or participation in, temporary or interim security for, receipt for, guarantee of, or
14363 warrant or right to subscribe to or purchase any financial security.

14364 B. The board ~~of visitors~~ shall invest and manage the endowment funds, endowment
14365 income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the
14366 College University in accordance with this section and the provisions of the Uniform Prudent
14367 Management of Institutional Funds Act (§ 64.2-1100 et seq.).

14368 B.C. No member of the board ~~of visitors shall be is~~ personally liable for losses suffered
14369 by ~~an any~~ endowment fund, endowment income, ~~gifts gift, all~~ other nongeneral fund ~~reserves~~
14370 reserve and ~~balances balance~~, or local funds of or held by the ~~College, University~~ arising from
14371 investments made pursuant to the provisions of subsection A.

14372 C.D. The investment and management of endowment funds, endowment income, gifts,
14373 all other nongeneral fund reserves and balances, or local funds of or held by the ~~College shall~~
14374 University are not ~~be~~ subject to the provisions of the Virginia Public Procurement Act (§ 2.2-
14375 4300 et seq.).

14376 D.E. In addition to the investment practices authorized by the Uniform Prudent
14377 Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board ~~of visitors~~ may ~~also~~
14378 invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund
14379 reserves and balances, and local funds of or held by the ~~College University~~ in derivatives,
14380 options, and financial securities.

14381 ~~1. In this section, "derivative" means a contract or financial instrument or a combination~~
14382 ~~of contracts and financial instruments, including, without limitation, any contract commonly~~
14383 ~~known as a "swap," which gives the College the right or obligation to deliver or receive delivery~~
14384 ~~of, or make or receive payments based on, changes in the price, value, yield or other~~
14385 ~~characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index~~
14386 ~~of prices or rates, or other market indicator for an asset or a group of assets.~~

14387 ~~2. In this section, an "option" means an agreement or contract whereby the College may~~
14388 ~~grant or receive the right to purchase or sell, or pay or receive the value of, any personal~~
14389 ~~property asset including, without limitation, any agreement or contract that relates to any~~
14390 ~~security, contract, or agreement.~~

14391 3. ~~In this section, "financial security" means any note, stock, treasury stock, bond,~~
14392 ~~debenture, evidence of indebtedness, certificate of interest, collateral trust certificate,~~
14393 ~~preorganization certificate of subscription, transferable share, investment contract, voting trust~~
14394 ~~certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other~~
14395 ~~mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit,~~
14396 ~~or group or index of securities (including any interest therein or based on the value thereof), or~~
14397 ~~any put, call, straddle, option, or privilege entered into on a national securities exchange relating~~
14398 ~~to foreign currency, or in general, any interest or instrument commonly known as a "security,"~~
14399 ~~or any certificate of interest or participation in, temporary or interim security for, receipt for,~~
14400 ~~guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

14401 E.F. The authority ~~as~~ provided in this section ~~as it relates~~ to invest and reinvest
14402 nongeneral fund reserves and balances of or held by the College University is predicated upon
14403 an approved management agreement between the College University and the Commonwealth ~~of~~
14404 Virginia.

14405 **Drafting note: Technical changes.**

14406 ~~§ 23-45. Board may fix tuition, fees and other charges.~~

14407 ~~The board of visitors may fix in their discretion, the rates charged the students of the~~
14408 ~~colleges for tuition, fees and other necessary charges.~~

14409 **Drafting note: The provisions of existing § 23-45 are stricken and incorporated**
14410 **instead into proposed § 23.1-1301.**

14411 ~~§ 23-47 23.1-2804. Courses for educating and training Program of instruction to educate~~
14412 ~~and train teachers to be maintained.~~

14413 The College University shall maintain ~~in connection with its courses a system a program~~
14414 of instruction ~~and training for the purpose of educating and training to educate and train~~ teachers
14415 for the public elementary and secondary schools of the Commonwealth without excluding other
14416 programs of instruction.

14417 **Drafting note: Technical changes.**

14418 ~~§ 23-48.~~

14419 **Drafting note: Repealed by Acts 1960, c. 180.**

14420 ~~§ 23-49 23.1-2805. Students Duties; student admissions; degrees.~~

14421 The ~~College University~~ shall admit properly prepared men and women ~~to its courses,~~
14422 and upon completion of the requirements shall grant them degrees.

14423 **Drafting note: Technical change.**

14424 ~~§ 23-49.1 23.1-2806. Constituent colleges; administration, bylaws, titles, etc Richard~~
14425 Bland College.

14426 A. ~~The College of William and Mary in Virginia, in Williamsburg, and the Richard~~
14427 Bland College, in Petersburg shall be subject to the supervision, management and control of the
14428 board of visitors of the College of William and Mary in Virginia. Such colleges shall be separate
14429 from each other and each college shall report directly to the board of visitors through the
14430 president in the case of the College of William and Mary in Virginia, and as the board of visitors
14431 may direct in the case of the Richard Bland College is a separate college under the supervision,
14432 management, and control of the board. Richard Bland College shall report to the board in such
14433 manner as the board may coordinate and direct.

14434 B. The board shall establish and publish bylaws for Richard Bland College that define
14435 the school's functions.

14436 C. All property, property rights, duties, contracts, and agreements of ~~the colleges~~
14437 Richard Bland College are vested in the board ~~of visitors of the College of William and Mary in~~
14438 Virginia. The chief executive officer of the College of William and Mary in Virginia shall be the
14439 president; the title of the

14440 D. The board shall designate a chief executive officer of ~~the~~ Richard Bland College ~~shall~~
14441 be designated by the board of visitors.

14442 E. The board ~~of visitors of the College of William and Mary in Virginia is charged with~~
14443 the care and preservation of shall care for and preserve all property belonging to ~~the colleges~~
14444 Richard Bland College.

14445 ~~With respect to the Richard Bland College, the F. The~~ board of visitors shall have the
14446 ~~same powers as to fixing tuitions (i) fix tuition, mandatory~~ fees, and other necessary charges, as
14447 ~~to the appointment and removal of administrative officers, professors, agents, and employees;~~
14448 ~~(ii) appoint, remove, and define the responsibilities of the chief executive; and the making of~~
14449 ~~(iii) make such~~ rules and regulations, as are now vested in them with respect to the College of
14450 William and Mary in Virginia as it deems appropriate for Richard Bland College.

14451 ~~C. Appropriations directly and indirectly from the Commonwealth to the colleges shall~~
14452 ~~be expended as directed by the board of visitors of the College of William and Mary in Virginia.~~

14453 ~~D. The board of visitors of the College of William and Mary in Virginia is authorized~~
14454 ~~and directed to prepare the bylaws for the colleges and to publish the same and to define the~~
14455 ~~functions of the colleges, and to specify the responsibilities of the chief executive officers, all~~
14456 ~~professors, teachers and agents of the colleges, as the board may deem necessary.~~

14457 ~~E. The board of visitors of the College of William and Mary in Virginia shall designate~~
14458 ~~the organizational channel of coordination and supervision of the Richard Bland College for~~
14459 ~~administration by the board of visitors.~~

14460 ~~F. The use of the library of the College of William and Mary in Virginia, in~~
14461 ~~Williamsburg, shall be granted to the students and faculty of Christopher Newport University.~~

14462 ~~G. The board of visitors of the College of William and Mary in Virginia shall make~~
14463 ~~cooperative agreements with the board of visitors of Christopher Newport University for the~~
14464 ~~sharing of faculty and of laboratory and other facilities.~~

14465 **Drafting note: Subsections C, F, and G of existing § 23-49.1 are stricken as obsolete.**

14466 **Technical changes are made.**

14467 ~~§ 23-49.1-1~~ 23.1-2807. Virginia Institute of Marine Science ~~subject to board of visitors.~~

14468 The Virginia Institute of Marine Science ~~shall be~~ (the Institute) is subject to the
14469 supervision, management, and control of the board ~~of visitors of the College of William and~~
14470 ~~Mary in Virginia.~~ University shall provide for the administration of the
14471 Institute and ~~shall~~ appoint and remove its administrative and professional staff.

14472 **Drafting note: Technical changes.**

14473 § ~~23-4.01~~ 23.1-2808. Approval for transfer of ~~property~~ College Woods.

14474 A. The property known as College Woods that includes Lake Matoaka and is possessed
14475 and controlled by ~~a college founded in 1693~~ the University, regardless of whether such property
14476 has been declared surplus property pursuant to § 2.2-1153, shall not be transferred or disposed
14477 of without the approval of the board ~~of visitors of such college~~ by a two-thirds vote of all ~~board~~
14478 members at a regularly scheduled board meeting. The General Assembly shall also approve
14479 such disposal or transfer.

14480 B. The provisions of subsection A shall not operate to prevent the transfer or dedication
14481 to the Virginia Department of Transportation (the Department) of a portion of the property
14482 described in subsection A, together with a temporary construction easement and a permanent
14483 easement for drainage, sufficient to permit the reconstruction of the intersection of Virginia
14484 Route 615 (Ironbound Road) and Virginia Route 321 (Monticello Avenue).

14485 C. In order for any transfer or dedication set forth in subsection B to the Department to
14486 occur:

14487 1. The Department shall remain within the boundaries or dedication area identified as a
14488 right-of-way addition of approximately 1.63 acres and easement areas as detailed on Exhibit A,
14489 labeled Proposed Right-of-Way and Easement Dedication by The College of William and Mary
14490 for Widening of the Intersection of Monticello Avenue and Ironbound Road and dated January
14491 9, 2004, drawn by AES Consulting Engineers of Williamsburg, Virginia, in completion of any
14492 reconstruction of such intersection;

14493 2. The Department shall employ and construct all required best management practices
14494 and erosion and sediment control measures to minimize and mitigate any impacts to College
14495 Woods and Lake Matoaka; and

14496 3. The Department shall vacate, subject to a reserved drainage easement, approximately
14497 3.22 acres of right-of-way and ~~re-designate~~ redesignate such to the ~~College University~~ so that
14498 the ~~College University~~ has confirmed encumbrances. This vacation shall create not less than a

14499 | ~~78-foot~~ 78-foot right-of-way and shall not create or provide for any easements except for such
14500 reserved drainage easement from approximately 1,000 feet east of Virginia Route 615
14501 (Ironbound Road) to approximately 4,000 feet east of Virginia Route 615 (Ironbound Road)
14502 along Virginia Route 321 (Monticello Avenue) identified on Exhibit A, labeled Proposed Right-
14503 of-Way and Easement Dedication by The College of William and Mary for Widening of the
14504 Intersection of Monticello Avenue and Ironbound Road and dated January 9, 2004, drawn by
14505 AES Consulting Engineers of Williamsburg, Virginia, as right-of-way abandonment. This
14506 | vacation to create a right-of-way width shall not allow for a ~~road-widening~~ road-widening to add
14507 additional travel lanes for the remainder of Virginia Route 321 (Monticello Avenue).

14508 D. The provisions of subsection A shall not operate to prevent the transfer or dedication
14509 to the Department of a portion of the property described in subsection A, together with
14510 easements for slope, drainage, and utilities, sufficient to permit the reconstruction and widening
14511 of Virginia Route 615 (Ironbound Road).

14512 E. For any transfer or dedication to the Department to occur pursuant to subsection D,
14513 | the Department shall:

14514 | 1. ~~Shall remain~~ Remain within the boundaries identified as a proposed right-of-way
14515 dedication area of approximately 0.38 acres and easement areas as detailed on Exhibit B,
14516 labeled Proposed Right-of-Way and Easement Dedication by The College of William and Mary
14517 for Widening of Ironbound Road to Four Lanes and dated January 9, 2004, drawn by AES
14518 Consulting Engineers of Williamsburg, Virginia, in completion of the widening of Virginia
14519 Route 615 (Ironbound Road), except with respect to that portion of Virginia Route 615
14520 (Ironbound Road) to be widened in connection with the reconstruction of the intersection as
14521 described, and as provided for, in subsections B and C; and

14522 | 2. ~~Shall employ~~ Employ and construct all required best management practices and
14523 erosion and sediment control measures to minimize and mitigate any impacts to College Woods
14524 and Lake Matoaka.

14525 F. The provisions of subsections B and C shall not become effective until a
14526 reconstruction of the intersection has been designed and fully funded as required by the
14527 Department.

14528 G. The provisions of subsections D and E shall not become effective until the widening
14529 of the portion of Ironbound Road described therein has been designed and fully funded as
14530 required by the Department.

14531 **Drafting note: Technical changes.**

14532 CHAPTER ~~16~~ 29.

14533 STATE BOARD FOR COMMUNITY COLLEGES AND VIRGINIA COMMUNITY
14534 COLLEGE SYSTEM.

14535 **Drafting note: Existing Chapter 16 is reorganized as proposed Chapter 29. The**
14536 **article structure of the existing chapter is removed and the provisions of existing Article 2,**
14537 **relating to the Community College Incentive Scholarship Program, are removed as**
14538 **obsolete.**

14539 ~~Article 1.~~

14540 ~~General Provisions.~~

14541 **Drafting note: The designation of Article 1 is removed because the article structure**
14542 **of existing Chapter 16 is not retained in proposed Chapter 29.**

14543 ~~§§ 23-192 through 23-213.~~

14544 **Drafting note: Repealed by Acts 1966, c. 679.**

14545 ~~§ 23-214 23.1-2900.~~ Definitions.

14546 As used in this chapter, unless the context requires a different meaning:

14547 (a) "Career and technical education" means the training or retraining under public
14548 supervision and control that is (i) given in school classes, including field or laboratory work
14549 incidental to such training or retraining, exclusive of those career and technical education
14550 programs provided and administered by or through the public school system and (ii) conducted

14551 as part of a program designed to fit individuals for gainful employment as semiskilled or skilled
14552 workers or technicians in recognized occupations.

14553 "Chancellor" means the Chancellor of Community Colleges.

14554 "Comprehensive community college" means an institution of higher education which
14555 offers instruction in one or more of the following fields:

14556 (1) Freshman and sophomore courses in arts and sciences acceptable for transfer in
14557 baccalaureate degree programs;

14558 (2) Diversified technical curricula including programs leading to the associate degree;

14559 (3) Career and technical education leading directly to employment;

14560 (4) Courses in general and continuing education for adults in the above fields;

14561 (5) Noncredit training and retraining courses and programs of varying lengths to meet
14562 the needs of business and industry in the Commonwealth.

14563 (b) "State Board" or "Board" means the State Board for Community Colleges.

14564 (c) "Local community college board" means the board established to act in an advisory
14565 capacity to the State Board and to perform such duties with respect to the operation of a single
14566 comprehensive community college as may be delegated to it by the State Board.

14567 (d) "Career and technical education" means the training, or retraining, which is given in
14568 school classes (including field or laboratory work incidental thereto), under public supervision
14569 and control, exclusive of those career and technical education programs provided and
14570 administered by, or through, the public school system and is conducted as part of a program
14571 designed to fit individuals for gainful employment as semiskilled or skilled, workers or
14572 technicians in recognized occupations.

14573 (e) "Area career and technical school" means a career or technical school used
14574 exclusively, or principally, for providing career and technical education to persons who have
14575 completed, or left, high school, or are recommended for transfer by the school last attended, and
14576 who are available for full-time study in preparation for entering the labor market, or for part-
14577 time study after entering the labor market.

14578 ~~(f) "System" means the Virginia Community College System.~~

14579 **Drafting note: Definitions are moved into alphabetical order and are no longer**
14580 **numbered, consistent with current Code style. A chapter-wide definition is added for**
14581 **"Chancellor." Definitions for "Board," "comprehensive community college," and**
14582 **"System" are stricken and incorporated into the proposed title-wide definitions section, §**
14583 **23.1-100. The term "area career and technical school" is no longer used in this proposed**
14584 **Chapter and as such, its definition is stricken.**

14585 ~~§ 23-214.1. Meaning of statutory references to Department of Community Colleges.~~

14586 ~~Wherever the words "Virginia Community College System" are used in any law of this~~
14587 ~~State, they shall mean the State Board for Community Colleges.~~

14588 **Drafting note: Existing § 23-214.1 is recommended for repeal as obsolete.**

14589 ~~§ 23-215 23.1-2901. Responsibilities of State Board and System for Community~~
14590 ~~Colleges established; purpose; Virginia Community College System.~~

14591 ~~A. The State Board for Community Colleges heretofore established by law is continued.~~
14592 ~~The Board shall be is~~ a corporation under the style of "the State Board for Community
14593 Colleges." ~~The State Board shall be responsible, through the exercise of the powers and~~
14594 ~~performance of the duties set forth in this chapter, for the establishment, control, and~~
14595 ~~administration of to establish, control, and administer~~ a statewide system of publicly supported
14596 comprehensive community colleges, which shall be known as the Virginia Community College
14597 System.

14598 ~~B. The Virginia Community College System shall be the state agency with primary~~
14599 ~~responsibility for coordinating workforce training at the postsecondary to the associate degree~~
14600 ~~level, exclusive of the career and technical education programs provided through and~~
14601 ~~administered by the public school system. This responsibility shall not preclude other agencies~~
14602 ~~from also providing such services as appropriate, but these activities shall be coordinated with~~
14603 ~~the community colleges.~~

14604 ~~C. In addition to other responsibilities of the Virginia Community College System, the~~
14605 ~~community colleges shall (i) maximize noncredit course offerings made available to business~~
14606 ~~and industry at a time and place that meet current and projected workforce needs and minimize~~
14607 ~~the cost of noncredit offerings to business and industry to the extent feasible, (ii) deal directly~~
14608 ~~with employers in designing and offering courses to meet real, current, and projected workforce~~
14609 ~~training needs, and (iii) maximize the availability and use of distance learning courses~~
14610 ~~addressing workforce training needs. The Virginia Community College System shall report on~~
14611 ~~actions taken to meet the requirements of this subsection in its annual report to the General~~
14612 ~~Assembly on workforce development activities required by the appropriation act.~~

14613 **Drafting note: The provisions of subsection B and the last sentence of subsection C**
14614 **of existing § 23-215 are relocated to proposed § 23.1-2904. Technical changes are made.**

14615 ~~§ 23-216 23.1-2902. Number, terms and eligibility of members of State Board;~~
14616 ~~membership.~~

14617 ~~(a) A. The State Board shall consist of fifteen 15 nonlegislative citizen members~~
14618 ~~appointed by the Governor subject to confirmation by the General Assembly if in session, and if~~
14619 ~~not, at its next succeeding session. The first appointments shall be four members for one year,~~
14620 ~~four members for two years, four members for three years and three members for four years,~~
14621 ~~and thereafter all such appointments shall be made for terms of four years each, except that~~
14622 ~~appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to~~
14623 ~~serve more than two consecutive four-year terms, except that a member may be appointed to a~~
14624 ~~term of less than four years immediately prior to or between the four-year terms. No person~~
14625 ~~shall be eligible for reappointment following two consecutive four-year terms for two years~~
14626 ~~thereafter. Members shall continue to discharge their duties after their terms have expired until~~
14627 ~~their successors have been appointed and have qualified. Members who serve two consecutive~~
14628 ~~four-year terms are eligible for reappointment two years after the expiration of their second~~
14629 ~~term.~~

14630 ~~(b) The State Board shall be composed of persons selected from B. Each member shall~~
14631 ~~be a resident of~~ the Commonwealth ~~at large~~. No officer, employee, or member of the governing
14632 board of any public institution of higher education, or of any school subject to the control of the
14633 State Board, ~~or any member of the General Assembly, or any~~ and no member of the State Board
14634 of Education, ~~shall be~~ is eligible for appointment to the State Board. All members of the State
14635 Board ~~shall be deemed~~ are members at large charged with the responsibility of serving the best
14636 interests of the whole Commonwealth. ~~No, and no~~ member shall act as the representative of any
14637 particular region or ~~of any particular~~ institution of higher education.

14638 **Drafting note: Language establishing staggered terms for State Board members is**
14639 **recommended for repeal as obsolete. Current language in subsection A that establishes**
14640 **terms and conditions of membership in and reappointment to a State Board is stricken**
14641 **and incorporated into proposed § 23.1-1300 relating to the terms and removal of members**
14642 **of the governing board of each public institution of higher education generally. The**
14643 **prohibition on membership by a member of the General Assembly is removed because the**
14644 **section is amended to classify all members as nonlegislative citizen members, which are**
14645 **defined for the Code in § 1-225 as "any natural person who is not a member of the**
14646 **General Assembly of Virginia." Technical changes are made.**

14647 ~~§ 23-217 23.1-2903. Chairman and vice chairman of State~~ Board; ~~oath of members;~~
14648 ~~officers,~~ meetings; ~~quorum; rules and,~~ and regulations.

14649 A. The State Board shall ~~select~~ elect a chairman from its membership; and may provide
14650 for the election of one of its members as vice-chairman.

14651 B. ~~Before entering upon the discharge of his duties, each member of the Board shall take~~
14652 ~~an oath that he will faithfully and honestly execute the duties of his office during his~~
14653 ~~continuance therein.~~

14654 C. The State Board shall meet at least four times annually; and on call of the chairman
14655 when in his opinion additional meetings are expedient or necessary.

14656 D.C. Eight members of the State Board shall constitute a quorum for all purposes.

14657 ~~E.D.~~ The main office of the State Board shall be in the Commonwealth.

14658 ~~F.E.~~ The State Board is ~~empowered authorized~~ to ~~promulgate adopt~~ necessary ~~rules and~~
14659 regulations for carrying out the purposes of this chapter.

14660 **Drafting note: Technical changes are made, including use of "regulations" rather**
14661 **than "rules and regulations" per recommendation of the Code Commission. Subsection B**
14662 **of existing § 23-217 is removed as duplicative of § 49-1, which states that "[e]very person**
14663 **before entering upon the discharge of any function as an officer of this Commonwealth**
14664 **shall take and subscribe the following oath: 'I do solemnly swear (or affirm) that . . . I will**
14665 **faithfully and impartially discharge all the duties incumbent upon me'"**

14666 ~~§ 23-218 23.1-2904. Plan for comprehensive community colleges; appropriations; tuition~~
14667 ~~fees and charges; grants or contributions; apprenticeships~~ State Board; duties.

14668 ~~A. The~~ In addition to the duties set forth in § 23.1303, the State Board ~~is authorized and~~
14669 ~~directed to prepare shall:~~

14670 1. Be the state agency with primary responsibility for coordinating workforce training at
14671 the postsecondary through the associate degree level, exclusive of the career and technical
14672 education programs provided through and administered by the public school system. This
14673 responsibility shall not preclude other agencies from also providing such services as appropriate,
14674 but these activities shall be coordinated with the comprehensive community colleges;

14675 2. Report on actions that comprehensive community colleges have taken to meet the
14676 requirements of § 23.1-2906 in its annual report to the General Assembly on workforce
14677 development activities required by the general appropriation act;

14678 3. Prepare and administer a plan providing standards and policies for the establishment,
14679 development, and administration of comprehensive community colleges under its authority. It
14680 shall determine the need for comprehensive community colleges; and develop a statewide plan
14681 for their location and a time schedule for their establishment. In the development of such plan, a
14682 principal objective ~~shall be is~~ to provide and maintain a system of comprehensive community
14683 colleges ~~through which appropriate educational opportunities and programs to accomplish the~~

14684 ~~purposes set forth in subdivision (a) of § 23-214 shall be made available throughout the~~
14685 ~~Commonwealth, as that term is defined in § 23.1-2900 to make appropriate educational~~
14686 ~~opportunities and programs available throughout the Commonwealth.~~ In providing these
14687 offerings, the State Board shall recognize the need for excellence in all curricula and shall
14688 endeavor to establish and maintain standards appropriate to the various purposes the respective
14689 programs are designed to serve.

14690 ~~B. The Board shall have the authority to control and expend funds appropriated by law,~~
14691 ~~and to fix tuition fees and charges. The Board may establish policies and guidelines providing~~
14692 ~~for reduced tuition rates at Virginia's community colleges for employees of the Virginia~~
14693 ~~Community College System. The Board may exercise the powers conferred by Chapter 3 (§ 23-~~
14694 ~~14 et seq.) as any other educational institution as defined in § 23-14.~~

14695 ~~C. The Board shall be authorized, with the approval of the Governor, to accept from any~~
14696 ~~government or governmental department or agency or any public or private body or from any~~
14697 ~~other source, grants or contributions of money or property which the Board may use for or in aid~~
14698 ~~of any of its purposes.~~

14699 ~~§ 23-220. Local community college boards.~~

14700 ~~The State Board shall establish~~ 4. Establish policies providing for the creation of a local
14701 community college board for each ~~institution~~ comprehensive community college established
14702 under this chapter and the procedures and regulations under which such local boards shall
14703 operate. ~~A local community college board as defined in § 23-214 shall be established for each~~
14704 ~~college.~~ These boards shall assist in ascertaining educational needs; and enlisting community
14705 involvement and support; and shall perform such other duties as may be prescribed by the State
14706 Board;

14707 5. Adhere to the policies of the Council for the coordination of higher education as
14708 required by law; and

14709 ~~§ 23-219.1. Mental health policies.~~

14710 ~~The Board shall develop~~ 7. Develop a mental health referral policy directing
14711 comprehensive community colleges to designate at least one individual at each college to serve
14712 as a point of contact with an emergency services system clinician at a local community services
14713 board, or another qualified mental health services provider, for the purposes of facilitating
14714 screening and referral of students who may have emergency or urgent mental health needs and
14715 of assisting the college in carrying out the duties specified by §§ ~~23-9.2:8~~ 23.1-802 and ~~23-~~
14716 ~~9.2:10~~ 23.1-805. ~~A~~ Each comprehensive community college may establish relationships with
14717 community services boards or other mental health providers for referral and treatment of
14718 persons with less serious mental health needs.

14719 **Drafting note: Existing § 23-218 is logically reorganized as follows: Provisions in**
14720 **existing subsections B and C relating to State Board powers are stricken and incorporated**
14721 **into proposed § 23.1-2905. Provisions relating exclusively to State Board duties are**
14722 **retained as proposed § 23.1-2904, into which is incorporated the provisions of subsection B**
14723 **of existing § 23-215 as proposed subdivision 1; the last sentence of subsection C of existing**
14724 **§ 23-215 as proposed subdivision 2; the provisions of existing § 23-220 as proposed**
14725 **subdivision 4; the provisions of the first paragraph of existing § 23-221 as subdivision 5;**
14726 **and the provisions of existing § 23-219.1 as proposed subdivision 6. Technical changes are**
14727 **made.**

14728 § 23.1-2905. State Board; powers.

14729 In addition to the powers set forth in subsection B of § 23.1-1301, State Board may:

14730 1. With the approval of the Governor, accept from any government or governmental
14731 department or agency or any public or private body or from any other source grants or
14732 contributions of money or property that the State Board may use for or in aid of any of its
14733 purposes;

14734 2. Control and expend funds appropriated by law;

14735 3. Fix tuition, mandatory fees, and other necessary charges;

14736 [4. Establish policies and guidelines providing for reduced tuition rates at comprehensive](#)
14737 [community colleges for employees of the System; and](#)

14738 ~~§ 23-219. Diplomas, certificates and associate degrees.~~

14739 ~~The Board shall have the right to confer~~ [5. Confer](#) diplomas, certificates, and associate
14740 degrees.

14741 **Drafting note: Proposed § 23.1-2905 is created to consolidate provisions relating**
14742 **exclusively to State Board powers. Subdivisions 1 through 4 are derived from subsections**
14743 **B and C of existing § 23-218, and existing § 23-219 is incorporated as subdivision 5.**
14744 **Technical changes are made.**

14745 [§ 23.1-2906. Comprehensive community colleges; duties; workforce.](#)

14746 [Each comprehensive community college shall:](#)

14747 [1. Maximize noncredit course offerings made available to business and industry at a time](#)
14748 [and place that meet current and projected workforce needs and minimize the cost of noncredit](#)
14749 [offerings to business and industry to the extent feasible;](#)

14750 [2. Deal directly with employers in designing and offering courses to meet real, current,](#)
14751 [and projected workforce training needs; and](#)

14752 [3. Maximize the availability and use of distance learning courses addressing workforce](#)
14753 [training needs.](#)

14754 **Drafting note: The provisions of all but the last sentence of subsection C of existing**
14755 **§ 23-215 are logically reorganized as proposed § 23.1-2906. Technical changes are made.**

14756 ~~§ 23-220.1. Expired.~~

14757 **Drafting note: Expired pursuant to Chapter 875 of the Acts of Assembly of 1996.**

14758 ~~Article 2.~~

14759 ~~Community College Incentive Scholarship Program.~~

14760 **Drafting note: The provisions of existing Article 2 are recommended for repeal as**
14761 **obsolete.**

14762 ~~§ 23-220.2. Incentive scholarships program; Board to administer; promulgation of~~
14763 ~~regulations.~~

14764 ~~There is hereby created the Community College Incentive Scholarship Program to~~
14765 ~~provide incentive scholarships to eligible students attending comprehensive community colleges~~
14766 ~~in Virginia. Funds may be paid to any comprehensive community college on behalf of students~~
14767 ~~who have been awarded such scholarships pursuant to § 23-220.4.~~

14768 **Drafting note: The provisions of existing § 23-220.2 are recommended for repeal as**
14769 **obsolete.**

14770 ~~§ 23-220.3. Community College Incentive Scholarship Fund created.~~

14771 ~~A. From such funds as are appropriated for this purpose and from such gifts, donations,~~
14772 ~~grants, bequests, and other funds as may be received on its behalf, there is hereby created in the~~
14773 ~~state treasury a special nonreverting fund to be known as the Community College Incentive~~
14774 ~~Scholarship Fund, hereafter referred to as "the Fund." The Fund shall be established on the~~
14775 ~~books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and~~
14776 ~~be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of~~
14777 ~~each fiscal year shall not revert to the general fund but shall remain in the Fund. Funds may be~~
14778 ~~paid to any comprehensive community college on behalf of students who have been awarded~~
14779 ~~scholarships pursuant to § 23-220.4. The first such scholarships shall be awarded after July 1,~~
14780 ~~1998.~~

14781 ~~Expenditures and disbursements from the Fund shall be made by the State Treasurer on~~
14782 ~~warrants issued by the Comptroller upon written request signed by the State Board for~~
14783 ~~Community Colleges.~~

14784 ~~B. The Board shall promulgate regulations for the implementation of the provisions of~~
14785 ~~this article and shall award scholarships to eligible students meeting the criteria established~~
14786 ~~pursuant to § 23-220.4.~~

14787 **Drafting note: The provisions of existing § 23-220.3 are recommended for repeal as**
14788 **obsolete.**

14789 ~~§ 23-220.4. Eligible students; criteria for award of scholarships.~~

14790 ~~A. Only students who (i) are domiciled residents of Virginia as defined by § 23-7.4, (ii)~~
14791 ~~are enrolled as second-year students on a full-time basis in a designated technical training~~
14792 ~~program at a comprehensive community college in Virginia, and (iii) have a cumulative grade~~
14793 ~~point average of at least 3.0 on a scale of 4.0 or its equivalent upon the completion of one year~~
14794 ~~as a full-time student at a comprehensive community college in Virginia shall be eligible to~~
14795 ~~receive such scholarships.~~

14796 ~~B. The Board, in consultation with the Virginia Economic Development Partnership,~~
14797 ~~shall designate those technical training programs for which scholarships may be awarded. The~~
14798 ~~selected programs shall reflect current and projected workforce training needs in the~~
14799 ~~Commonwealth.~~

14800 ~~C. Scholarships awarded pursuant to this article shall provide for the payment in full of~~
14801 ~~tuition and fees for enrollment for one year as a full-time, second-year student.~~

14802 **Drafting note: The provisions of existing § 23-220.4 are recommended for repeal as**
14803 **obsolete.**

14804 ~~Article 2.1.~~

14805 ~~Award of Academic Credit for Military Training Applicable to the Student's Certificate of~~
14806 ~~Degree Requirements.~~

14807 **Drafting note: The designation of Article 2.1 is removed because the article**
14808 **structure of existing Chapter 16 is not retained in proposed Chapter 29.**

14809 ~~§ 23-220.5 23.1-2907. Policy for the award of academic credit for military training.~~

14810 A. The State Board shall adopt a policy for the award of academic credit to any student
14811 enrolled in a comprehensive community college who has successfully completed a military
14812 training course or program as part of his military service that is applicable to the student's
14813 certificate of degree requirements and is:

14814 1. Recommended for academic credit by a national higher education association that
14815 provides academic credit recommendations for military training courses or programs;

14816 2. Noted on the student's military transcript issued by any of the ~~armed forces~~ Armed
14817 Forces of the United States; or

14818 3. Otherwise documented in writing by any of the ~~armed forces~~ Armed Forces of the
14819 United States.

14820 B. The State Board shall:

14821 1. Develop a procedure for each comprehensive community college to receive the
14822 documentation necessary to identify and verify the military training course or program for
14823 which the student has applied for academic credit; and

14824 2. Develop, maintain, and disseminate to each comprehensive community college a list
14825 of military training courses and programs that it has deemed qualified for the award of academic
14826 credit.

14827 C. Each comprehensive community college shall provide a copy of the State Board's
14828 policy for the award of academic credit for military training courses or programs to each student
14829 applicant.

14830 **Drafting note: No change.**

14831 ~~Article 3.~~

14832 ~~Administration Generally.~~

14833 **Drafting note: The designation of Article 3 is removed because the article structure**
14834 **of existing Chapter 16 is not retained in proposed Chapter 29.**

14835 ~~§ 23-221.1.~~

14836 **Drafting note: Repealed by Chapter 728 of the Acts of Assembly of 1980.**

14837 ~~§ 23-222. Transfer of facilities, assets and programs.~~

14838 ~~(a) Effective July 1, 1967, all physical facilities, assets and programs of instruction in the~~
14839 ~~fields specified in subdivision (a) of § 23-214 of the following institutions shall be transferred to~~
14840 ~~and placed under the control and administration of the State Board for Community Colleges.~~

14841 ~~Eastern Shore Branch of the School of General Studies of the University of Virginia;~~

14842 ~~Lynchburg Branch of the School of General Studies of the University of Virginia;~~

~~14843 Patrick Henry College of the University of Virginia,
14844 Clifton Forge Covington Branch of the Virginia Polytechnic Institute and State
14845 University,
14846 Roanoke Technical Institute of the Virginia Polytechnic Institute and State University,
14847 Roanoke Center of the School of General Studies of the University of Virginia, and
14848 Wytheville Branch of the Virginia Polytechnic Institute and State University.~~

~~14849 Provided, however, that no such transfer shall take place with respect to any individual
14850 institution specified in the next preceding paragraph until (1) the Advisory Committee on
14851 Community Colleges certifies to the State Board and the Governor that such individual
14852 institution has demonstrated the requirements necessary for accreditation by the Southern
14853 Association of Colleges and Schools and (2) the Governor signifies in writing his approval of
14854 such transfer. If such certification by the Advisory Committee is not made with respect to any
14855 individual institution prior to July 1, 1967, then certification shall only be made between July
14856 one and August one of any succeeding year, and such transfer shall take place, if the Governor
14857 signifies in writing his approval of such transfer, on July one next following the date on which
14858 such certification is made.~~

~~14859 The college or university of which any individual institution is a part shall cooperate in
14860 obtaining certification for such institution. As soon as practicable, the State Board shall request
14861 individual accreditation of the institutions specified in this section by the Southern Association
14862 of Colleges and Schools.~~

~~14863 Notwithstanding any provision of this subsection or any other provision of this chapter,
14864 it is further provided that by agreement between the State Board and the governing body of the
14865 college or university of which any such individual institution is a part, and with the approval of
14866 the Governor, such transfer may take place prior to July 1, 1967, or any date subsequent thereto.~~

~~14867 (b) Effective July 1, 1966, the physical facilities, assets and programs of existing
14868 technical colleges and all assets of the existing State Board and Department of Technical~~

14869 ~~Education shall be transferred to and placed under the control and administration of the State~~
14870 ~~Board for Community Colleges.~~

14871 ~~(c) Effective July 1, 1966, all educational programs for post-high school age youth and~~
14872 ~~adults in existing area career and technical schools under the State Board of Education shall be~~
14873 ~~transferred to and placed under the control and government of the State Board for Community~~
14874 ~~Colleges.~~

14875 ~~(d) All the real estate and personal property now existing and heretofore [before July 1,~~
14876 ~~1966] standing in the name of institutions or boards included in subsections (a) and (b) of this~~
14877 ~~section shall, on the dates set forth in such subsections, be transferred to and taken as standing in~~
14878 ~~the name of the State Board for Community Colleges.~~

14879 ~~(e) In effecting the transfers specified in this section, the State Board for Community~~
14880 ~~Colleges shall respect any existing financial investment of local communities in these~~
14881 ~~institutions by establishing policies which will insure an equitable method of financing future~~
14882 ~~developments.~~

14883 **Drafting note: The provisions of existing § 23-222 are recommended for repeal as**
14884 **obsolete.**

14885 ~~§ 23-223 23.1-2908. Chancellor of Community Colleges generally.~~

14886 ~~(a) A. The State Board shall appoint a Chancellor of Community Colleges, hereinafter~~
14887 ~~sometimes called the Chancellor, shall be appointed by the State Board for Community~~
14888 ~~Colleges. Any vacancy shall be filled by the Board. The Chancellor shall to be the chief~~
14889 ~~executive officer of the System. The Chancellor shall, without additional compensation, serve as~~
14890 ~~and secretary to the State Board for Community Colleges, fix his salary, and prescribe his duties~~
14891 ~~in addition to those duties set forth in subsection C.~~

14892 ~~(b) The salary of the Chancellor shall be fixed by the Board.~~

14893 ~~(c) Before entering upon the discharge of the duties of his office, the Chancellor shall~~
14894 ~~qualify by taking and subscribing the oath required of all officers of the Commonwealth.~~

14895 ~~§ 23-224. Duties of Chancellor generally.~~

14896 ~~A.B.~~ The Chancellor ~~of Community Colleges~~ shall ~~formulate~~;

14897 1. Formulate such ~~rules policies~~ and regulations and provide for such assistance in his

14898 office as ~~shall be are~~ necessary for the proper performance of the duties prescribed by the

14899 provisions of this chapter.;

14900 ~~B. The State Board shall prescribe the duties of the Chancellor, in addition to those~~

14901 ~~duties otherwise prescribed for him by law, and, in its discretion, approve the appointment by~~

14902 ~~the Chancellor of such agents and employees as may be needed by the Chancellor in the~~

14903 ~~exercise of the functions, duties and powers conferred and imposed by law and in order to effect~~

14904 ~~a proper organization to carry out his duties.~~

14905 ~~C. The Chancellor shall designate~~ 2. Designate an employee of the State Board to serve

14906 as its liaison to the Board of Education.;

14907 ~~§ 23-225. Agents and employees generally.~~

14908 ~~The functions, duties, powers and titles of the agents and employees provided for in §~~

14909 ~~23-224, their salaries and remunerations, not in excess provided therefor by law, shall be fixed~~

14910 ~~by the Chancellor with the approval of the State Board and subject to~~

14911 3. Appoint agents and employees and fix their functions, powers, duties, titles, and

14912 salaries, subject to the approval of the State Board and the provisions of ~~Chapter 29 the Virginia~~

14913 Personnel Act (§ 2.2-2900 et seq.) ~~of Title 2.2.;~~

14914 ~~§ 23-227. Annual report.~~

14915 ~~The Chancellor shall submit~~ 4. Submit an annual report to the Governor and General

14916 Assembly on or before November 1 of each year. Such report shall be submitted as a report

14917 document as provided in the procedures of the Division of Legislative Automated Systems for

14918 the processing of legislative documents and reports and shall be posted on the General

14919 Assembly's website. Such report shall contain, at a minimum, the annual financial statements for

14920 the year ending the preceding June 30 and the accounts and status of any ongoing capital

14921 projects.;

14922 ~~§ 23-228. Forms.~~

14923 ~~The Chancellor shall prescribe~~ 5. Prescribe the forms of applications, reports, affidavits,
14924 and such other forms as ~~shall~~ may be required in the administration of ~~the~~ this chapter;

14925 ~~§ 23-229. Cooperation with federal agencies; federal grants in aid generally.~~

14926 ~~(a) Subject to the direction of the Board, the Chancellor shall cooperate~~ 6. Cooperate
14927 with agencies of the United States in relation to matters set forth in this chapter; and in any
14928 reasonable manner that may be necessary for the Commonwealth to qualify for and to receive
14929 grants or aid from such federal agencies, subject to the direction of the State Board.

14930 ~~(b) Nothing in this chapter shall preclude any other agency, board or officer of the~~
14931 ~~Commonwealth from being designated as the directing or allocating agency, board or officer for~~
14932 ~~the distribution of federal grants in aid or the performance of other duties to the extent~~
14933 ~~necessary to qualify for and to receive grants in aid for programs and institutions under the~~
14934 ~~administration of the State Board for Community Colleges; and~~

14935 ~~§ 23-231. Enforcement of standards for personnel.~~

14936 ~~The Chancellor shall enforce~~ 7. Enforce the standards established by the State Board for
14937 personnel employed in the administration of this chapter and remove or cause to be removed
14938 each employee who does not meet such standards.

14939 ~~§ 23-230. Chancellor authorized to receive grants in aid and gifts; payment of funds into~~
14940 ~~state treasury.~~

14941 C. The Chancellor is authorized to receive, for and on behalf of the Commonwealth and
14942 its subdivisions, from the United States and agencies ~~thereof, and from~~ of the United States and
14943 ~~any and all other sources; source~~ grants-in-aid and gifts; made for the purpose of providing; or ~~to~~
14944 ~~assist~~ assisting in providing; any career and technical; or other; education or educational
14945 programs authorized by this chapter, including expenses of administration. All such funds shall
14946 be paid into the state treasury. However, nothing in this chapter shall preclude any other agency,
14947 board, or officer of the Commonwealth from being designated as the directing or allocating
14948 agency, board, or officer for the distribution of federal grants-in-aid or the performance of other

14949 [duties to the extent necessary to qualify for and to receive grants-in-aid for programs and](#)
14950 [institutions under the administration of the State Board.](#)

14951 **Drafting note: Existing § 23-223, relating to the Chancellor of Community Colleges**
14952 **generally, is expanded as proposed § 23.1-2908 to incorporate the Chancellor's powers and**
14953 **duties from multiple existing sections as follows:**

14954 **1. Subsection A of existing § 23-224 is relocated as proposed subdivision B 1;**

14955 **2. Subsection C of existing § 23-224 is relocated as proposed subdivision B 2;**

14956 **3. Subsection B of existing § 23-224 and existing § 23-225 are combined to create**
14957 **proposed subdivision B 3;**

14958 **4. Existing § 23-227 is relocated as proposed subdivision B 4;**

14959 **4. Existing § 23-228 is relocated as proposed subdivision B 5;**

14960 **5. Subsection (a) of existing § 23-229 is relocated as proposed subdivision B 6, and**
14961 **subsection (b) of existing § 23-229 is relocated as the second sentence of proposed**
14962 **subsection C;**

14963 **6. Existing § 23-231 is relocated as proposed subdivision B 7; and**

14964 **7. Existing § 23-230 is relocated as proposed subsection C, the second sentence of**
14965 **which is derived from subsection (b) of existing § 23-229.**

14966 **Existing subsection (c) is stricken as duplicative of § 49-1, which states that "[e]very**
14967 **person before entering upon the discharge of any function as an officer of this**
14968 **Commonwealth shall take and subscribe the following oath: 'I do solemnly swear (or**
14969 **affirm) that . . . I will faithfully and impartially discharge all the duties incumbent upon**
14970 **me'"**

14971 ~~§ 23-226~~ [23.1-2909](#). Bonds of agents and System employees.

14972 Proper bonds shall be required of all agents and employees who ~~shall~~ handle any funds
14973 ~~which that~~ may come into [the](#) custody of the System. The premiums on the bonds shall be paid
14974 from funds appropriated by the Commonwealth for the administration of the provisions of this
14975 chapter.

14976 **Drafting note: Technical changes.**

14977 ~~§ 23-221 23.1-2910. Adherence to policies of State Council of Higher Education;~~
 14978 ~~extension~~ Extension programs; similar courses of study.

14979 ~~The State Board shall adhere to the policies of the State Council of Higher Education for~~
 14980 ~~the coordination of higher education as required by law.~~

14981 In any area served by a comprehensive community college, no public institution of
 14982 higher ~~learning which~~ education that conducts extension programs shall, ~~after July 1, 1966,~~ offer
 14983 courses of study similar to those offered by a comprehensive community college, except as
 14984 authorized by the ~~State Council of Higher Education~~. Whenever practicable, the State Board
 14985 shall provide facilities to such public institutions of higher ~~learning education~~ for conducting
 14986 extension programs not in conflict with the provisions of this chapter.

14987 **Drafting note: The first paragraph of existing § 23-221 is relocated as subdivision 5**
 14988 **of proposed § 23.1-2904. Technical changes are made.**

14989 ~~§ 23-231.1 23.1-2911.~~ Community College Week.

14990 The ~~General Assembly finds that the community colleges in Virginia provide the general~~
 14991 ~~public with quality educational services which contribute to maintaining a knowledgeable and~~
 14992 ~~skilled citizenry. In recognition of these services, the~~ fourth week in January of every year
 14993 ~~beginning in 1986 shall be~~ is declared "Community College Week." ~~The and the~~ State Board ~~for~~
 14994 ~~Community Colleges~~ may approve such activities in observance of this week as it deems
 14995 appropriate.

14996 **Drafting note: The statement of legislative finding by the General Assembly is**
 14997 **stricken per the Code Commission policy regarding such statements. Technical changes**
 14998 **are made.**

14999 ~~§ 23-220.01 23.1-2912. Apprenticeship program for employees of ship manufacturing~~
 15000 ~~and ship repair companies; fund~~ Shipyard workers; applied sciences and apprenticeship
 15001 programs; Virginia Vocational Incentive Scholarship Program for Shipyard Workers; Fund.

15002 A. For purposes of this section:

15003 "Applied sciences program" means a three-year program of educational instruction at the
15004 college that incorporates instruction in industrial applied sciences and leads to the conferral of
15005 an Associate in Applied Science degree on any person who successfully completes such
15006 program.

15007 "Apprenticeship program" means a three-year program at the college combining
15008 educational instruction and on-the-job training that is established for the purpose of enhancing
15009 the education and skills of shipyard workers.

15010 "College" means the Tidewater Community College.

15011 "Industrial applied sciences" may include applied sciences such as welding, burning,
15012 blasting, and other applied sciences.

15013 "Shipyard worker" means any employee employed full time on a salaried or wage basis,
15014 whose tenure is not restricted as to temporary or provisional appointment, at a ship
15015 manufacturing or ship repair company located in the Commonwealth.

15016 B. The Virginia Vocational Incentive Scholarship Program for Shipyard Workers is
15017 established.

15018 C. From such funds as are appropriated for this purpose and from such gifts, donations,
15019 grants, bequests, and other funds as may be received on its behalf, there is hereby created in the
15020 state treasury a special nonreverting fund to be known as the Virginia Vocational Incentive
15021 Scholarship Program for Shipyard Workers Fund, referred to in this section as "the Fund." The
15022 Fund shall be established on the books of the Comptroller. Interest earned on moneys in the
15023 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,
15024 including interest thereon, at the end of each fiscal year shall not revert to the general fund but
15025 shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i)
15026 awarding scholarships to shipyard workers enrolled at the college in the applied sciences
15027 program or the apprenticeship program or (ii) the administration and implementation of the
15028 applied sciences program or the apprenticeship program or both. Expenditures and

15029 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
15030 Comptroller upon written request signed by the president of Tidewater Community College.

15031 D. Subject to the ~~State Council of Higher Education for Virginia's Council's~~ authority to
15032 approve or disapprove all new academic programs as provided in subdivision 5 of § ~~23-9.6:1~~
15033 23.1-203, the college may offer ~~a three-year program of educational instruction that incorporates~~
15034 ~~instruction in industrial applied sciences. An Associate in Applied Science Degree shall be~~
15035 ~~conferred on any person successfully completing such academic program. The college may an~~
15036 applied sciences program and coordinate such ~~academic~~ program with an apprenticeship
15037 program offered to shipyard workers by their employers.

15038 ~~C.-E.~~ Beginning in the calendar year that the Council approves ~~such academic~~ an applied
15039 sciences program and for calendar years thereafter, shipyard workers who are ~~(i) domiciled~~
15040 ~~residents of Virginia as described in § 23-7.4 and (ii) Virginia students~~ enrolled ~~as full-~~ full-time
15041 or part-time ~~students~~ in ~~such academic~~ the applied sciences program, ~~shall be~~ are eligible for
15042 scholarships for such program. Renewal of the scholarships of such shipyard workers ~~shall be~~ is
15043 contingent upon maintaining (a) enrollment in ~~such academic~~ the applied sciences program, (b)
15044 a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent at the
15045 completion of each academic year, and (c) full-time employment as a shipyard worker.

15046 F. The college shall award scholarships to eligible students in the applied sciences
15047 program or the apprenticeship program for no more than three academic years. Scholarship
15048 amounts shall not exceed full tuition and required fees relating to such academic program or the
15049 apprenticeship program.

15050 ~~D.-G.~~ Before any scholarship is awarded in accordance with the provisions of this
15051 section, the scholarship recipient shall sign a promissory note under which he agrees (i) to
15052 continue full-time employment as a shipyard worker until his graduation and (ii) upon
15053 graduation, to work continuously as a shipyard worker for the same number of years that he was
15054 the beneficiary of ~~such~~ the scholarship. The college shall recover the total amount of funds

15055 awarded as a scholarship, or the appropriate portion thereof, including any accrued interest, if
15056 the scholarship recipient fails to honor such requirements.

15057 ~~E. There is hereby created the Virginia Vocational Incentive Scholarship Program for~~
15058 ~~Shipyard Workers to provide scholarships to shipyard workers enrolled at the college either in~~
15059 ~~such academic program or in the apprenticeship program.~~

15060 ~~F. From such funds as are appropriated for this purpose and from such gifts, donations,~~
15061 ~~grants, bequests, and other funds as may be received on its behalf, there is hereby created in the~~
15062 ~~state treasury a special nonreverting fund to be known as the Virginia Vocational Incentive~~
15063 ~~Scholarship Program for Shipyard Workers Fund, referred to in this section as "the Fund." The~~
15064 ~~Fund shall be established on the books of the Comptroller. Interest earned on moneys in the~~
15065 ~~Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,~~
15066 ~~including interest thereon, at the end of each fiscal year shall not revert to the general fund but~~
15067 ~~shall remain in the Fund. Funds may be paid to the college on behalf of shipyard workers who~~
15068 ~~have been awarded scholarships pursuant to subsection C and shipyard workers in the~~
15069 ~~apprenticeship program. Funds may also be used for the administration and implementation of~~
15070 ~~such academic program and/or the apprenticeship program.~~

15071 ~~Expenditures and disbursements from the Fund shall be made by the State Treasurer on~~
15072 ~~warrants issued by the Comptroller upon written request signed by the President of Tidewater~~
15073 ~~Community College.~~

15074 ~~G. H.~~ The Council shall promulgate adopt regulations for the implementation of the
15075 provisions of this section ~~and the college shall award scholarships to eligible students for no~~
15076 ~~more than three academic years. Scholarship amounts shall not exceed full tuition and required~~
15077 ~~fees relating to such academic program or the apprenticeship program.~~

15078 **Drafting note: A definition of "applied sciences program" has been created and the**
15079 **term has been used in several places in proposed § 23.1-2912 in lieu of "such academic**
15080 **program" and similar phrases used in existing § 23-220.01. Subsections E and F of existing**
15081 **§ 23-220.01 are logically reordered as subsections B and C of proposed § 23.1-2912. The**

15082 **language in existing subsection C is updated to conform more closely to language currently**
15083 **used to designate other special funds in the Code.**

15084 § ~~23-231.1-1~~ 23.1-2913. Machinery and Equipment Donation Grant Program and Fund
15085 established.

15086 A. As used in this section, unless the context requires a different meaning:

15087 ~~"Chancellor" means the Chancellor of the System.~~

15088 "Machinery and equipment" means engines, machines, motors, mechanical devices,
15089 laboratory trainers, computers, printers, tools, parts, and similar machinery and equipment as set
15090 forth in guidelines developed by the System. "Machinery and equipment" includes specialized
15091 software required for the operation of machinery and equipment qualified for a grant pursuant to
15092 this section.

15093 "Vocational school" means any entity that offers career or technical education
15094 administered by the Department of Education pursuant to § 22.1-227. "Vocational school" does
15095 not include instructional programs that are intended solely for recreation, enjoyment, or personal
15096 interest, or as a hobby, or courses or programs of instruction that prepare individuals to teach
15097 such pursuits.

15098 B. From such funds as may be appropriated by the General Assembly and any gifts,
15099 grants, or donations from public or private sources, there is hereby created in the state treasury a
15100 special nonreverting fund to be known as the Machinery and Equipment Donation Grant Fund,
15101 hereafter referred to as "the Fund." The Fund shall be established on the books of the
15102 Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to
15103 it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year
15104 shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be
15105 used solely for the purposes of awarding grants through the Machinery and Equipment Donation
15106 Grant Program for qualified donations of machinery and equipment to comprehensive
15107 community colleges and vocational schools. Expenditures and disbursements from the Fund

15108 shall be made by the State Treasurer on warrants issued by the Comptroller upon written request
15109 signed by the Chancellor.

15110 C. 1. A business that donates new machinery and equipment in good working condition,
15111 purchased within the 12 months prior to the donation, to a comprehensive community college or
15112 vocational school ~~shall be~~ is eligible to apply to the System for a grant from the Fund. Such
15113 grant shall be in an amount equal to 20 percent of the purchase price of the machinery or
15114 equipment, not to exceed an aggregate grant of \$5,000 for all such donations during a calendar
15115 year.

15116 2. In order to be eligible for a grant, the application shall include a written certification
15117 made by the donee comprehensive community college or vocational school that identifies the
15118 donee comprehensive community college or vocational school, the business donating the
15119 machinery or equipment, the date of the donation, and the number of units of each item of
15120 machinery and equipment donated. The certification shall also include a statement by the donee
15121 comprehensive community college or vocational school that the machinery and equipment was
15122 needed and can be utilized by the comprehensive community college or vocational school for
15123 teaching or training students, and that such machinery and equipment will be principally used in
15124 Virginia the Commonwealth in teaching or training students.

15125 3. Grants shall be issued in the order that each completed application is received. In the
15126 event that the amount of eligible grants requested in a fiscal year exceeds the funds available in
15127 the Fund, such grants shall be paid in the next fiscal year in which funds are available.

15128 4. In consultation with the Department of Education and the ~~State Council of Higher~~
15129 Education for Virginia, the System shall maintain and update as necessary on its website a list of
15130 vocational schools to which donations of machinery and equipment may qualify for a grant
15131 under this section. The System, in consultation with the ~~State Council of Higher Education for~~
15132 Virginia, shall also develop guidelines setting forth the general requirements for qualifying for
15133 and applying for a grant under this section, including a description of the types of machinery

15134 and tools eligible for a grant pursuant to this section. Such guidelines ~~shall be~~ are exempt from
15135 the Administrative Process Act (§ 2.2-4000 et seq.).

15136 **Drafting note: Technical changes are made, including relocating the definition of**
15137 **"Chancellor" to the proposed chapter-wide definitions section, § 23.1-2900, and**
15138 **abbreviating references to the State Council of Higher Education for Virginia, the**
15139 **definition of which appears in the proposed title-wide definitions section, § 23.1-100.**

15140 SUBTITLE V.

15141 OTHER EDUCATIONAL AND CULTURAL INSTITUTIONS.

15142 CHAPTER 30.

15143 EASTERN VIRGINIA MEDICAL SCHOOL.

15144 **Drafting note: Eastern Virginia Medical School, established as the Norfolk Area**
15145 **Medical Center Authority by Chapter 471 of the Acts of Assembly of 1964, is**
15146 **recommended for inclusion in Title 23.1 as proposed Chapter 30. Sections of Chapter 471**
15147 **(1964) were amended as follows: by Chapter 396 of the Acts of Assembly of 1975 (§§ 1 and**
15148 **2; name changed to Eastern Virginia Medical Authority), Chapter 217 of the Acts of**
15149 **Assembly of 1979 (§ 2), Chapter 121 of the Acts of Assembly of 1981 (§ 2), Chapter 329 of**
15150 **the Acts of Assembly of 1987 (§§ 1 through 14, 16, 17, 18; name changed to Medical**
15151 **College of Hampton Roads), Chapter 386 of the Acts of Assembly of 1988 (§ 11), Chapter**
15152 **454 of the Acts of Assembly of 1991 (§§ 2 through 6, 8, 8.1 [added], 10 through 14, 16, 17),**
15153 **Chapters 87 and 478 of the Acts of Assembly of 2002 (§§ 1 through 8.1, 8.2 [added], 8.3**
15154 **[added], 9 through 19; name changed to Eastern Virginia Medical School), Chapter 658 of**
15155 **the Acts of Assembly of 2008 (§ 2), Chapters 820 and 844 of the Acts of Assembly of 2009**
15156 **(§ 2), and Chapter 168 of the Acts of Assembly of 2013 (§ 2). Amendments made by the**
15157 **foregoing acts of assembly are incorporated in this proposed chapter. Existing §§ 1**
15158 **through 19 are logically reorganized, and technical changes are made.**

15159 § 23.1-3000. Definitions.

15160 As used in this chapter, unless the context requires a different meaning:

15161 "Board of visitors" means the board of visitors of the Eastern Virginia Medical School.

15162 "Bonds" includes bonds, notes, revenue certificates, lease participation certificates, and
15163 other evidences of indebtedness, payment obligations, or deferred purchase financing
15164 arrangements.

15165 "Costs" means (i) costs of construction, reconstruction, renovation, site work, and
15166 acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights
15167 and interests; (ii) costs of demolition, removal, or relocation of buildings or structures; (iii) costs
15168 of labor; (iv) costs of materials, machinery, and all other kinds of equipment; (v) financing
15169 charges; (vi) costs of issuance of bonds, including printing, engraving, advertising, legal, and
15170 other similar expenses; (vii) credit enhancement and liquidity facility fees; (viii) fees for interest
15171 rate caps, collars, and swaps; (ix) interest on bonds and other borrowing in connection with a
15172 project prior to and during construction of the project and for a period not exceeding one year
15173 after the completion of such construction; (x) costs of engineering, inspection, financial, legal,
15174 and accounting services, plans, specifications, studies, surveys, estimates of costs and revenues,
15175 and feasibility studies; (xi) administrative expenses, including administrative expenses during
15176 the start-up of any project; (xii) working capital to be used in connection with any project; (xiii)
15177 reserve funds and other reserves for the payment of principal of and interest on bonds; and (xiv)
15178 all other expenses necessary, desirable, or incidental to the construction, reconstruction,
15179 renovation, acquisition, financing, refinancing, or placing in operation of projects.

15180 "Medical School" means the Eastern Virginia Medical School.

15181 "Operating project" means any project (i) owned, in whole or in part, (ii) controlled,
15182 directly or indirectly, in whole or in part, or (iii) operated, directly or indirectly, by the Medical
15183 School, including parking, utility, and similar essential and related facilities operated by the
15184 Medical School or its agents either for itself or for itself and other health-related entities and
15185 institutions on a shared-support basis.

15186 "Project" means any medical educational institution and medical facility, including
15187 colleges, schools, and divisions offering undergraduate and graduate programs for the health

15188 professions and sciences and such other branches of learning as may be appropriate; medical
15189 and paramedical facilities; such other facilities deemed by the board of visitors as consistent
15190 with the powers and purposes of Eastern Virginia Medical School; all related and supporting
15191 facilities; and all necessary, desirable, or incidental lands, buildings, improvements, and other
15192 appurtenances and equipment.

15193 **Drafting note: Definitions for bonds, costs, operating project, and project,**
15194 **currently located in §§ 5 and 11 of Chapter 471 of the Acts of Assembly of 1964, as**
15195 **amended, are consolidated in this section. Definitions for board of visitors and Medical**
15196 **School are provided for the chapter. Technical changes are made.**

15197 § 23.1-3001. Eastern Virginia Medical School established.

15198 ~~There Eastern Virginia Medical School is hereby created established as~~ a public
15199 ~~instrumentality, public~~ body politic and corporate, and ~~a~~ political subdivision of the
15200 Commonwealth ~~to be known as the "Eastern Virginia Medical School" hereinafter referred to as~~
15201 ~~"the Medical School," with such public and corporate powers as are hereinafter set forth.~~ The
15202 primary offices and facilities of the Medical School ~~may sue and be sued, plead and be~~
15203 ~~impleaded, and shall have the power and authority to contract and be contracted with and to~~
15204 ~~exercise and discharge all the powers and duties imposed and conferred upon it, as hereinafter~~
15205 ~~provided~~ be located in the Hampton Roads area of the Commonwealth.

15206 **Drafting note: This proposed section is derived from § 1 and portions of § 3 of**
15207 **Chapter 471 of the Acts of Assembly of 1964, as amended. Powers of the Medical School in**
15208 **existing § 1 are relocated to proposed § 23.1-3003. Technical changes are made.**

15209 § 23.1-3002. Board of visitors; membership; officers; meetings; committees.

15210 A. The Medical School shall be governed by a ~~Board~~ board of ~~Visitors (the Board)~~
15211 visitors composed of 17 members as follows: two nonlegislative citizen members ~~to be~~
15212 appointed at large by the Governor; two nonlegislative citizen members ~~to be~~ appointed at large
15213 by the Senate Committee on Rules; three nonlegislative citizen members ~~to be~~ appointed at
15214 large by the Speaker of the House of Delegates; six nonlegislative citizen members ~~to be~~

15215 appointed by the Eastern Virginia Medical School Foundation; and four nonlegislative citizen
15216 ~~members of whom shall be~~ appointed by their respective city councils as follows: two members
15217 for the City of Norfolk, one member for the City of Virginia Beach, and one member appointed
15218 by the following city councils in a rotating manner ~~beginning with~~: the City of Chesapeake, the
15219 City of Hampton, the City of Portsmouth, the City of Suffolk, and the City of Newport News.

15220 ~~Effective June 30, 2009, as terms expire on the Board among those members previously~~
15221 ~~appointed by the region's city councils, the Commonwealth's three appointing bodies B.~~
15222 Members shall ~~make appointments in a rotating manner, in the following order: in 2009, two~~
15223 ~~Governor's appointments and two Senate appointments; and in 2010, three House of Delegates~~
15224 ~~appointments. In 2011, four appointments shall be made by the region's city councils as~~
15225 ~~previously described. Thereafter, all Board appointments will be made by the initial appointing~~
15226 ~~body. Any vacancy that occurs prior to the completion of the term shall be appointed by the~~
15227 ~~appointing authority, for the remainder of the term only.~~

15228 ~~Appointments by the Eastern Virginia Medical School Foundation (the Foundation) shall~~
15229 ~~represent the broad involvement of the Medical School in the Commonwealth at large. All~~
15230 ~~appointments shall be for~~ serve for terms of three years, commencing on ~~the first day of July 1~~
15231 of the appointment year. ~~However, appointments to fill vacancies~~ Vacancies occurring other
15232 than by expiration of a term shall be ~~made filled~~ by the ~~appropriate original~~ appointing
15233 authority, ~~as the case may be, to commence on appropriate dates~~ for the unexpired ~~terms~~ term.
15234 No ~~person~~ member shall ~~be eligible to~~ serve for more than two ~~successive full~~ consecutive
15235 three-year terms; however, ~~after the expiration of (i) a term of two years or less, or after the~~
15236 ~~expiration of the remainder of a term to which the member was appointed to fill a vacancy, or~~
15237 ~~after one year following the expiration of a second full three-year term, two additional three-~~
15238 ~~year terms may be served by a member, if appointed. In addition, an officer of the Board may~~
15239 ~~serve up to three additional one-year terms~~ serve an unexpired term is eligible to serve two
15240 consecutive three-year terms immediately succeeding such unexpired term and (ii) an officer is
15241 eligible to serve up to three additional one-year terms. Except as otherwise provided in this

15242 subsection, no member who has served two consecutive three-year terms is eligible to serve on
15243 the board until at least one year has passed since the end of his second consecutive three-year
15244 term. Members shall continue to hold office until their successors have been appointed and
15245 confirmed.

15246 C. Members shall receive no salaries but ~~shall be~~ are entitled to reimbursement for
15247 necessary traveling and other expenses incurred while engaged in the performance of their
15248 duties. ~~Each member shall continue to hold office until his successor has been appointed and~~
15249 qualified.

15250 D. Each appointing authority ~~shall have~~ has the right to remove any member it appointed
15251 for malfeasance ~~or~~ misfeasance, incompetence, or gross neglect of duty.

15252 ~~Each member shall take an appropriate oath of office before the clerk of any circuit court~~
15253 ~~of the Commonwealth, and the oath shall be filed with such clerk.~~

15254 Members of the Board ~~E. The board shall elect, on an annual basis, one of their number~~
15255 ~~as annually elect a~~ rector ~~and another as~~, vice-rector, treasurer, ~~and shall also elect a~~ secretary
15256 ~~and treasurer and such from among its membership and may elect~~ assistant secretaries and
15257 treasurers ~~as the Board may authorize for terms to be determined by them, who may or may are~~
15258 not required to be ~~one~~ members of the ~~members~~ board. The same ~~person~~ member may serve as
15259 both secretary and treasurer.

15260 ~~The Board shall appoint a President, who shall be the chief executive officer, with such~~
15261 ~~duties as may be prescribed by the Board. The Board shall also appoint a dean, a provost, such~~
15262 ~~vice presidents, and other administrative and academic officers as the Board may authorize, and~~
15263 ~~such professors, teachers, staff members, and agents as it deems proper. The Board may~~
15264 ~~prescribe the duties of such staff and faculty, and provide for the employment of other personnel~~
15265 ~~as may be necessary. The Board shall generally direct the affairs of the Medical School.~~

15266 ~~The Board shall make such rules, regulations and bylaws for its own government and~~
15267 ~~procedures as it shall determine. The Board may generally, in respect to the government and~~
15268 ~~management of the Medical School adopt such rules and regulations as it may deem expedient,~~

15269 ~~which are not contrary to law. The Board~~ F. The board shall meet at least four times each year
15270 and may hold such special meetings as it deems necessary. The rector or any three members
15271 may call special meetings of the ~~Board~~ board.

15272 G. The ~~Board~~ board may appoint an executive committee composed of at least three ~~and~~
15273 but no more than five members for the transaction of business in the recess of the ~~Board~~ board.

15274 ~~The Board shall have the right to confer degrees, including honorary degrees, consistent~~
15275 ~~with the approval authority of the State Council of Higher Education pursuant to Title 23 of the~~
15276 ~~Code of Virginia.~~

15277 **Drafting note: This proposed section is derived from portions of § 2 of Chapter 471**
15278 **of the Acts of Assembly of 1964, as amended, related to board membership and**
15279 **organization. Subsection B conforms provisions on appointment and reappointment of**
15280 **members to the provisions of § 23.1-1300. Technical changes are made. A provision related**
15281 **to oaths by members is stricken as duplicative of § 49-1, which states that "[e]very person**
15282 **before entering upon the discharge of any function as an officer of this Commonwealth**
15283 **shall take and subscribe the following oath: 'I do solemnly swear (or affirm) that . . . I will**
15284 **faithfully and impartially discharge all the duties incumbent upon me'"**

15285 § 23.1-3003. Board of visitors; duties and powers.

15286 A. The board shall generally direct the affairs of the Medical School and adopt such
15287 regulations and bylaws for its own government and procedures as it shall determine.

15288 B. The board shall appoint a president of the Medical School who shall be the chief
15289 executive officer with such duties as may be prescribed by the board.

15290 C. The board shall appoint a dean and a provost of the Medical School.

15291 D. The board may appoint such vice presidents, administrative and academic officers,
15292 professors, teachers, staff members, agents, and other personnel as it deems proper and
15293 necessary for the transaction of its business within and outside the Commonwealth or the United
15294 States.

15295 E. The board may confer degrees, including honorary degrees, consistent with the
15296 approval authority of the Council pursuant to § 23.1-203.

15297 **Drafting note: This proposed section is derived from portions of § 2 of Chapter 471**
15298 **of the Acts of Assembly of 1964, as amended, related to specific board duties and powers.**

15299 **Technical changes are made.**

15300 § 3 23.1-3004. Medical School; powers.

15301 A. The Medical School ~~shall be deemed to be a public instrumentality, having its~~
15302 ~~primary offices and facilities located in the Hampton Roads area of the Commonwealth of~~
15303 ~~Virginia. The Medical School shall have the power to exercise and the purpose of exercising~~
15304 may:

15305 1. Exercise public and essential governmental functions to provide for the public health,
15306 welfare, convenience, knowledge, benefit, and prosperity of the residents of the Commonwealth
15307 of Virginia and such other persons as may be served by the Medical School. ~~In the exercise of~~
15308 ~~such power and purpose, the Medical School shall deliver and support the delivery of high~~
15309 ~~quality medical and health care and related services to such residents and persons regardless of~~
15310 ~~their ability to pay, by providing educational opportunities and conducting and facilitating~~
15311 ~~research. Further, the Medical School is hereby authorized to exercise the powers conferred by~~
15312 ~~this chapter.;~~

15313 § 4. The 2. Adopt regulations for the government and management of the Medical
15314 School may identify that it deems expedient and that are not contrary to law;

15315 3. Sue and be sued;

15316 4. Plead and be impleaded;

15317 5. Contract and be contracted with;

15318 6. Identify, document, and evaluate needs, problems, and resources relating to medical
15319 and health care, education, and research; and ~~may~~ plan, develop, and implement programs to
15320 meet such needs on both an immediate and long-range basis.;

15321 ~~§ 5. The Medical School may plan~~ 7. Plan, design, construct, possess, own, remove,
15322 renovate, enlarge, equip, maintain, and operate projects ~~for the purpose of providing to provide~~
15323 medical and health care, education, ~~and~~ research, and related ~~and~~ supporting ~~services~~, and
15324 other appropriate ~~purposes~~. ~~The Medical School may lease~~ services;

15325 8. Lease, sell, or otherwise convey any or all of its projects to others who agree to
15326 ~~provide for operate~~ the ~~operation of the same~~ projects if the Medical School determines that
15327 such lease, sale, or other conveyance will assist, promote, or further the purposes ~~and intent~~ of
15328 this ~~act~~. chapter;

15329 ~~"Projects," as used in this act, mean any medical educational institutions and facilities,~~
15330 ~~including, but not limited to, colleges, schools, and divisions offering undergraduate and~~
15331 ~~graduate programs for the health professions and sciences and such other branches of learning~~
15332 ~~as may be appropriate; medical and paramedical facilities; and such other facilities as shall be~~
15333 ~~deemed by the Board as consistent with the powers and purposes of the Medical School,~~
15334 ~~together with all related and supporting facilities; and all lands, buildings, improvements, and~~
15335 ~~any other appurtenances and equipment necessary or desirable in connection therewith or~~
15336 ~~incidental thereto.~~

15337 ~~"Operating project," as used in this act, means any project owned, in whole or in part, or~~
15338 ~~controlled, directly or indirectly, in whole or in part, or operated, directly or indirectly, by the~~
15339 ~~Medical School, and shall also include, without limitation, parking, utility, and similar essential~~
15340 ~~and related facilities operated by the Medical School or an agent therefor, either for itself or for~~
15341 ~~itself and other health-related entities and institutions on a shared support basis.~~

15342 ~~§ 6. The Medical School may acquire~~ 9. Acquire any property, real or personal, and
15343 right, easement, or estate in such property that it deems necessary by purchase, lease, gift,
15344 devise ~~or by the exercise of the power of~~, or eminent domain, on such terms and conditions; and
15345 in such a manner as it may deem proper, ~~and such rights, easements or estates therein as may be~~
15346 ~~necessary for its purposes~~, and sell, lease, and dispose of ~~the same~~, such property or any portion
15347 thereof of or interest ~~therein whenever it shall become expedient to do so~~ in such property. The

15348 Medical School shall exercise the power of eminent domain ~~shall be exercised~~ in accordance
 15349 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
 15350 (i) within the corporate limits of the City of Norfolk and ~~only for the purpose of acquiring (ii) to~~
 15351 acquire property to be used for operating projects. ~~No The Medical School shall not condemn,~~
 15352 pursuant to this chapter, the property of any corporation ~~itself having that has~~ the power of
 15353 eminent domain ~~may be condemned hereunder.;~~

15354 ~~§ 7. The Medical School may fix and~~ 10. Fix, revise ~~from time to time and,~~ charge, and
 15355 collect ~~rates, rentals~~ revenues, fees, rents, and other charges for the services and facilities
 15356 furnished by the Medical School; and establish and revise ~~from time to time~~ regulations, ~~in~~
 15357 respect to regarding the use, occupancy, or operation of all or part of any such facility or ~~part~~
 15358 ~~thereof, or~~ service rendered.;

15359 ~~§ 8. The Medical School may accept~~ 11. Accept loans, grants, contributions, or
 15360 assistance from the federal government, the Commonwealth ~~of Virginia,~~ any ~~municipality~~
 15361 ~~thereof~~ locality of the Commonwealth, or ~~from~~ any other sources, public or private, ~~to carry out~~
 15362 ~~any of its purposes and may source and~~ enter into any agreement or contract regarding ~~or~~
 15363 ~~relating to~~ the acceptance ~~or,~~ use, or repayment of any such loan, grant, contribution, or
 15364 assistance.;

15365 ~~§ 8.1. The Medical School shall have the following powers to carry out the purposes and~~
 15366 ~~intent of this act:~~

15367 ~~(a) To provide or assist in providing medical and health care, education, and research~~
 15368 ~~and related and supporting services within or without the Commonwealth of Virginia or the~~
 15369 ~~United States.~~

15370 ~~(b) To develop~~ 12. Develop, undertake, conduct, and provide programs, alone or in
 15371 conjunction with any other public or private person or entity, for medical, biomedical, and
 15372 health care research and any associated disciplines ~~relating related~~ to (i) the knowledge about
 15373 ~~and the,~~ causes, and cures of diseases, conditions, syndromes, or disorders ~~or to,~~ (ii) health care
 15374 services, or (iii) the delivery of health care.;

15375 ~~(e) To foster~~ 13. Foster the utilization of information, discoveries, data, and material
15376 produced through medical, biomedical, and health care research; ~~to~~ obtain patents, copyrights,
15377 and trademarks for such intellectual ~~properties~~ property; ~~to~~ administer and manage such
15378 intellectual ~~properties~~ property or ~~to~~ contract for such administration and management by
15379 entities organized for such purpose; and ~~to~~ market, transfer, and convey, in whole or in part, any
15380 interests interest in such information, discoveries, data, materials, patents, copyrights,
15381 trademarks, or other intellectual ~~properties~~ property in any manner that is consistent with the
15382 Medical School's patent and copyright policies and the terms of any grants or contracts
15383 providing financial support for the relevant research.;

15384 ~~(d) To promote~~ 14. Promote, develop, improve, and increase the health, welfare,
15385 convenience, commerce, and prosperity of the Commonwealth ~~of Virginia~~;

15386 ~~(e) To assist~~ 15. Assist in or provide for the creation of domestic or foreign stock and
15387 nonstock corporations; and ~~to~~ purchase, receive, subscribe for, or otherwise acquire, own, hold,
15388 vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of; (i) shares of or other
15389 interests in; or obligations of; any domestic or foreign corporations, partnerships, associations,
15390 joint ventures, or other entities organized for any purpose, ~~or~~ (ii) direct or indirect obligations of
15391 the United States, ~~or of~~ any other government, state, territory, governmental district, or
15392 municipality locality, or ~~of~~ (iii) any other obligations of any association, partnership, or
15393 individual or any other domestic or foreign corporation organized for any purpose.;

15394 ~~(f) To provide~~ 16. Provide appropriate assistance in carrying out any activities
15395 authorized by this ~~act~~ chapter to any domestic or foreign ~~corporations~~ corporation, ~~partnerships~~
15396 partnership, ~~associations~~ association, joint ~~ventures~~ venture, or other ~~entities~~ entity owned in
15397 whole or in part or controlled, directly or indirectly, in whole or in part, by the Medical School,
15398 including, ~~but not limited to~~, making loans and providing employees.;

15399 ~~(g) To make~~ 17. Make loans and provide other assistance to corporations, partnerships,
15400 associations, joint ventures, or other entities.;

15401 ~~(h) To make~~ 18. Make contracts or guarantees, incur liabilities, borrow money, or secure
15402 any obligations of others.;

15403 ~~(i) To transact~~ 19. Transact its business, establish and locate its offices, facilities, and
15404 any satellite offices and facilities, other than its primary Hampton Roads offices and facilities, at
15405 other locations within and ~~without~~ outside the Commonwealth ~~of Virginia~~ or the United States,
15406 and control, directly or through domestic or foreign stock or nonstock corporations or other
15407 entities, facilities that ~~will~~ assist or aid the Medical School in carrying out the purposes ~~and~~
15408 ~~intent set forth in of~~ this ~~act~~ chapter, including, ~~but not limited to~~, the power to own or operate,
15409 directly, or indirectly, medical educational and research institutions, medical, research, and
15410 paramedical facilities, ~~together with~~ and related and supporting facilities and projects, within or
15411 ~~without~~ outside the Commonwealth ~~of Virginia~~ or the United States.;

15412 ~~(j) To hire employees and staff as necessary for the transaction of its business within and~~
15413 ~~without the Commonwealth of Virginia and the United States.~~

15414 ~~(k) To participate~~ 20. Participate in joint ventures, within or ~~without~~ outside the
15415 Commonwealth ~~of Virginia~~ or the United States, with individuals, corporations, partnerships,
15416 associations, or other entities for providing such medical and health care, education, and
15417 research, or related services or other activities that the Medical School may determine to
15418 undertake.;

15419 ~~(l) To conduct~~ 21. Conduct or engage, directly or indirectly, in any lawful business,
15420 activity, effort, or project, that is necessary, convenient, or desirable to assist the Medical School
15421 in carrying out its public purposes or for the exercise of any of its powers, within or ~~without~~
15422 outside the Commonwealth ~~of Virginia~~ or the United States, ~~so long as provided that~~ any private
15423 benefit resulting to any other corporation or other entity from any such business, activity, effort,
15424 or project is merely incidental to the resulting public benefit. ~~However, nothing contained in this~~
15425 ~~section shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia~~
15426 ~~or of the Medical School.~~;

15427 ~~(m) To have and exercise, in addition to its other powers, 22. Exercise~~ all the corporate
15428 powers granted to corporations by the provisions of Title 13.1 ~~of the Code of Virginia~~, except in
15429 those cases ~~where in which~~, by the express terms of the provisions ~~thereof of such title, it is such~~
15430 ~~powers are~~ confined to corporations created under such title; and, ~~further, to have the power to~~
15431 ~~accept~~

15432 23. Accept, execute, and administer any trust in which it may have an interest under the
15433 terms of the instrument creating the trust.

15434 B. Nothing in this chapter shall be deemed a waiver of the sovereign immunity of the
15435 Commonwealth or the Medical School.

15436 **Drafting note: This proposed section is derived from the provisions of §§ 1 and 3**
15437 **through 8.1 of Chapter 471 of the Acts of Assembly of 1964, as amended, relating to**
15438 **Medical School powers. Portions of § 3 and the definitions of "projects" and "operating**
15439 **project" from § 5 of Chapter 471 (1964) are relocated to §§ 23.1-3000 and 23.1-3006.**
15440 **Technical changes are made, including striking the superfluous term "from time to time"**
15441 **in proposed subdivision A 10 per Code Commission policy.**

15442 § 23.1-3005. Medical School; exercise of powers.

15443 A. The exercise of the powers granted by this chapter are for the benefit of the residents
15444 of the Commonwealth and the promotion of their safety, health, welfare, knowledge, benefit,
15445 convenience, and prosperity.

15446 B. The operation and maintenance of any project that the Medical School is authorized
15447 to undertake constitutes the performance of an essential governmental function.

15448 **Drafting note: This proposed section is derived from the first paragraph of § 17 of**
15449 **Chapter 471 of the Acts of Assembly of 1964, as amended, relating to the exercise of**
15450 **powers by the Medical School. Technical changes are made.**

15451 § 23.1-3006. Medical School; duties.

15452 The Medical School shall deliver and support the delivery of high quality medical and
15453 health care and related services to residents of the Commonwealth and such other persons as

15454 [may be served by the Medical School regardless of their ability to pay, provide educational](#)
15455 [opportunities, and conduct and facilitate research.](#)

15456 **Drafting note: This proposed section is derived from a portion of § 3 of Chapter**
15457 **471 of the Acts of Assembly of 1964, as amended, relating to Medical School duties.**
15458 **Technical changes are made.**

15459 [§ 9 23.1-3007. Medical School; powers and duties; bonds.](#)

15460 [A.](#) The Medical School may ~~borrow money and~~ issue bonds ~~as hereinafter provided.~~

15461 ~~§ 11. The Medical School is hereby authorized to issue bonds from time to time in its~~
15462 ~~discretion for the purpose of paying to pay~~ all or ~~any~~ part of the cost of any project within the
15463 Commonwealth ~~of Virginia, financing finance and refinance~~ any of its programs or its general
15464 operations, or ~~refunding refund~~ any outstanding bonds or other obligations of the Medical
15465 School ~~now or hereafter outstanding~~ whether or not the bonds or obligations to be refunded have
15466 matured or are ~~then~~ subject to redemption.

15467 ~~Refunding bonds~~ [B. The Medical School may be issued issue refunding bonds](#) in
15468 exchange for bonds or obligations being refunded; to pay (i) the principal, premium, if any, and
15469 interest accrued and to accrue on such bonds or obligations; or any portion ~~thereof, of such~~
15470 bonds or obligations to maturity or earlier date of redemption ~~or to pay, (ii)~~ the purchase price of
15471 any such bonds or obligations to be retired upon such purchase, ~~as may be determined by the~~
15472 Medical School, or (iii) any related payment in connection with such refunding bonds.

15473 [C.](#) The Medical School may issue such types of bonds as it may determine, including
15474 ~~(without limiting the generality of the foregoing)~~ bonds payable as to principal and interest from
15475 any one or more of the following sources: (i) its revenues generally; (ii) the income and
15476 revenues of a particular project ~~(, including revenues from the sale or lease of such project);~~ (iii)
15477 the income and revenues of certain designated projects, whether ~~or not~~ they are financed in
15478 whole or in part from the proceeds of such bonds; (iv) the proceeds of the sale or lease of any
15479 project ~~or projects~~, whether ~~or not they are~~ it is financed from the proceeds of such bonds; (v)
15480 funds realized from the enforcement of security interests or other liens securing such bonds; (vi)

15481 proceeds from the sale of bonds of the Medical School; (vii) payments due under letters of
15482 credit, policies of municipal bond insurance, guarantees, or other credit enhancements securing
15483 payment of bonds of the Medical School; (viii) any reserve or sinking funds created to secure
15484 such payment; or (ix) other available funds of the Medical School.

15485 ~~As used in this act, unless the context requires otherwise:~~

15486 ~~"Bonds" includes bonds, notes, revenue certificates, lease participation certificates, and~~
15487 ~~other evidences of indebtedness or deferred purchase financing arrangements.~~

15488 ~~"Cost" means costs of construction, reconstruction, renovation, site work, acquisition of~~
15489 ~~lands, structures, rights of way, franchises, easements, and other property rights and interests;~~
15490 ~~costs of demolition, removal, or relocation of buildings or structures; costs of labor, materials,~~
15491 ~~machinery, and all other kinds of equipment; financing charges; costs of issuance of the bonds,~~
15492 ~~including printing, engraving, advertising, legal, and other similar expenses; credit enhancement~~
15493 ~~and liquidity facility fees; fees for interest rate caps, collars, and swaps; interest on bonds and~~
15494 ~~other borrowing in connection with a project prior to and during construction thereof and for a~~
15495 ~~period not exceeding one year after the completion of such construction; costs of engineering~~
15496 ~~and inspections, financial, legal, and accounting services, plans, specifications, studies, surveys,~~
15497 ~~estimates of costs and of revenues, feasibility studies, administrative expenses, including~~
15498 ~~administrative expenses during the start-up of any project; provisions for working capital to be~~
15499 ~~used in connection with any project; reserve funds and other reserves for the payment of~~
15500 ~~principal and interest on bonds; and all other expenses necessary, desirable, or incidental to the~~
15501 ~~construction, reconstruction, renovation, and acquisition of projects, the financing of same, or~~
15502 ~~placing of the same in operation.~~

15503 ~~Any such bonds may be additionally guaranteed by, or secured by a pledge of any grant,~~
15504 ~~contribution, or appropriation from, a participating political subdivision, the Commonwealth or~~
15505 ~~any political subdivision, agency or instrumentality thereof, any federal agency or any unit,~~
15506 ~~private corporation, copartnership, association, or individual, or a pledge of any income or~~
15507 ~~revenues of the Medical School, or a mortgage of, or a deed of trust or other lien or a security~~

15508 ~~interest in, any particular project or projects or other property of the Medical School or any~~
15509 ~~individual or entity referred to above.~~

15510 ~~Neither the members of the Board of the Medical School nor any person executing any~~
15511 ~~bonds issued under the provisions of this act shall be liable personally on the bonds by reason of~~
15512 ~~the issuance thereof. The bonds of the Medical School (and such bonds shall so state on their~~
15513 ~~face) shall not be a debt of the Commonwealth or any political subdivision thereof; neither the~~
15514 ~~Commonwealth nor any political subdivision thereof, other than the Medical School, shall be~~
15515 ~~liable thereon, nor shall such bonds be payable out of any funds or properties of the~~
15516 ~~Commonwealth or any political subdivision thereof, other than those of the Medical School. The~~
15517 ~~bonds shall not constitute indebtedness within the meaning of any debt limitation or restriction~~
15518 ~~on any Virginia local government. Bonds of the Medical School are declared to be issued for an~~
15519 ~~essential public and governmental purpose.~~

15520 ~~§ 12. Bonds of the Medical School shall be authorized by resolution and~~ D. Bonds of the
15521 Medical School may be (i) issued in one or more series, ~~shall be dated, shall mature at such time~~
15522 ~~or times not exceeding forty years from their date or dates and shall bear interest payable at such~~
15523 ~~time or times at such rate or rates, as may be determined by the Medical School, or as may be~~
15524 ~~determined in such manner as the Medical School may provide, including the determination by~~
15525 ~~agents designated by the Medical School under guidelines established by the Medical School.~~
15526 Such bonds may be and (ii) made redeemable or subject to tender before maturity, ~~at the option~~
15527 ~~of the Medical School,~~ at such price ~~or prices~~ and under such terms and conditions as may be
15528 fixed by the Medical School prior to the issuance of the bonds and shall be authorized by
15529 resolution, be dated, mature no later than 40 years of their date, and bear interest payable at such
15530 time and rate as may be determined by the Medical School and in such a manner as may be
15531 determined by the Medical School, including a determination by agents designated by the
15532 Medical School pursuant to the Medical School's guidelines.

15533 E. The Medical School shall determine the form ~~of the bonds~~, including any interest
15534 coupons to be attached ~~thereto, and to the bonds,~~ the manner of execution of the bonds, and

15535 ~~shall fix,~~ the denomination ~~or denominations of the bonds,~~ and the place ~~or places~~ of payment of
15536 principal and interest of the bonds, which may be at any bank ~~or,~~ trust company, or securities
15537 depository within or ~~without~~ outside the Commonwealth.

15538 ~~In case F. If~~ any officer whose signature or a facsimile of whose signature ~~shall appear~~
15539 appears on any ~~bonds bond~~ or ~~coupons shall cease~~ coupon ceases to be such officer before
15540 delivery of such bond or coupon, such signature or ~~such~~ facsimile ~~shall nevertheless be~~ is valid
15541 and sufficient for all purposes ~~the same~~ as if ~~he~~ such officer had remained in office until such
15542 delivery.

15543 G. Notwithstanding any ~~of the other provisions~~ provision of this ~~act chapter~~ or any
15544 recitals in any bonds issued under the provisions of this ~~act chapter,~~ all ~~such bonds shall be~~
15545 deemed to be of the Medical School are negotiable instruments under the laws of the
15546 Commonwealth ~~of Virginia.~~

15547 H. The Medical School may (i) issue bonds ~~may be issued~~ in coupon or registered form
15548 or both, ~~as the Medical School may determine, and provision may be made~~ (ii) provide for (a)
15549 the registration of any coupon bonds as to principal alone and ~~also~~ as to both principal and
15550 interest; and ~~for~~ (b) the reconversion ~~into coupon bonds~~ of any bonds registered as to both
15551 principal and interest. ~~Bonds into coupon bonds, and (iii) issue bonds~~ issued in registered form
15552 ~~may be issued~~ under a system of book-entry for recording the ownership and transfer of
15553 ownership of rights to receive payments of principal of ~~and,~~ premium, if any, and interest on
15554 such bonds.

15555 I. The Medical School may contract for the services of ~~one or more~~ banks, trust
15556 companies, financial institutions, or other entities or persons; within or outside the
15557 Commonwealth; for the authentication, registration, transfer, exchange, and payment of the
15558 bonds; or may provide perform such ~~services actions~~ itself.

15559 J. The Medical School may determine a price for its bonds and sell such bonds ~~in such~~
15560 ~~manner, either~~ at public or private sale; and for such price; as it ~~may determine~~ determines to be
15561 for the best interests of the Medical School.

15562 K. Prior to the preparation of definitive bonds, the Medical School may, under like
15563 restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable
15564 for definitive bonds when such bonds ~~shall have been~~ are executed and ~~are~~ available for
15565 delivery.

15566 L. The Medical School may ~~also~~ provide for the replacement of any bonds that ~~shall~~
15567 ~~become~~ are mutilated ~~or shall be~~, destroyed, stolen, or lost.

15568 ~~Bonds~~ M. The Medical School may ~~be issued~~ issue bonds under the provisions of this
15569 ~~act~~ chapter without obtaining the consent of any commission, board, bureau, or agency of the
15570 Commonwealth or ~~of~~ any political subdivision, and ~~without~~ is not subject to any ~~other~~
15571 proceedings or ~~the happening of other~~ conditions or things in the issuance of such bonds other
15572 than those ~~proceedings, conditions or things that are specifically required by~~ set forth in this ~~act~~
15573 chapter.

15574 ~~§ 13. In the discretion of the~~ N. The Medical School, may issue or secure any bonds
15575 ~~issued~~ under the provisions of this ~~act~~ may be issued chapter pursuant to ~~or secured by~~ (i) a trust
15576 indenture or other agreement by way of conveyance, deed of trust, or mortgage of any project or
15577 any other property of the Medical School, whether or not financed in whole or in part from the
15578 proceeds of such bonds, ~~or by~~ (ii) a trust or other agreement ~~by and~~ between the Medical School
15579 and ~~a corporate trustee (which may be either~~ (a) any trust company or bank having the powers
15580 of a trust company within or ~~without~~ outside the Commonwealth) ~~or other acting as corporate~~
15581 trustee or another agent for bondholders, or a purchaser of any bonds or (b) a purchaser of any
15582 bond or ~~by both~~ (iii) any combination of such conveyance, deed of trust, or mortgage and
15583 indenture, trust, or other agreement. Such trust, indenture, trust, or other agreement, or the
15584 resolution providing for the issuance of such bonds, may pledge or assign revenues, fees, rents,
15585 and other charges to be received. Such trust indenture ~~or~~, trust, or other agreement, or the
15586 resolution providing for the issuance of such bonds, may contain such provisions for protecting
15587 and enforcing the rights and remedies of the bondholders as may be reasonable and proper and
15588 not in violation of law, including covenants (i) providing for the repossession and sale of any or

15589 part of any project by the Medical School or any trustees under any trust indenture or agreement
15590 ~~of any project, or part thereof,~~ upon any default under the lease or sale of such project, and (ii)
15591 setting forth (a) the duties of the Medical School in relation to the acquisition of property and
15592 the construction, improvement, maintenance, repair, operation, and insurance of any project or
15593 other property of the Medical School, (b) the amounts of revenues, fees, rents, and other charges
15594 to be charged, (c) the collection of such revenues, fees, rents, and other charges, ~~and (d)~~ the
15595 custody, safeguarding, and application of all moneys of the Medical School, and (e) conditions
15596 or limitations with respect to the issuance of additional bonds.

15597 ~~It shall be lawful for any O.~~ Any national bank with its main office in the
15598 Commonwealth or any other state or any bank or trust company incorporated under the laws of
15599 the Commonwealth or another state that ~~may act~~ acts as depository of the proceeds of ~~such~~
15600 bonds or ~~of~~ other revenues of the Medical School ~~to~~ may furnish indemnifying bonds or ~~to~~
15601 pledge such securities as may be required by the Medical School.

15602 ~~Such~~ P. Each trust indenture, trust, or other agreement, or the resolution providing for
15603 the issuance of such bonds, may set forth the rights and remedies of the bondholders and ~~of the~~
15604 any trustee or other agent for the bondholders, ~~and may~~ restrict the individual right of action by
15605 bondholders.

15606 ~~In addition to the foregoing, such trust indenture, trust or other agreement or resolution~~
15607 may, and contain such other provisions as the Medical School ~~may deem~~ deems reasonable and
15608 proper for the security of the bondholders, including, ~~without limitation,~~ provisions for the
15609 assignment ~~to a corporate trustee or other agent for bondholders~~ of any rights of the Medical
15610 School in any project owned, operated, or controlled by, or leases or sales of any projects made
15611 by, the Medical School to a corporate trustee or other agent for bondholders or the purchaser of
15612 such bonds.

15613 Q. All expenses incurred in carrying out the provisions of such trust indenture ~~or, trust,~~
15614 or other agreement, or the resolution ~~or other agreements~~ providing for the issuance of such

15615 [bonds](#), relating to any project, including those to which the Medical School may not be a party,
15616 may be treated as a part of the cost of a project.

15617 ~~§ 18. R.~~ Bonds issued by the Medical School under the provisions of this ~~act chapter~~ are
15618 ~~hereby made~~ securities in which all public officers and public bodies of the Commonwealth and
15619 its political subdivisions, ~~all~~ insurance companies, trust companies, banking associations,
15620 investment companies, executors, administrators, trustees, and other fiduciaries may properly
15621 and legally invest funds, including capital in their control or belonging to them. Such bonds are
15622 ~~hereby made~~ securities ~~which that~~ may properly and legally be deposited with and received by
15623 any state ~~or municipal~~ officer [or officer of a locality](#) or any agency or political subdivision of the
15624 Commonwealth for any purpose for which the deposit of bonds or obligation is ~~now or may~~
15625 ~~hereafter be~~ authorized by law.

15626 ~~§ 16. S.~~ Any (i) holder of bonds, issued under the provisions of this ~~act chapter~~ or ~~of any~~
15627 ~~of the~~ coupons appertaining ~~thereto, and the~~ [to such bonds and](#) (ii) trustee or other agent for
15628 bondholders under any trust indenture ~~or,~~ trust, or other agreement, [or the resolution providing](#)
15629 [for the issuance of such bonds](#), except to the extent that the rights ~~herein~~ given [in this subsection](#)
15630 may be restricted by such trust indenture ~~or,~~ trust, or other agreement, [or the resolution](#)
15631 [providing for the issuance of such bonds](#), may, either at law or in equity, by suit, action,
15632 injunction, mandamus, or other proceedings, protect and enforce any and all rights under the
15633 laws of the Commonwealth ~~or,~~ granted by this ~~act chapter~~, or under such trust indenture ~~or,~~
15634 trust, or other agreement, or the resolution ~~authorizing providing for~~ the issuance of such bonds,
15635 and ~~may~~ enforce and compel the performance of all duties required by this ~~act chapter~~ or ~~by~~
15636 such trust indenture ~~or,~~ trust, or other agreement, or ~~the~~ resolution [providing for the issuance of](#)
15637 [such bonds](#), to be performed by the Medical School or ~~by any officer or agent thereof of the~~
15638 [Medical School](#), including the fixing, charging, and collection of [revenues](#), fees, rents, and other
15639 charges.

15640 [T. Any bond of the Medical School may be guaranteed or secured by a pledge of any \(i\)](#)
15641 [grant, contribution, or appropriation from a participating political subdivision, the](#)

15642 Commonwealth, any political subdivision, agency, or instrumentality of the Commonwealth,
 15643 any federal agency, or any unit, private corporation, copartnership, association, or individual,
 15644 (ii) income or revenues of the Medical School, or (iii) mortgage of or deed of trust or other lien
 15645 or security interest in any project or other property of the Medical School or any individual or
 15646 entity referred to in clause (i). No member of the board or any person executing any bonds
 15647 issued under the provisions of this chapter is liable personally on the bonds for issuing such
 15648 bonds.

15649 U. No bond of the Medical School is a debt of the Commonwealth or any other political
 15650 subdivision of the Commonwealth, and such bonds shall so state on their face. Neither the
 15651 Commonwealth nor any political subdivision of the Commonwealth other than the Medical
 15652 School is liable on the bonds. Such bonds are not payable out of any funds or properties of the
 15653 Commonwealth or any political subdivision of the Commonwealth other than those of the
 15654 Medical School. The bonds shall not constitute indebtedness within the meaning of any debt
 15655 limitation or restriction on any locality in the Commonwealth.

15656 V. Bonds of the Medical School are issued for an essential public and governmental
 15657 purpose.

15658 **Drafting note: This proposed section is derived from §§ 9, 11, 12, 13, 16, and 18 of**
 15659 **Chapter 471 of the Acts of Assembly of 1964, as amended, relating to bonds. Technical**
 15660 **changes are made, including striking the superfluous term "from time to time" in**
 15661 **proposed subsection A per Code Commission policy.**

15662 §-14 23.1-3008. Medical School; additional powers; revenues, fees, rents, and other
 15663 charges for projects.

15664 A. The Medical School ~~is hereby authorized to~~ may fix, revise, charge, and collect
 15665 revenues, fees, rents, and other charges for the use of any project. Such revenues, fees, rents,
 15666 and other charges shall be ~~so~~ fixed and adjusted ~~as~~ to provide a fund sufficient with other
 15667 revenues to pay the principal of and any interest on bonds secured by or otherwise to be paid by
 15668 such revenues as ~~the same shall~~ such principal and interest become due and payable; ~~;~~ to create

15669 reserves for such purposes and for other purposes of the Medical School; and to pay the cost of
15670 maintaining, repairing, and operating the project. Such revenues, fees, rents, and charges ~~shall~~
15671 are not ~~be~~ subject to supervision or regulation by any commission, board, bureau, or agency of
15672 the Commonwealth or any such participating political subdivision.

15673 B. The revenues, fees, rents, and other charges received by the Medical School may be
15674 applied and ~~be~~ set aside ~~from time to time in the such~~ order and ~~in the~~ manner as may be
15675 provided in such ~~resolution or~~ trust indenture, trust, or other agreement, or the resolution
15676 providing for the issuance of such bonds, including application to a sinking fund that may be
15677 pledged to, and charged with, the payment of the principal of and the interest on such bonds as
15678 ~~the same shall~~ such principal and interest become due, and the redemption price or ~~the~~ purchase
15679 price of such bonds retired by call or purchase as ~~therein~~ provided in such trust indenture, trust,
15680 or other agreement, or the resolution providing for the issuance of such bonds.

15681 C. All pledges of such revenues, fees, rents, and other charges to payment of bonds ~~shall~~
15682 be are valid and binding from the time when the pledge is made.

15683 D. The revenues, fees, rents, and charges ~~so~~ pledged and ~~thereafter~~ received by the
15684 Medical School ~~shall are~~ immediately ~~be~~ subject to the lien of such pledge without any physical
15685 delivery ~~thereof~~ or further act, and the lien of any such pledge ~~shall be is~~ valid and binding as
15686 against all parties having claims of any kind in tort, contract, or otherwise against the Medical
15687 School, regardless of whether such parties have notice ~~thereof.~~ Neither of the lien.

15688 ~~resolution, any~~ E. No trust indenture, trust, ~~nor or~~ other agreement, or resolution
15689 authorizing the issuance of such bonds, by which a pledge is created ~~need is required to~~ be filed
15690 or recorded except in the records of the Medical School.

15691 F. The use and disposition of moneys to the credit of such sinking fund ~~shall be are~~
15692 subject to the provisions of ~~the resolution authorizing the issuance of such bonds or of~~ such trust
15693 indenture ~~or,~~ trust, or other agreement, or the resolution providing for the issuance of such
15694 bonds. Except as ~~may~~ otherwise ~~be~~ provided in such ~~resolution or such,~~ trust indenture ~~or,~~ trust,

15695 or other agreement, or the resolution providing for the issuance of such bonds, such sinking fund
 15696 ~~shall be~~ is a fund for all such bonds without distinction or priority of one over another.

15697 **Drafting note: This proposed section is derived from § 14 of Chapter 471 of the**
 15698 **Acts of Assembly of 1964, as amended. Technical changes are made.**

15699 § ~~10~~ 23.1-3009. Cooperation of localities.

15700 In addition to the powers granted by general law or by its charter, any ~~county, city, or~~
 15701 ~~town~~ locality in the Commonwealth ~~is empowered to~~ may cooperate with the Medical School ~~as~~
 15702 ~~follows to:~~

15703 ~~(a) To make~~ 1. Make such appropriations and provide such funds by outright donation,
 15704 loan, or agreement with the Medical School ~~for the operation operating~~ and carrying out the
 15705 purposes of the Medical School as the local governing body may deem proper, ~~either by outright~~
 15706 ~~donation or by loan, or the governing body may agree with the Medical School to take such~~
 15707 ~~action.;~~

15708 ~~(b) To dedicate~~ 2. Dedicate, sell, convey, or lease any of its interest in property, or grant
 15709 liens, easements, licenses, or any other privileges ~~therein in~~ or ~~thereon~~ on the property to or for
 15710 the benefit of the Medical School.;

15711 ~~(c) To cause~~ 3. Cause parks, playgrounds, and recreational, community, educational,
 15712 water, sewer, or drainage facilities, or any other works, ~~which that it is otherwise empowered to~~
 15713 may undertake, to be furnished adjacent to or in connection with any property ~~of or any,~~ facility,
 15714 or project of the Medical School.;

15715 ~~(d) To furnish~~ 4. Furnish, dedicate, close, pave, install, grade ~~or,~~ regrade, plan, or replan
 15716 streets, roads, roadways, alleys, sidewalks, or other places, ~~which it is otherwise empowered to~~
 15717 ~~undertake.;~~

15718 ~~(e) To plan or~~ 5. Plan, replan, zone, or rezone any part of ~~such county, city, or town the~~
 15719 locality in connection with the use of any property of the Medical School or ~~any,~~ property
 15720 adjacent to the property of the Medical School ~~or any,~~ facilities, or projects ~~that it is otherwise~~
 15721 ~~empowered to undertake, in accordance with general laws.;~~

15722 ~~(f) To cause~~ 6. Furnish services to ~~be furnished to~~ the Medical School ~~of the character~~
 15723 ~~that such county, city, or town is empowered to furnish.;~~

15724 ~~(g) To purchase~~ 7. Purchase any of the bonds of the Medical School or legally invest in
 15725 such bonds any funds belonging to or within the control of ~~such county, city, or town~~ the
 15726 locality and exercise all the rights of any holder of such bonds.;

15727 ~~(h) To do~~ 8. Do any and all things necessary or convenient to aid or cooperate in the
 15728 planning, undertaking, construction, or operation of any of the plans, projects, or facilities of the
 15729 Medical School; and

15730 ~~(i) To enter~~ 9. Enter into agreements with the Medical School ~~respecting regarding~~
 15731 action to be taken by ~~such county, city, or town~~ the locality pursuant to any of the ~~above~~ powers
 15732 set forth in this section.

15733 **Drafting note: This proposed section is derived from § 10 of Chapter 471 of the**
 15734 **Acts of Assembly of 1964, as amended. Technical changes are made.**

15735 § ~~15~~ 23.1-3010. Proceeds; trust funds.

15736 All moneys received ~~pursuant to this act~~ by the Medical School pursuant to this chapter,
 15737 whether as proceeds from the sale of bonds or as revenues, ~~shall be deemed to be~~ are trust funds
 15738 to be held and applied solely as provided in this ~~act~~ chapter.

15739 **Drafting note: This proposed section is derived from § 15 of Chapter 471 of the**
 15740 **Acts of Assembly of 1964, as amended. Technical changes are made.**

15741 § ~~8.3~~ 23.1-3011. Discrimination prohibited.

15742 In hiring practices and in the procurement of goods and services, the Medical School
 15743 shall not discriminate against any person on the basis of race, color, religion, national origin,
 15744 sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability.

15745 **Drafting note: This proposed section is derived from § 8.3 of Chapter 471 of the**
 15746 **Acts of Assembly of 1964, as amended. A section catchline is added.**

15747 § ~~8.2~~ 23.1-3012. Exemptions.

15748 The provisions of the [Virginia Personnel Act \(§ 2.2-2900 et seq.\)](#), the Administrative
15749 Process Act (§ 2.2-4000, et seq.), and the Virginia Public Procurement Act (§ 2.2-4300 et seq.)
15750 ~~of Title 2.2 of the Code of Virginia shall do~~ not apply to the ~~Eastern Virginia~~ Medical School in
15751 ~~the its~~ exercise of any power conferred under this chapter, ~~as amended~~.

15752 **Drafting note: This proposed section is derived from § 8.2 of Chapter 471 of the**
15753 **Acts of Assembly of 1964, as amended and a clarifying reference to the Virginia Personnel**
15754 **Act is proposed. Technical changes are made.**

15755 § ~~17~~ [23.1-3013. Taxation.](#)

15756 ~~The exercise of the powers granted by this act shall be in all respects for the benefit of~~
15757 ~~the inhabitants of the Commonwealth, for the promotion of their safety, health, welfare,~~
15758 ~~knowledge, benefit, convenience and prosperity, and as the operation and maintenance of any~~
15759 ~~project that the Medical School is authorized to undertake will constitute the performance of an~~
15760 ~~essential governmental function, no authority shall be~~ [A. The Medical School is not](#) required to
15761 pay any taxes or assessments upon any project acquired and constructed by ~~it~~ [the Medical](#)
15762 [School](#) under the provisions of this ~~act; and the chapter~~.

15763 [B. The](#) bonds issued under the provisions of this ~~act chapter~~, their transfer ~~and~~, the
15764 income ~~therefrom~~ [from such bonds, and the income from the transfer of such bonds](#), including
15765 any profit made on the sale ~~thereof of such bonds; shall at all times be free and are~~ exempt from
15766 taxation by the Commonwealth and ~~by~~ any political subdivision ~~thereof of the Commonwealth~~.

15767 **Drafting note: This proposed section is derived from § 17 of Chapter 471 of the**
15768 **Acts of Assembly of 1964, as amended, relating to exemption from taxes for projects and**
15769 **the bonds issued for such projects. General provisions in the first sentence of existing § 17**
15770 **are relocated to proposed § 23.1-3005.**

15771 § ~~19~~ [23.1-3014. Scope of chapter.](#)

15772 This ~~act chapter~~ shall constitute full and complete authority for the Medical School,
15773 without regard to the provisions of any other law, ~~for the purposes, activities, and powers herein~~
15774 ~~authorized~~, and shall be liberally construed to effect ~~the its~~ purposes ~~hereof. The provisions of~~

15775 ~~this act are severable, and if any of its provisions shall be held unconstitutional by any court of~~
15776 ~~competent jurisdiction, the decision of such court shall not affect or impair any of the other~~
15777 ~~provisions of this act.~~

15778 **Drafting note: This proposed section is derived from § 19 of Chapter 471 of the**
15779 **Acts of Assembly of 1964, as amended. Provisions that deal with severability are removed**
15780 **per the Code-wide application of § 1-243. Technical changes are made.**

15781 CHAPTER 31.

15782 EDUCATIONAL AUTHORITIES, CENTERS, INSTITUTES, AND PARTNERSHIPS.

15783 **Drafting note: Other educational entities, existing Chapters 16.1, 16.2, 16.3, 16.4,**
15784 **16.5, and 16.6 of Title 23, are consolidated and reorganized as proposed Articles 1 through**
15785 **7 in Chapter 31.**

15786 Article 1.

15787 General Provisions.

15788 **Drafting note: Existing provisions relating to educational entities in general are**
15789 **consolidated in proposed Article 1.**

15790 § 23.1-3100. Governing boards of educational institutions; removal of members.

15791 A. Notwithstanding any other provision of law, the Governor may remove from office
15792 for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board
15793 of any educational institution established pursuant to this chapter and fill the vacancy resulting
15794 from the removal. Each appointment to fill a vacancy is subject to confirmation by the General
15795 Assembly.

15796 B. The Governor shall set forth in a written public statement his reasons for removing
15797 any member pursuant to subsection A at the time the removal occurs. The Governor is the sole
15798 judge of the sufficiency of the cause for removal as set forth in subsection A.

15799 **Drafting note: The provisions of existing subsections A and C of § 2.2-108 that**
15800 **apply to other educational institutions in general are logically reorganized as proposed §§**
15801 **23.1-3100 and 23.1-3200. Technical changes are made.**

15802

~~CHAPTER 16.2.~~

15803

~~A. L. PHILPOTT MANUFACTURING EXTENSION PARTNERSHIP.~~

15804

Article 2.

15805

A.L. Philpott Manufacturing Extension Partnership.

15806

Drafting note: Existing Chapter 16.2 (§ 23-231.8 et seq.) is reorganized as proposed

15807

Article 2 of Chapter 31.

15808

§ ~~23-231.8~~ 23.1-3101. ~~A. L.~~ A.L. Philpott Manufacturing Extension Partnership ~~created~~

15809

established; ~~mission purpose~~ and duties.

15810

A. The ~~A. L. Philpott Manufacturing Center, established from such funds as may be~~

15811

~~appropriated or provided pursuant to Chapters 217 and 668 of the 1992 Acts of Assembly, as~~

15812

~~amended, is hereby continued and redesignated the A. L. A.L.~~ Philpott Manufacturing Extension

15813

Partnership, ~~referred to in this chapter as the~~ (Extension Partnership. ~~The mission of the~~

15814

Extension Partnership is), doing business as Genedge Alliance, is established to help create and

15815

maintain industrial and manufacturing jobs. The Extension Partnership shall:

15816

1. Develop, demonstrate, test, and assist in the implementation of advanced

15817

manufacturing technologies.;

15818

2. Promote industrial expansion by providing manufacturing technology consulting

15819

services to manufacturers in ~~Virginia~~. the Commonwealth;

15820

3. Foster the creation of manufacturing networks and the development of buyer and

15821

supplier relationships in the region and throughout the Commonwealth.;

15822

4. Serve as a resource center for industrial training and technology transfer programs for

15823

the renewal, enhancement, and expansion of existing manufacturing enterprises and ~~for~~

15824

manufacturing modernization outreach.;

15825

5. Be available as a federal demonstration center for the training of displaced workers in

15826

a any manufacturing area.;

15827 6. Receive and accept any available grants, from any federal, state, or private agency,
 15828 corporation, association, or person, to be expended in accomplishing fulfilling the goals duties
 15829 enumerated in subdivisions 1 through 5 above this subsection.

15830 B. The Extension Partnership shall be considered is a local or regional industrial or
 15831 economic development authority or organization for purposes of the Virginia Freedom of
 15832 Information Act (§ 2.2-3700 et seq.).

15833 **Drafting note: A reference to the Extension Partnership's corporate name, Genedge**
 15834 **Alliance, is proposed in subsection A for the sake of clarity. Technical changes are made.**

15835 ~~§ 23-231.9 23.1-3102. Membership of governing board; terms; compensation; officers;~~
 15836 ~~bylaws~~ Board of trustees.

15837 A. The Extension Partnership shall be governed by a 24-member board of trustees (the
 15838 board) consisting of three presidents of comprehensive community colleges; two presidents of
 15839 baccalaureate public ~~four-year~~ institutions of higher education, ~~and~~ one president of a
 15840 baccalaureate private ~~four-year~~ institution of higher education, and 15 nonlegislative citizen
 15841 members, representing manufacturing industries, to be appointed by the Governor; and the
 15842 director of the Center for Innovative Technology; the Secretary of Commerce and Trade; and
 15843 the Secretary of Technology, to serve ex officio with voting privileges.

15844 B. ~~Initial appointments in 1992 shall be as follows: the three community college~~
 15845 ~~presidents shall be appointed for two-year, three-year, and four-year terms, respectively; the two~~
 15846 ~~presidents of the public four-year institutions shall be appointed for two-year and four-year~~
 15847 ~~terms, respectively; the president of a private four-year institution shall be appointed for a three-~~
 15848 ~~year term; two citizen members shall be appointed for two-year terms, and two citizen members~~
 15849 ~~shall be appointed for three-year and four-year terms, respectively. Of the five citizen members~~
 15850 ~~to be appointed in 1994, two shall be appointed for two-year terms, two shall be appointed for~~
 15851 ~~three-year terms, and one shall be appointed for a four-year term. Of the six citizen members to~~
 15852 ~~be appointed in 1997, two shall be appointed for two-year terms, two shall be appointed for~~
 15853 ~~three-year terms, and two shall be appointed for four-year terms. Thereafter, all appointments~~

15854 Appointments shall be for terms of four years, ~~except that appointments to fill vacancies. Ex~~
15855 officio members of the board shall serve terms coincident with their terms of office.
15856 Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired
15857 terms. ~~With the exceptions of the director of the Center for Innovative Technology, the~~
15858 ~~Secretary of Commerce and Trade, and the Secretary of Technology, no person shall be eligible~~
15859 ~~to~~ Vacancies shall be filled in the same manner as the original appointments. All members may
15860 be reappointed. No member shall serve ~~for~~ more than two ~~successive~~ consecutive four-year
15861 terms; however, ~~upon the expiration of a term of less than four years, or after the expiration of~~
15862 ~~the remainder of a term to which appointed to fill a vacancy, two additional terms may be~~
15863 ~~served by such member if appointed thereto~~ a member appointed to serve an unexpired term is
15864 eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

15865 C. The board shall elect a chairman and a vice-chairman from among its ~~members and~~
15866 membership. The board shall ~~also~~ elect a secretary and a treasurer, who ~~may or may need~~
15867 members of the board. The board may ~~also~~ elect other subordinate officers, who ~~may or may~~
15868 need not be members of the board. ~~All members shall be reimbursed for their actual expenses~~
15869 ~~incurred in the performance of their duties in the work of the Extension Partnership.~~

15870 D. Eight members shall constitute a quorum. The meetings of the board shall be held at
15871 the call of the chairman or whenever the majority of the members so request.

15872 E. The board may adopt, alter, or repeal its own bylaws that govern the manner in which
15873 its business may be transacted and may form committees and advisory councils, which may
15874 include representatives who are not board members.

15875 **Drafting note: The last sentence of subsection C is stricken here and the concept is**
15876 **instead incorporated into proposed § 23.1-3103. A substantive change is made in proposed**
15877 **subsection D of this section to establish a quorum for the meetings of the board at eight**
15878 **members, which is lower than a majority. The Code is currently silent on the quorum**
15879 **required for meetings of this organization. Technical changes are made.**

15880 § 23.1-3103. Expenses of board members.

15881 [All members shall be reimbursed for all reasonable and necessary expenses incurred in](#)
 15882 [the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for expenses](#)
 15883 [of the members shall be provided by the Extension Partnership.](#)

15884 **Drafting note: Provisions relating to expenses of members set out in existing**
 15885 **subsection C of § 23-231.9 are updated and incorporated instead into this proposed**
 15886 **section.**

15887 § ~~23-231.10~~ [23.1-3104](#). Executive director; ~~powers and duties~~; ~~staff~~.

15888 A. The board shall appoint an executive director who shall (i) supervise and manage the
 15889 Extension Partnership, (ii) ~~discharge~~ [perform](#) such functions as may be directed by the board,
 15890 and (iii) prepare and submit, upon [the](#) direction and approval ~~by of~~ the board, all requests for
 15891 appropriations. The executive director ~~shall be authorized to~~ [may](#) employ such staff as necessary
 15892 to enable the Extension Partnership to perform its duties as set forth in this ~~chapter~~ [article](#). The
 15893 board is authorized to determine staff duties and ~~to~~ fix salaries and compensation from such
 15894 funds as may be appropriated or received. In addition, the board is authorized to make
 15895 arrangements with institutions of higher education to extend course credit to graduate students
 15896 employed by the Extension Partnership.

15897 B. Additional staff support for the functions of the Extension Partnership may be
 15898 provided by the Center for Innovative Technology, the University of Virginia Center for Public
 15899 Service, ~~community colleges and four-year public~~ [public](#) institutions of higher education, small
 15900 business development centers, and private businesses.

15901 **Drafting note: Technical changes.**

15902 § ~~23-231.11~~ [23.1-3105](#). ~~Additional powers and duties~~ [Powers of the board](#).

15903 ~~To assist~~ [In order to carry out the purposes of](#) the Extension Partnership ~~in its mission~~,
 15904 the board ~~is authorized on behalf of the Extension Partnership to~~ [may](#):

15905 1. Apply for, accept, and expend gifts, grants, or donations from public or private
 15906 sources to enable the Extension Partnership to carry out its ~~objectives~~ [purposes](#);

15907 2. Fix, alter, charge, and collect rates, fees, and other charges for the sale of products of,
15908 ~~or and~~ services rendered by the Extension Partnership at rates ~~to be~~ determined by ~~it the board~~ to
15909 pay the expenses of the Extension Partnership;

15910 3. Make and enter into all contracts or agreements ~~which are~~ necessary or incidental to
15911 the performance of its duties and ~~to~~ the execution of powers granted by this ~~chapter article~~,
15912 including agreements with any federal agency, person, private firm, or other organization that
15913 can provide technical or other business assistance to the Extension Partnership's industrial
15914 clients;

15915 4. Employ, ~~at its discretion~~, consultants, researchers, architects, engineers, accountants,
15916 financial experts, investment bankers, superintendents, managers, and such other employees and
15917 agents as may be necessary, and ~~to~~ fix their compensation to be payable from funds made
15918 available to the Extension Partnership;

15919 5. Render advice and assistance and provide services to state and federal agencies, local
15920 and regional economic development entities, private firms, and other persons or organizations
15921 providing services or facilities for small and medium-sized manufacturers and industrial firms in
15922 Virginia the Commonwealth;

15923 6. Develop and provide programs or projects, ~~at its discretion~~, alone or in cooperation
15924 with any person_; state or federal agency_; state, local, or regional economic development
15925 entity_; private firm_; or other organization for economic development through improvements in
15926 industrial competitiveness in Virginia the Commonwealth; and

15927 7. Do all acts and things necessary or convenient to carry out the powers granted to it by
15928 this ~~chapter article~~ or any other ~~acts act~~.

15929 **Drafting note: Technical changes.**

15930 § ~~23-231-12~~ 23.1-3106. Cooperation of other agencies; legal services.

15931 A. All agencies of the Commonwealth shall cooperate with the Extension Partnership
15932 and, upon request, assist the Extension Partnership in the performance of its duties and
15933 responsibilities.

15934 B. The Attorney General shall provide legal services for the Extension Partnership
 15935 pursuant to Chapter 5 (§ 2.2-500 et seq.) of Title 2.2.

15936 **Drafting note: Technical changes.**

15937 ~~CHAPTER 16.4.~~

15938 ~~INSTITUTE FOR ADVANCED LEARNING AND RESEARCH.~~

15939 Article 3.

15940 Institute for Advanced Learning and Research.

15941 **Drafting note: Existing Chapter 16.4 (§ 23-231.19 et seq.) is reorganized as**
 15942 **proposed Article 3 of Chapter 31.**

15943 § ~~23-231.19~~ 23.1-3107. Institute for Advanced Learning and Research ~~created~~
 15944 established; ~~responsibilities~~ duties.

15945 A. ~~With such funds as are appropriated or made available for this purpose, there is~~
 15946 ~~hereby created and constituted, in Southside Virginia, a political subdivision of the~~
 15947 ~~Commonwealth to be known as the~~ The Institute for Advanced Learning and Research,
 15948 ~~hereinafter referred to as the "Institute." The Institute shall be founded by Averett University,~~
 15949 ~~Danville Community College, and Virginia Polytechnic Institute and State University (the~~
 15950 ~~Institute) is established in Southside Virginia as a political subdivision of the Commonwealth.~~

15951 B. The Institute shall:

15952 1. Seek to diversify the economy of the Dan River ~~Region's economy region~~ by engaging
 15953 the resources of Virginia Polytechnic Institute and State University in partnership with Danville
 15954 Community College and Averett University and public and private bodies and organizations of
 15955 the region and ~~state.~~ Commonwealth;

15956 2. Serve as a catalyst for economic and community transformation by leveraging and
 15957 brokering resources that support the economic diversity ~~for of~~ the Dan River region, particularly
 15958 within the network economy.;

15959 3. Provide a site for the development of the technology and trained workforce necessary
15960 for new economic enterprises to flourish in Southside Virginia through the teaching, research,
15961 outreach, and technology available from its partner institutions;

15962 4. Expand access to higher education in Southside Virginia by providing for adult and
15963 continuing education, workforce training and development, and degree-granting programs,
15964 including undergraduate, graduate, and professional programs, through partnerships with the
15965 Commonwealth's ~~private and~~ public institutions of higher education and private institutions of
15966 higher education, the City of Danville, the County of Pittsylvania, and the public schools, and
15967 the public and private sectors in the region;

15968 5. Serve as a resource and hub for network-related initiatives ~~in education,~~ at all levels,
15969 of education and in economic development activities;

15970 6. Assist in regional economic and community development efforts by housing and
15971 encouraging research and product-related activities and encouraging high technology economic
15972 development in the region;

15973 7. Encourage and coordinate, as appropriate, the development and delivery of programs
15974 offered by ~~those~~ the educational institutions serving the region; and

15975 8. Serve as a resource and referral center by maintaining and disseminating information
15976 on existing educational programs, research, and university outreach resources.

15977 **Drafting note: Technical changes. The reference in subsection A to the three**
15978 **founding institutions of higher education are relocated to proposed § 23.1-3110.**

15979 § ~~23-231.20~~ 23.1-3108. Board of trustees; ~~membership; appointments; terms;~~
15980 ~~compensation and expenses; officers.~~

15981 A. The Institute shall be governed by a 15-member ~~Board of Trustees consisting board~~
15982 of trustees (the board) that shall consist of ~~the presidents or their designees of Averett~~
15983 ~~University, Danville Community College, and Virginia Polytechnic Institute and State~~
15984 ~~University; the chairman or his designee of the Board of the Future of the Piedmont Foundation;~~
15985 11 nonlegislative citizen members and four ex officio members. Nonlegislative citizen members

15986 shall be appointed as follows: one resident of the City of Danville, to be appointed by the
15987 Danville City Council; one resident of Pittsylvania County, to be appointed by the Pittsylvania
15988 County Board of Supervisors; and nine ~~citizens~~ nonlegislative citizen members representing
15989 business and industry who (i) reside in Southside Virginia, (ii) own a business headquartered or
15990 otherwise operating in Southside Virginia, or (iii) serve as a member of either the board of
15991 directors or senior management of a business headquartered or otherwise operating in Southside
15992 Virginia, of whom three shall be appointed by the Governor, three shall be appointed by the
15993 Senate Committee on Rules, and three shall be appointed by the Speaker of the House of
15994 Delegates. The presidents of Averett University, Danville Community College, and Virginia
15995 Polytechnic Institute and State University or their designees and the chairman of the Board of
15996 the Future of the Piedmont Foundation or his designee shall serve ex officio with voting
15997 privileges. ~~All Nonlegislative citizen members appointed of the board~~ shall be nonelected
15998 citizens of the Commonwealth.

15999 B. ~~The presidents or their designees of the named institutions of higher education and the~~
16000 ~~chairman or his designee of the Board of the Future of the Piedmont Foundation Ex officio~~
16001 ~~members of the board~~ shall serve terms coincident with their terms of office. ~~Of the initial~~
16002 ~~citizen appointments to be made in 2004, one appointee each by the Governor, the Speaker of~~
16003 ~~the House of Delegates, and the Senate Committee on Rules shall serve for one-year terms and~~
16004 ~~one appointee each by the Governor, the Speaker of the House of Delegates, and the Senate~~
16005 ~~shall serve for two-year terms. After the initial staggering of terms, all citizen appointments~~
16006 Appointments shall be for terms of three years, ~~except that appointments to fill vacancies.~~
16007 Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired
16008 terms. Vacancies shall be for the unexpired terms filled in the same manner as the original
16009 appointments.

16010 No nonlegislative citizen member ~~of the Board~~ shall ~~be eligible to~~ serve more than two
16011 successive consecutive three-year terms; however, ~~after expiration of a term of less than three~~
16012 ~~years, or after the remainder of a three-year term to which a member was appointed to fill a~~

16013 ~~vacancy, a member may serve two additional three-year terms, if so appointed~~ a member
16014 appointed to serve an unexpired term is eligible to serve two consecutive three-year terms
16015 immediately succeeding such unexpired term.

16016 C. The ~~Board~~ board shall elect a chairman and vice-chairman from among its ~~members~~
16017 membership and may establish bylaws as necessary.

16018 D. Members of the ~~Board shall~~ board are not ~~be~~ entitled to receive compensation. All
16019 members shall be reimbursed for all reasonable and necessary expenses incurred in the
16020 performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the cost of
16021 expenses of the members shall be provided by the Institute.

16022 **Drafting note: Technical changes are made, including removing provisions**
16023 **concerning initial staggering of terms as obsolete.**

16024 § ~~23-231.21~~ 23.1-3109. Powers ~~and duties~~ of ~~Board; contracts for educational services~~
16025 the board.

16026 A. The ~~Board of Trustees shall have~~ board has, in addition to its other powers, all the
16027 corporate powers given to corporations by the provisions of Title 13.1, except in those cases
16028 where, by the express terms of its provisions, the law is confined to corporations created under
16029 that title. The ~~Board shall also have the power to~~ board may accept, execute, and administer any
16030 trust in which it may have an interest under the terms of the instrument creating the trust.

16031 B. The ~~Board shall have the authority to~~ board may enter into and administer agreements
16032 with public institutions of higher education ~~in the Commonwealth and private institutions of~~
16033 higher education to provide continuing education and instructional programs at the Institute
16034 through both traditional and electronic modes of delivery.

16035 § ~~23-231.23~~. ~~Gifts, grants, and donations; cooperation with other agencies.~~

16036 C. The ~~Board~~ board may, on behalf of the Institute, apply for, accept, and expend gifts,
16037 grants, or donations from public or private sources to enable it to carry out the purposes of this
16038 chapter article.

16039 D. The ~~Board board~~ may ~~also~~ request and accept the cooperation of agencies of (i) the
16040 Commonwealth or (ii) the local ~~governments located~~ governing bodies in Southside Virginia in
16041 the performance of its duties.

16042 **Drafting note: The provisions of existing § 23-231.23 are incorporated as**
16043 **subsections C and D of this proposed section, which includes broader provisions related to**
16044 **powers of the board. Technical changes are made.**

16045 § ~~23-231.22~~ 23.1-3110. Executive director; ~~responsibilities; additional staff support~~.

16046 The ~~Board board~~ may appoint an executive director ~~for~~ of the Institute, who may be an
16047 employee of ~~one of the founding institutions of higher education~~ Averett University, Danville
16048 Community College, or Virginia Polytechnic Institute and State University. The executive
16049 director shall supervise and manage the Institute and shall prepare and submit, upon the
16050 direction and approval ~~by of~~ the ~~Board board~~, all budgets and requests for appropriations.
16051 ~~During the initial development and implementation phase of the Institute, additional staff~~
16052 ~~support for the functions of the Institute may be provided upon agreement by the founding~~
16053 ~~institutions and local governments.~~

16054 **Drafting note: The reference to the founding institutions of higher education as**
16055 **defined in existing subsection A of § 23-231.19 is amended here to list the three**
16056 **institutions. A provision concerning the initial development of the Institute is stricken as**
16057 **obsolete. Technical changes are made.**

16058 ~~CHAPTER 16.6.~~

16059 ~~THE NEW COLLEGE INSTITUTE.~~

16060 Article 4.

16061 New College Institute.

16062 **Drafting note: Existing Chapter 16.6 (§ 23-231.30 et seq.) is reorganized as**
16063 **proposed Article 4 of Chapter 31.**

16064 § ~~23-231.30~~ 23.1-3111. ~~The New College Institute created~~ established; ~~responsibilities~~
16065 duties.

16066 A. ~~With such funds as are appropriated or made available for this purpose, there is~~
16067 ~~hereby created and constituted, in the area of Martinsville and Henry County, Virginia, an~~
16068 ~~educational institution of the Commonwealth to be known as the~~ New College Institute,
16069 ~~hereinafter referred to as New College~~ (New College) is established as an educational institution
16070 ~~of the Commonwealth in the area of Henry County and the City of Martinsville.~~

16071 B. New College shall:

16072 1. Seek to diversify the region's economy by engaging the resources of other institutions
16073 of higher education, public and private bodies, and organizations of the region and ~~state.~~
16074 Commonwealth;

16075 2. Serve as a catalyst for economic and community transformation by leveraging and
16076 brokering resources that support economic diversity.;

16077 3. Facilitate development of the technology and trained workforce necessary for new
16078 economic enterprises to flourish, using the resources available from collaborating educational
16079 institutions.;

16080 4. Expand educational opportunities in the region by providing access to degree-granting
16081 programs, including undergraduate, graduate, and professional programs, through partnerships
16082 with private institutions of higher education and public institutions of higher education, the
16083 public schools, and the public and private sectors.;

16084 5. Encourage and coordinate the development and delivery of degree programs and other
16085 credit and noncredit courses with a focus on statewide and regional critical shortage areas as
16086 well as the needs of industry. ~~This~~ Such programs and courses shall include needed adult
16087 education and workforce training.;

16088 6. Serve as a resource and referral center by maintaining and disseminating information
16089 on existing educational programs, research, and university outreach and technology resources.

16090 **Drafting note: Technical changes.**

16091 § ~~23-231.31~~ 23.1-3112. Board of ~~Directors; membership; appointments; terms;~~
16092 ~~compensation; officers~~ directors.

16093 A. New College shall be governed by a ~~Board of Directors~~ board of directors (the board)
16094 consisting of 12 members that shall consist of five legislative members and seven nonlegislative
16095 citizen members. Members ~~of the Board~~ shall be appointed as follows: three members of the
16096 House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance
16097 with the rules of proportional representation contained in the Rules of the House of Delegates;
16098 two members of the Senate, to be appointed by the Senate Committee on Rules; and seven
16099 nonlegislative citizen members to be appointed by the Governor, subject to ~~the approval of~~
16100 confirmation by the General Assembly; ~~three members to be appointed by the Speaker of the~~
16101 ~~House of Delegates in accordance with the rules of proportional representation in the Rules of~~
16102 ~~the House; and two members to be appointed by the Senate Committee on Rules. Of the 12~~
16103 ~~members, no more than two may be nonresidents.~~ At least 10 members shall be residents of the
16104 Commonwealth.

16105 Legislative members shall serve terms coincident with their terms of office. ~~Beginning~~
16106 ~~with the 2006-2007 fiscal year or for the first fiscal year of the Commonwealth in which funds~~
16107 ~~are appropriated for the purposes of this chapter, whichever is later, of the Governor's initial~~
16108 ~~appointments to the Board, two shall be appointed for terms of four years, two for terms of three~~
16109 ~~years, two for terms of two years, and one for a term of one year. Notwithstanding any other~~
16110 ~~provision of this chapter, each of the Governor's initial appointees may be appointed to one~~
16111 ~~additional successive four-year term. After the initial staggering of terms, all nonlegislative~~
16112 ~~citizen appointments~~

16113 B. Nonlegislative citizen members shall be appointed for terms of four years, ~~except that~~
16114 ~~appointments to fill vacancies shall be for the unexpired terms.~~ Appointments to fill vacancies,
16115 other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in
16116 the same manner as the original appointments. All members may be reappointed.

16117 No nonlegislative citizen member ~~of the Board shall be~~ is eligible to serve more than two
16118 ~~successive consecutive~~ consecutive four-year terms, ~~but after the expiration of the remainder of a term to~~
16119 ~~which appointed to fill a vacancy, two additional four-year terms may be served by such~~

16120 ~~member if appointed thereto; however, a member appointed to serve an unexpired term is~~
16121 ~~eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.~~

16122 ~~B. C.~~ The ~~Board~~ board shall elect a chairman and vice-chairman from among its
16123 ~~members~~ membership and may establish bylaws as necessary. The meetings of the board shall
16124 be held at the call of the chairman or whenever the majority of the members so request.

16125 ~~C. D.~~ Nonlegislative citizen members ~~shall~~ are not ~~be~~ entitled to compensation for their
16126 services. Legislative members of the ~~Board~~ board shall be compensated as provided in § 30-
16127 19.12, ~~and all.~~ All members ~~of the Board~~ shall be reimbursed for all reasonable and necessary
16128 expenses incurred in the performance of their duties in the work of New College as provided in
16129 §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the
16130 members shall be provided by New College.

16131 **Drafting note: Provisions in subsection A relating to initial appointments to the**
16132 **board are stricken as obsolete.**

16133 § ~~23-231.32~~ 23.1-3113. Powers and duties of ~~Board; contracts for educational services~~
16134 the board.

16135 A. The ~~Board of Directors shall have~~ board has, in addition to its other powers, all the
16136 corporate powers given to corporations by the provisions of Title 13.1, except in those cases
16137 where, by the express terms of its provisions, the law is confined to corporations created under
16138 that title. The ~~Board~~ board shall ~~also~~ have the power to accept, execute, and administer any trust
16139 in which it may have an interest under the terms of the instrument creating the trust.

16140 B. The ~~Board~~ board shall oversee the educational programs of New College and ~~also~~
16141 ~~have the authority to~~ may enter into and administer agreements with institutions of higher
16142 education for ~~them~~ such institutions to provide continuing education, instructional programs,
16143 and degree programs at New College.

16144 § ~~23-231.34.~~ Sale, etc., of real estate.

16145 ~~C.~~ The ~~Board~~ board, with the prior approval of the Governor ~~first obtained, is hereby~~
16146 ~~authorized to,~~ may lease, sell, and convey any and all real estate to which New College has

16147 acquired title by gift, devise, or purchase ~~since the commencement of New College under any~~
 16148 ~~previous names, or which may hereafter be conveyed or devised to it.~~ The proceeds derived
 16149 from any such lease, sale, or conveyance shall be held by New College upon the identical trusts,
 16150 and subject to the same uses, limitations, and conditions, if any, that are expressed in the
 16151 original deed or will under which its title has derived; ~~or if there be.~~ If no such trusts, uses,
 16152 limitations, or conditions are expressed in such original deed or will, then such funds shall be
 16153 applied by the ~~Board~~ board to such purposes as it may deem best for New College.

16154 ~~§ 23-231.36. Gifts, grants, and donations; cooperation with other agencies.~~

16155 D. The ~~Board~~ board may, on behalf of New College, apply for, accept, and expend gifts,
 16156 grants, or donations from public or private sources to enable it to carry out the purposes of this
 16157 ~~chapter~~ article.

16158 E. The ~~Board~~ board may ~~also~~ request and accept the cooperation of agencies of the
 16159 Commonwealth or the local ~~governments located~~ governing bodies in Southside Virginia, or the
 16160 agencies of the Commonwealth or such local governing bodies in the performance of its duties.

16161 ~~§ 23-231.33. Curriculum.~~

16162 F. The ~~Board~~ board shall direct the development and focus of New College's curriculum.
 16163 ~~The curriculum shall to~~ include appropriate degree and nondegree programs offered by other
 16164 educational institutions. ~~New College shall enroll students by the fall semester of 2007 or as~~
 16165 ~~soon as practicable.~~

16166 **Drafting note: Existing §§ 23-231.32, 23-231.33, 23-231.34, and 23-231.36 are**
 16167 **combined, relating to powers and duties of the board. A provision in existing § 23-231.33**
 16168 **relating to a 2007 deadline for the first enrollment of students is recommended for repeal**
 16169 **as obsolete. Technical changes are made.**

16170 ~~§ 23-231.35~~ 23.1-3114. Executive ~~Director; responsibilities~~ director.

16171 The ~~Board~~ board shall appoint an ~~Executive Director~~ executive director of New College
 16172 who shall supervise and manage New College. The ~~Executive Director shall be authorized~~
 16173 executive director may, with the oversight of the ~~Board~~ board, ~~to~~ employ such staff and faculty

16174 as are necessary to enable New College to perform its duties as set forth in this ~~chapter article~~
 16175 and the bylaws established by the ~~Board board~~.

16176 **Drafting note: Technical changes.**

16177 ~~CHAPTER 16.3.~~

16178 ~~ROANOKE HIGHER EDUCATION AUTHORITY.~~

16179 ~~Article 5.~~

16180 ~~Roanoke Higher Education Authority.~~

16181 **Drafting note: Existing Chapter 16.3 (§ 23-231.13 et seq.) is reorganized as**
 16182 **proposed Article 5 of Chapter 31.**

16183 ~~§ 23-231.13~~ 23.1-3115. Roanoke Higher Education Authority ~~created established.~~

16184 ~~With such funds as are appropriated or made available for this purpose, there is hereby~~
 16185 ~~created and constituted a political subdivision of the Commonwealth to be known as the The~~
 16186 ~~Roanoke Higher Education Authority, hereinafter referred to as the "Authority." (the Authority)~~
 16187 ~~is established as a political subdivision of the Commonwealth.~~

16188 **Drafting note: Technical changes.**

16189 ~~§ 23-231.14~~ 23.1-3116. Responsibilities Duties of the Authority.

16190 The Authority shall:

- 16191 1. Expand access to higher education in the Roanoke Valley by providing for adult and
 16192 continuing education and degree-granting programs, including undergraduate, graduate, and
 16193 professional programs, through partnerships with the Commonwealth's public institutions of
 16194 higher education and private institutions of higher education;
- 16195 2. Serve as a resource and referral center on existing educational programs and resources
 16196 by maintaining and disseminating information;
- 16197 3. Develop, in coordination with the ~~State Council of Higher Education for Virginia,~~
 16198 specific goals for higher education access and availability in the Roanoke Valley; and

16199 4. Accept, administer, and account for any state grant to a nonstate entity ~~which that~~ may
16200 be provided in the name of the Roanoke Higher Education Center (the Center) or ~~in the name of~~
16201 the Roanoke Higher Education Authority.

16202 **Drafting note: Technical changes.**

16203 § ~~23-231.15~~ 23.1-3117. Board of ~~Trustees; appointments; terms; compensation; officers~~
16204 trustees.

16205 A. The Authority shall be governed by a ~~Board of Trustees~~ board of trustees (the board)
16206 consisting of 22 members as follows: two members of the House of Delegates, to be appointed
16207 by the Speaker of the House of Delegates in accordance with the principles of proportional
16208 representation contained in the Rules of the House of Delegates; one member of the Senate, to
16209 be appointed by the Senate Committee on Rules; the Director of the ~~State~~ Council ~~of Higher~~
16210 ~~Education for Virginia~~ or his designee; the Chancellor of the Virginia Community College
16211 System or his designee; ~~and~~ the presidents ~~or their designees~~ of Averett College University,
16212 Bluefield College, Hollins University, James Madison University, Mary Baldwin College, Old
16213 Dominion University, Radford University, Roanoke College, the University of Virginia,
16214 Virginia Polytechnic Institute and State University, and Virginia Western Community College
16215 or their designees; the Director of Total Action for Progress (TAP) This Valley Works; ~~two~~
16216 ~~members of the House of Delegates to be appointed by the Speaker of the House of Delegates;~~
16217 ~~one member of the Senate to be appointed by the Senate Committee on Rules;~~ and five
16218 nonlegislative citizen members representing business and industry in the Roanoke Valley to be
16219 appointed by the Governor. Nonlegislative citizen members of the ~~Board~~ board shall be citizens
16220 of the Commonwealth and residents of the Roanoke region.

16221 B. The legislative members, the Director of the ~~State~~ Council ~~of Higher Education for~~
16222 ~~Virginia~~, the Chancellor of the Virginia Community College System, the Director of TAP This
16223 Valley Works, and the presidents ~~or their designees~~ of the named institutions of higher
16224 education or their designees shall serve terms coincident with their terms of office. ~~After the~~
16225 ~~initial staggering of terms, all nonlegislative~~ Nonlegislative citizen members shall be appointed

16226 for terms of four years, ~~except that appointments to fill vacancies.~~ Appointments to fill
16227 vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall
16228 be filled in the same manner as the original appointments.

16229 No nonlegislative citizen member ~~of the Board~~ shall ~~be eligible to~~ serve more than two
16230 successive consecutive four-year terms; however, ~~after the expiration of the remainder of a term~~
16231 ~~to which appointed to fill a vacancy, two additional four-year terms may be served by such~~
16232 ~~member, if appointed thereto~~ a member appointed to serve an unexpired term is eligible to serve
16233 two consecutive four-year terms immediately succeeding such unexpired term.

16234 C. Nonlegislative citizen members ~~shall~~ are not ~~be~~ entitled to compensation for their
16235 services. Legislative members of the ~~Board~~ board shall receive such compensation as provided
16236 in § 30-19.12, ~~and all.~~ All members ~~of the Board~~ shall be reimbursed for all reasonable and
16237 necessary expenses incurred in the performance of their duties in the work of the Authority as
16238 provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of
16239 the members shall be provided by the Authority.

16240 D. The ~~Board~~ board shall elect a chairman and a vice-chairman from among its ~~members~~
16241 membership and may establish bylaws as necessary.

16242 **Drafting note: Technical changes.**

16243 § ~~23-231.16~~ 23.1-3118. Powers ~~and duties~~ of ~~Board of Trustees~~ the board.

16244 A. The ~~Board of Trustees shall have~~ board has, in addition to such other powers, all the
16245 corporate powers given to corporations by the provisions of Title 13.1, except in those cases
16246 where, by the express terms of its provisions, this law is confined to corporations created under
16247 that title.

16248 B. The ~~Board shall have the power to~~ board may issue bonds upon the advice of bond
16249 counsel and a financial institution with expertise in bonds and investments. Bonds issued under
16250 the provisions of this section shall not be deemed to constitute a debt or a pledge of the faith and
16251 credit of the Commonwealth or ~~of any~~ of its political ~~subdivision thereof~~ subdivisions other than
16252 the Authority.

16253 C. The ~~Board~~ board may accept, execute, and administer any trust in which it may have
16254 an interest under the terms of any instrument creating the trust.

16255 ~~B.-D.~~ The ~~Board shall have the authority to~~ board may lease property or ~~to~~ hold any
16256 property for which it may acquire the title and ~~to~~ dispose of such property in a manner ~~which~~
16257 that will benefit the Authority.

16258 E. The ~~Board~~ board may ~~also~~ enter into agreements with public institutions of higher
16259 education and private institutions of higher education in the Commonwealth to provide adult
16260 education, continuing education, ~~undergraduate level~~ undergraduate-level education, and
16261 ~~graduate level~~ graduate-level instructional programs. The ~~Board~~ board may enter into
16262 agreements with local school boards and other entities to provide such programs as it deems
16263 necessary and appropriate to carry out the purposes of the Authority.

16264 ~~C.-F.~~ The ~~Board~~ board may establish, with such funds as are appropriated for this
16265 purpose or made available to it, the ~~Roanoke Higher Education~~ Center.

16266 D.-G. Notwithstanding any provision of law to the contrary, any real estate and tangible
16267 personal property held or acquired by the ~~Board shall be~~ board is exempt from any prohibition
16268 of the use of noncash assistance as matching funds.

16269 ~~§ 23-231.18. Gifts, grants, and donations.~~

16270 H. The ~~Board~~ board may, on behalf of the Authority or the Center, apply for, accept, and
16271 direct the expenditure of gifts, grants, or donations from public or private sources to enable it to
16272 carry out the purposes of this ~~chapter article~~. Any locality may make gifts and donations of real
16273 property, ~~real or personal~~, personal property, or money; to the Authority.

16274 **Drafting note: Existing §§ 23-231.16 and 23-231.18 are combined. relating to board**
16275 **powers. Technical changes are made.**

16276 ~~§ 23-231.17~~ 23.1-3119. Executive director; staff.

16277 A. From funds available for this purpose, the ~~Board~~ board may appoint an executive
16278 director for the ~~Roanoke Higher Education~~ Center who shall supervise and manage the Center
16279 and ~~shall~~ prepare and submit, upon the direction and approval ~~by of~~ the ~~Board~~ board, all

16280 requests for appropriations. The ~~Executive Director~~ executive director of the Center ~~shall be~~
16281 authorized to may employ such staff as necessary to enable the Center to perform its duties as
16282 set forth in the bylaws of the ~~Board of Trustees~~ board and this ~~chapter~~ article. The ~~Board~~ board
16283 may determine the duties of the staff and fix salaries and compensation from such funds as may
16284 be appropriated or received.

16285 B. Additional staff support for the functions of the Center may be provided upon
16286 agreement by the participating institutions.

16287 **Drafting note: Technical changes.**

16288 ~~CHAPTER 16.5.~~

16289 ~~SOUTHERN VIRGINIA HIGHER EDUCATION CENTER.~~

16290 Article 6.

16291 Southern Virginia Higher Education Center.

16292 **Drafting note: Existing Chapter 16.5 (§ 23-231.24 et seq.) is reorganized as**
16293 **proposed Article 6 of Chapter 31.**

16294 § ~~23-231.24~~ 23.1-3120. Southern Virginia Higher Education Center ~~created~~ established;
16295 duties.

16296 ~~From such funds as may be appropriated, the~~ The Southern Virginia Higher Education
16297 Center, ~~previously established as an off-campus center of Longwood University, (the Center)~~ is
16298 hereby continued established as an educational institution in the Commonwealth ~~and shall be~~
16299 referred to in this chapter as the "Center." The Center shall:

16300 1. Encourage the expansion of higher education, including adult and continuing
16301 education, and associate, undergraduate, and graduate degree programs, in the region, and foster
16302 partnerships between the public and private sectors to enhance higher education in the Southside
16303 region;

16304 2. Coordinate the development and delivery of continuing education programs offered
16305 by ~~those~~ the educational institutions serving the region;

- 16306 3. Facilitate the delivery of teacher training programs leading to licensure and graduate
16307 degrees;
- 16308 4. Serve as a resource and referral center by maintaining and disseminating information
16309 on existing educational programs and resources; and
- 16310 5. Develop, in coordination with the ~~State Council of Higher Education for Virginia~~,
16311 specific goals for higher education in Southside Virginia.

16312 **Drafting note: Technical changes.**

16313 § ~~23-231.25~~ 23.1-3121. ~~Membership of governing board; terms; compensation; officers~~
16314 Board of trustees.

16315 A. The Center shall be governed by a ~~15 member Board of Trustees~~, board of trustees
16316 (the board) consisting of 15 members as follows: two members of the House of Delegates to be
16317 appointed by the Speaker of the House of Delegates in accordance with the principles of
16318 proportional representation contained in the Rules of the House of Delegates; one member of
16319 the Senate to be appointed by the Senate Committee on Rules; the Director of the ~~State Council~~
16320 ~~of Higher Education for Virginia~~ or his designee; the Chancellor of the Virginia Community
16321 College System or his designee; the presidents ~~or chancellors, as appropriate, or their designees~~
16322 of Longwood University, Danville Community College, and Southside Virginia Community
16323 College or their designees; the division superintendent of Halifax County ~~public schools~~ Public
16324 Schools; ~~two members of the House of Delegates to be appointed by the Speaker of the House~~
16325 ~~of Delegates; one member of the Senate to be appointed by the Senate Committee on Rules~~; and
16326 six nonlegislative citizen members to be appointed by the Governor, including ~~the chairman and~~
16327 ~~two other~~ members of the Halifax Southern Virginia Higher Education Foundation; and ~~three~~
16328 four representatives of business and industry. The Speaker of the House of Delegates may
16329 appoint an alternate for ~~the Delegate~~ one delegate appointed to the ~~Center board~~. The alternate
16330 shall serve a term coincident with the term of the ~~Delegate~~ delegate and ~~shall have~~ has the
16331 power to act in his absence. The Senate Committee on Rules may appoint an alternate for the

16332 ~~Senator senator~~ appointed to the ~~Center board~~. The alternate shall serve a term coincident with
16333 the term of the ~~Senator senator~~ and ~~shall have the power to~~ may act in his absence.

16334 Nonlegislative citizen members of the ~~Board board~~ shall be chosen from among
16335 residents of the Southside region of the Commonwealth and shall be citizens of the
16336 Commonwealth.

16337 B. Legislative members and the representatives of the Council, the ~~Virginia Community~~
16338 ~~College~~ System, and the named institutions of higher education shall serve terms coincident
16339 with their terms of office. ~~After the initial staggering of terms, all nonlegislative~~ Nonlegislative
16340 citizen ~~appointments members~~ shall be appointed for terms of four years, ~~except that~~
16341 ~~appointments to fill vacancies.~~ Appointments to fill vacancies, other than by expiration of a
16342 term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the
16343 original appointments.

16344 No nonlegislative citizen member ~~of the Board shall be~~ is eligible to serve more than two
16345 successive consecutive four-year terms, ~~but after the expiration of the remainder of a term to~~
16346 ~~which appointed to fill a vacancy, two additional four-year terms may be served by such~~
16347 ~~member if appointed thereto; however, a member appointed to serve an unexpired term is~~
16348 eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

16349 C. Nonlegislative citizen members ~~shall~~ are not ~~be~~ entitled to compensation for their
16350 services. Legislative members of the ~~Board board~~ shall be compensated as provided in § 30-
16351 19.12, ~~and all.~~ All members of the ~~Board board~~ shall be reimbursed for all reasonable and
16352 necessary expenses incurred in the performance of their duties in the work of the Center as
16353 provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses
16354 of the members shall be provided by the Center.

16355 D. The ~~Board board~~ shall elect a chairman and a vice-chairman from among its ~~members~~
16356 membership.

16357 **Drafting note: A technical change is made to change the name of the Halifax**
16358 **Education Foundation to the Southern Virginia Higher Education Foundation to reflect**

16359 that foundation's present name. A substantive change is made to reduce the number of
16360 members of the Southern Virginia Higher Education Foundation on the board from three
16361 to two and increase the representatives of business and industry on the board from three
16362 to four. Section 2.2-3701 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)
16363 defines "meeting" to include an informal assemblage of as many as three members. If the
16364 three current members of the board of the Center were to discuss board business while
16365 assembled at a Southern Virginia Higher Education Foundation meeting, such discussion
16366 could violate the open meeting provisions of § 2.2-3707. Technical changes are made.

16367 § ~~23-231.26~~ 23.1-3122. Powers of ~~Board; contracts for educational services~~ the board.

16368 A. The ~~Board of Trustees shall have~~ board has, in addition to its other powers, all the
16369 corporate powers given to corporations by the provisions of Title 13.1, except in those cases
16370 where, by the express terms of its provisions, it is confined to corporations created under that
16371 title.

16372 B. The ~~Board shall also have the power to~~ board may accept, execute, and administer
16373 any trust in which it may have an interest under the terms of the instrument creating the trust.

16374 B. C. The ~~Board shall have the authority to~~ board may establish and administer
16375 agreements with public institutions of higher education and private institutions of higher
16376 education for the provision of associate, undergraduate, and graduate degree instructional
16377 programs at the Center.

16378 § ~~23-231.28. Application for and acceptance of gifts and grants.~~

16379 D. The ~~Board is authorized~~ board, on behalf of the Center ~~to,~~ may apply for, accept, and
16380 expend gifts, grants, or donations from public or private sources to enable it to carry out its
16381 objectives purposes.

16382 **Drafting note: Existing §§ 23-231.26 and 23-231.28 are combined, relating to board**
16383 **powers. Technical changes are made.**

16384 § ~~23-231.27~~ 23.1-3123. Executive director; ~~powers and duties~~; staff.

16385 A. The ~~Board board~~ shall appoint an executive director for the Center who shall
16386 supervise and manage the Center and shall prepare and submit, upon the direction and approval
16387 by of the ~~Board board~~, all requests for appropriations. The ~~Executive Director of the Center~~
16388 ~~shall be authorized to~~ executive director may employ such staff as necessary to enable the
16389 Center to perform its duties as set forth in this ~~chapter article~~. The ~~Board board~~ is authorized to
16390 determine the duties of such staff and to fix salaries and compensation from such funds as may
16391 be appropriated or received.

16392 B. Additional staff support for the functions of the Center may be provided upon
16393 agreement by Longwood University, Danville Community College, and Southside Virginia
16394 Community College.

16395 **Drafting note: Technical changes.**

16396 § ~~23-231.29~~ 23.1-3124. Cooperation of other agencies.

16397 All agencies of the Commonwealth shall cooperate with the Center, and, upon request,
16398 assist the Center in the performance of its duties and responsibilities.

16399 **Drafting note: Technical change.**

16400 ~~CHAPTER 16.1.~~

16401 ~~SOUTHWEST VIRGINIA HIGHER EDUCATION CENTER.~~

16402 Article 7.

16403 Southwest Virginia Higher Education Center.

16404 **Drafting note: Existing Chapter 16.1 (§ 23-231.2 et seq.) is reorganized as proposed**
16405 **Article 7 of Chapter 31.**

16406 § ~~23-231.2~~ 23.1-3125. Southwest Virginia Higher Education Center ~~created~~ established;
16407 duties.

16408 ~~From such funds as may be appropriated, the~~ The Southwest Virginia Higher Education
16409 Center (the Center) is hereby established as an educational institution in the Commonwealth ~~and~~
16410 ~~shall be referred to in this chapter as the "Center"~~. The Center shall:

16411 1. Encourage the expansion of higher education, including degrees, adult and continuing
16412 education, ~~associate degrees to be offered by Virginia Highlands Community College,~~
16413 ~~undergraduate degrees to be offered by the University of Virginia's College at Wise, and~~
16414 ~~graduate degree programs, in the Southwest region of the Commonwealth and foster~~
16415 ~~partnerships between the public and private sectors to enhance higher education in the region;~~

16416 2. Coordinate the development and delivery of continuing education programs offered
16417 by those educational institutions serving the region workforce training, and professional
16418 development through partnerships with public institutions of higher education and private
16419 institutions of higher education;

16420 3. 2. Facilitate the delivery of teacher training programs leading to licensure and
16421 undergraduate and graduate degrees;

16422 4. 3. Serve as a resource and referral center by maintaining and disseminating
16423 information on existing educational programs and resources; and

16424 5. 4. Develop, in coordination with the State Council of Higher Education for Virginia,
16425 specific goals for higher education in Southwest Virginia.

16426 **Drafting note: Technical changes are made. Substantive changes are made to**
16427 **broaden the duties of the Center and align them with its current mission and practices.**

16428 ~~§ 23-231.3 23.1-3126. Membership of governing board; terms; compensation; officers~~
16429 ~~Board of trustees.~~

16430 A. The Center shall be governed by a ~~23-member Board of Trustees~~, board of trustees
16431 (the board), consisting of 23 members as follows: four members of the House of Delegates to be
16432 appointed by the Speaker of the House of Delegates in accordance with the principles of
16433 proportional representation contained in the Rules of the House of Delegates; two members of
16434 the Senate to be appointed by the Senate Committee on Rules; the Director of the ~~State Council~~
16435 ~~of Higher Education for Virginia~~ or his designee; the Chancellor of the ~~Virginia Community~~
16436 ~~College~~ System or his designee; the presidents or chancellors, as appropriate, ~~or their designees~~
16437 of Virginia Polytechnic Institute and State University, Radford University, the University of

16438 Virginia, the University of Virginia's College at Wise, Old Dominion University, Emory and
16439 Henry College, Virginia ~~Intermont College~~ Commonwealth University, and Virginia Highlands
16440 Community College or their designees; ~~four members of the House of Delegates to be appointed~~
16441 ~~by the Speaker of the House of Delegates; two members of the Senate to be appointed by the~~
16442 ~~Senate Committee on Rules~~; and seven nonlegislative citizen members to be appointed by the
16443 Governor, representing who represent Southwest Virginia public education and area business
16444 and industry, including one ~~school~~ division superintendent, one public school teacher, two
16445 business and industry leaders, ~~and three persons~~, one ~~each representing representative of~~ the
16446 technology industry, one representative of the tourism industry, and one representative of the
16447 health care ~~industries, respectively~~ industry.

16448 Nonlegislative citizen members of the ~~Board~~ board shall be chosen from among
16449 residents of the Southwest region of the Commonwealth and shall be citizens of the
16450 Commonwealth.

16451 B. Legislative members and the representatives of the ~~State~~ Council, the ~~Virginia~~
16452 ~~Community College~~ System, and the named institutions of higher education shall serve terms
16453 coincident with their terms of office. ~~After the initial staggering of terms, all nonlegislative~~
16454 Nonlegislative citizen ~~appointments~~ members shall be appointed for terms of four years, ~~except~~
16455 ~~that appointments to fill vacancies. Appointments to fill vacancies, other than by expiration of a~~
16456 term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the
16457 original appointments.

16458 No nonlegislative citizen member ~~of the Board shall be~~ is eligible to serve more than two
16459 suecessive consecutive four-year terms, ~~but after the expiration of the remainder of a term to~~
16460 ~~which appointed to fill a vacancy, two additional four-year terms may be served by such~~
16461 ~~member if appointed thereto; however, a member appointed to serve an unexpired term is~~
16462 eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

16463 C. Nonlegislative citizen members ~~shall~~ are not ~~be~~ entitled to compensation for their
16464 services. Legislative members of the ~~Board~~ board shall be compensated as provided in § 30-

16465 | 19.12,~~and all.~~ All members of the ~~Board~~ board shall be reimbursed for all reasonable and
16466 | necessary expenses incurred in the performance of their duties in the work of the Center as
16467 | provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses
16468 | of the members shall be provided by the Center.

16469 | D. The ~~Board~~ board shall elect a chairman and a vice-chairman from among its ~~members~~
16470 | membership.

16471 | **Drafting note: The president of Virginia Intermont College is removed as an ex**
16472 | **officio member of the board. Virginia Intermont College closed permanently in 2014. A**
16473 | **substantive change is made to add the president of Virginia Commonwealth University as**
16474 | **an ex officio member of the board. Technical changes are made.**

16475 | § ~~23-231.4~~ 23.1-3127. Powers of ~~Board; contracts for educational services~~ the board.

16476 | A. The ~~Board of Trustees shall have~~ board has, in addition to its other powers, all the
16477 | corporate powers given to corporations by the provisions of Title 13.1, except in those cases
16478 | where, by the express terms of its provisions, it is confined to corporations created under that
16479 | title. The ~~Board shall also have the power to~~ board may accept, execute, and administer any trust
16480 | in which it may have an interest under the terms of the instrument creating the trust.

16481 | B. The ~~Board shall have the authority to~~ board may establish and administer agreements
16482 | with (i) public institutions of higher education ~~in the Commonwealth and private institutions of~~
16483 | higher education to provide ~~graduate-level undergraduate-level and graduate-level~~
16484 | programs at the Center and ~~with Emory and Henry College for the provision of graduate degree~~
16485 | ~~instructional programs in education at the Center. The Board shall be empowered to establish~~
16486 | ~~and administer agreements with the University of Virginia's College at Wise and Emory and~~
16487 | ~~Henry College for the provision of upper level undergraduate instructional programs at the~~
16488 | ~~Center and with~~ (ii) Virginia Highlands Community College ~~for the provision of and other~~
16489 | public institutions of higher education and private institutions of higher education to provide
16490 | freshman-level and sophomore-level courses and ~~associate-degree instructional programs at the~~
16491 | Center degrees.

16492 ~~§ 23-231.6. Application for and acceptance of gifts and grants.~~

16493 ~~C. The Board is authorized~~ board may, on behalf of the Center ~~to~~, apply for, accept, and
16494 expend gifts, grants, or donations from public or private sources to enable it to carry out its
16495 objectives.

16496 **Drafting note: Existing §§ 23-231.4 and 23-231.6 are combined, relating to board**
16497 **powers. Substantive changes are made to give the board the authority to establish and**
16498 **administer agreements with (i) public institutions of higher education and private**
16499 **institutions of higher education in the Commonwealth to provide undergraduate-level and**
16500 **graduate-level instructional programs at the Center and (ii) Virginia Highlands**
16501 **Community College and other public institutions of higher education and private**
16502 **institutions of higher education to provide freshman-level and sophomore-level courses**
16503 **and associate degrees. Under existing law, the Center is only permitted to establish and**
16504 **administer agreements with (a) public institutions of higher education in the**
16505 **Commonwealth to provide graduate-level instructional programs at the Center and (b)**
16506 **Virginia Highlands Community College to provide associate degree instructional**
16507 **programs at the Center. This substantive change is intended to align the Center's powers**
16508 **with its current mission and practices. Technical changes are made.**

16509 ~~§ 23-231.5~~ 23.1-3128. Executive director; ~~powers and duties; staff.~~

16510 A. The ~~Board~~ board shall appoint an executive director for the Center who shall
16511 supervise and manage the Center and shall prepare and submit, upon the direction and approval
16512 by of the ~~Board~~ board, all requests for appropriations. The ~~Executive Director of the Center~~
16513 executive director shall be authorized to may employ such staff as necessary to enable the
16514 Center to perform its duties as set forth in this ~~chapter article~~. The ~~Board~~ board is authorized to
16515 determine the duties of such staff and ~~to~~ fix salaries and compensation from such funds as may
16516 be appropriated or received.

16517 B. Additional staff support for the functions of the Center may be provided upon
16518 agreement by ~~Virginia Polytechnic Institute and State University, the University of Virginia, the~~

16519 ~~University of Virginia's College at Wise, and Virginia Highlands Community College any~~
16520 ~~public institution of higher education that offers courses or instructional programs at the Center.~~

16521 **Drafting note: A substantive change is made to specify that additional staff support**
16522 **for the functions of the Center may be provided upon agreement by any public institution**
16523 **of higher education that offers courses or instructional programs at the Center. Under**
16524 **current law, such agreements are only permitted between the Center and Virginia**
16525 **Polytechnic Institute and State University, the University of Virginia, the University of**
16526 **Virginia's College at Wise, and Virginia Highlands Community College. Technical**
16527 **changes are made.**

16528 § ~~23-231.7~~ 23.1-3129. Cooperation of other agencies.

16529 All agencies of the Commonwealth shall cooperate with the Center, and, upon request,
16530 assist the Center in the performance of its duties and responsibilities.

16531 **Drafting note: Technical change.**

16532 ~~CHAPTER 12.~~

16533 ~~VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND.~~

16534 ~~§§ 23-156 through 23-164.~~

16535 **Drafting note: Repealed by Acts 1977, c. 668.**

16536 ~~CHAPTER 14.~~

16537 ~~VIRGINIA STATE SCHOOL.~~

16538 ~~§§ 23-175 through 23-181.~~

16539 **Drafting note: Repealed by Acts 1966, c. 551.**

16540 ~~CHAPTER 14.1.~~

16541 ~~VIRGINIA SCHOOL AT HAMPTON.~~

16542 ~~§§ 23-181.1 through 23-181.10.~~

16543 **Drafting note: Repealed by Acts 1977, c. 668.**

16544 ~~CHAPTER 19.~~

16545 ~~THE VIRGINIA SCHOOLS FOR THE DEAF AND THE BLIND.~~

16546 ~~§§ 23-254 through 23-260.1.~~

16547 **Drafting note: Repealed by Acts 1984, c. 413.**

16548 ~~§§ 23-262, 23-263.~~

16549 **Drafting note: Repealed by Acts 1991, c. 590.**

16550 ~~§ 23-264.~~

16551 **Drafting note: Repealed by Acts 1984, c. 734.**

16552 ~~CHAPTER 27.~~

16553 ~~VIRGINIA UNIVERSITIES CLEAN ENERGY DEVELOPMENT AND ECONOMIC~~

16554 ~~STIMULUS FOUNDATION.~~

16555 **Drafting note: Repeal of obsolete existing Chapter 27 (§ 23-300 et seq.) and its**
16556 **contents is recommended.**

16557 ~~§ 23-300. Virginia Universities Clean Energy Development and Economic Stimulus~~
16558 ~~Foundation created; purpose; structure.~~

16559 ~~A. There is hereby created the Virginia Universities Clean Energy Development and~~
16560 ~~Economic Stimulus Foundation (Foundation) established as a body corporate and political~~
16561 ~~subdivision of the Commonwealth which, with the cooperation and assistance of the~~
16562 ~~universities, shall identify, obtain, disburse, and administer funding for the following purposes:~~
16563 ~~(i) research and development of alternative fuels, clean energy production, and related~~
16564 ~~technologies; (ii) support of economic development projects in economically disadvantaged~~
16565 ~~areas; and (iii) provision of assistance in the commercialization of alternative fuels and clean~~
16566 ~~energy technologies developed with funds administered by the Foundation.~~

16567 ~~B. The Foundation shall have, and is vested with, all of the politic and corporate powers~~
16568 ~~as are set forth in this chapter. The Foundation shall have only those powers and duties as~~
16569 ~~enumerated in this chapter.~~

16570 ~~C. The Foundation shall operate as a not-for-profit corporate entity and all funding made~~
16571 ~~available to the Foundation shall be used solely for the purposes set forth in this chapter and~~
16572 ~~shall be provided from such sources as specified in this chapter. No public funds shall be used~~

16573 ~~for the work of the Foundation, which shall not be construed as an agency of the~~
16574 ~~Commonwealth.~~

16575 ~~D. The Foundation shall be exempt from the provisions of the Virginia Public~~
16576 ~~Procurement Act (§ 2.2-4300 et seq.).~~

16577 ~~E. The exercise of the powers granted by this chapter shall be in all respects for the~~
16578 ~~benefit of the citizens of the Commonwealth and for the promotion of their welfare,~~
16579 ~~convenience, and prosperity.~~

16580 ~~F. The Foundation shall be performing an essential governmental function in the~~
16581 ~~exercise of the powers conferred upon it by this chapter, and the property of the Foundation and~~
16582 ~~its income and operations shall be exempt from taxation or assessments upon any property~~
16583 ~~acquired or used by the Foundation under the provisions of this chapter.~~

16584 **Drafting note: Repeal of obsolete existing § 23-300 is recommended.**

16585 ~~§ 23-301. Membership of the Board; terms; vacancies; officers; meetings, etc.~~

16586 ~~A. The Foundation shall be governed by a Board of Directors composed of eight~~
16587 ~~members as follows: the president of the University of Virginia or his designee; the president of~~
16588 ~~Virginia Polytechnic Institute and State University or his designee; the president of one of the~~
16589 ~~other institutions included in the Virginia Coastal Energy Research Consortium, pursuant to §~~
16590 ~~67-600 of the Code of Virginia, or his designee; one nonlegislative citizen member who shall~~
16591 ~~represent public service companies providing energy to consumers, to be appointed by the~~
16592 ~~Governor; three nonlegislative citizen members to be appointed by the Speaker of the House of~~
16593 ~~Delegates; and one nonlegislative citizen member to be appointed by the Senate Committee on~~
16594 ~~Rules.~~

16595 ~~Nonlegislative citizen members appointed by the Speaker of the House of Delegates and~~
16596 ~~the Senate Committee on Rules shall have specialized background and expertise on one or more~~
16597 ~~of the following subjects: environmental or conservation issues; financing and~~
16598 ~~commercialization of newly developed technologies or products; energy production issues; or~~
16599 ~~scientific research methodologies and protocols.~~

16600 ~~B. There shall be no limitation on the terms of Board members and they shall serve at~~
16601 ~~the pleasure of the appointing authority, except for the president of the other institutions~~
16602 ~~included in the Virginia Coastal Energy Research Consortium, which shall rotate among the~~
16603 ~~member institutions on an annual basis.~~

16604 ~~C. The Board shall appoint from its membership a chairman and a vice chairman, both~~
16605 ~~of whom shall serve in such capacities at the pleasure of the Board. The chairman, or in his~~
16606 ~~absence, the vice chairman, shall preside at all meetings of the Board. The meetings of the~~
16607 ~~Board shall be held on the call of the chairman or whenever the majority of the members so~~
16608 ~~request. The Board shall meet not less than twice annually. A majority of members of the Board~~
16609 ~~-serving at any one time shall constitute a quorum for the transaction of business.~~
16610 ~~Notwithstanding any other provision of law, the Board may meet, conduct business, and vote by~~
16611 ~~means of electronic communication.~~

16612 **Drafting note: Repeal of obsolete existing § 23-301 is recommended.**

16613 ~~§ 23-302. Powers and duties of the Board.~~

16614 ~~A. The Board shall have the power to:~~

16615 ~~1. Adopt, use, and alter at will an official seal;~~

16616 ~~2. Make bylaws for the management and regulation of its affairs;~~

16617 ~~3. Sue and be sued;~~

16618 ~~4. Maintain an office at such place or places within the Commonwealth as it may~~
16619 ~~designate;~~

16620 ~~5. Accept, hold, and administer moneys, grants, securities, or other property transferred,~~
16621 ~~given, or bequeathed to the Foundation, absolutely or in trust, for the purposes for which the~~
16622 ~~Foundation is created;~~

16623 ~~6. Determine how moneys provided to the Foundation are to be distributed and to~~
16624 ~~authorize grants, loans, or other distributions of such moneys for the purposes set forth in this~~
16625 ~~chapter;~~

16626 ~~7. Make and execute contracts and all other instruments and agreements necessary or~~
16627 ~~convenient for the exercise of its powers and functions;~~

16628 ~~8. Invest its funds as provided in this chapter or permitted by applicable law;~~

16629 ~~9. Expend from such funds as are available to it a reasonable amount for personnel,~~
16630 ~~operations, and administration of the Foundation; and~~

16631 ~~10. Do any lawful act necessary or appropriate to carry out the powers herein granted or~~
16632 ~~reasonably implied, including use of whatever lawful means may be necessary and appropriate~~
16633 ~~to recover any payments wrongfully made from the funds available to the Foundation.~~

16634 ~~B. The Board shall employ on a full-time, part-time, or contract basis such personnel as~~
16635 ~~may be necessary to ensure that the purposes of this chapter are achieved, including, but not~~
16636 ~~limited to, a chief executive officer, legal counsel, and chief research policy officer.~~

16637 ~~C. The Board and such staff as may be employed shall have the following duties:~~

16638 ~~1. Establish procedures by which persons seeking funds from the Foundation may make~~
16639 ~~application for an award of such fund;~~

16640 ~~2. Actively seek out and encourage appropriate projects; and~~

16641 ~~3. Actively seek out and expend all reasonable efforts to obtain funds from all available~~
16642 ~~sources.~~

16643 ~~D. Any proposed projects funded by the Foundation shall be consistent with the~~
16644 ~~purposes set forth in this chapter.~~

16645 ~~E. The Board shall report its activities annually by December 1 to the Governor, the~~
16646 ~~Speaker of the House, and the Senate Committee on Rules.~~

16647 **Drafting note: Repeal of obsolete existing § 23-302 is recommended.**

16648 ~~§ 23-303. Evaluation of proposals; due diligence; participation by universities.~~

16649 ~~A. All requests seeking funds from the Foundation shall be thoroughly evaluated~~
16650 ~~utilizing the criteria set forth in subsection B of this section. The Board and such staff as may be~~
16651 ~~employed shall participate in the evaluation and may utilize such additional assistance as they~~

16652 ~~determine necessary. The universities shall provide expertise for the evaluation process as~~
16653 ~~requested by the Board.~~

16654 ~~B. Each funding request shall be evaluated according to the extent to which it meets a~~
16655 ~~substantial portion of the following criteria as appropriate to the project or technology proposed:~~

16656 ~~1. Whether, and to what extent, the proposed project will identify, develop, and facilitate~~
16657 ~~production and marketing of alternative fuels, clean energy sources, reduced dependence on~~
16658 ~~foreign energy supplies, more affordable energy, discovery and development of raw materials~~
16659 ~~necessary for energy production, or other similar improvements in energy creation, production,~~
16660 ~~distribution, and affordability;~~

16661 ~~2. Whether, and to what extent, the proposed project will aid in economic revitalization~~
16662 ~~of economically disadvantaged areas;~~

16663 ~~3. The scientific and technological value and viability of the proposed project;~~

16664 ~~4. The likelihood that the proposed project will fully realize its stated objectives;~~

16665 ~~5. The cost of the proposed project in relation to its reasonably foreseeable economic~~
16666 ~~impact;~~

16667 ~~6. Whether, and to what extent, the proposed project will likely result in a commercially~~
16668 ~~viable outcome;~~

16669 ~~7. The effort and time necessary to commercialize outcomes of the proposed project;~~

16670 ~~8. Whether, and to what extent, the requesting entity has utilized other available funding~~
16671 ~~sources; and~~

16672 ~~9. Such other criteria as the Board may determine.~~

16673 ~~C. The Board shall determine whether a funding request sufficiently meets the criteria~~
16674 ~~established and the purposes of this chapter, and if so, the appropriate amount of funding to be~~
16675 ~~provided. Funding shall be awarded only to those proposed projects that best meet the~~
16676 ~~established criteria and purposes of this chapter.~~

16677 ~~D. Any member of the Board who has a personal interest in any transaction before the~~
16678 ~~Board shall be disqualified from participating in that transaction, and shall forthwith make~~

16679 ~~disclosure of the existence of his interest, including the full name and address of the business~~
16680 ~~involved, and his disclosure shall also be reflected in the public records of the Board for five~~
16681 ~~years in the office of the administrative head of the Board or, if the Board has a clerk, in the~~
16682 ~~clerk's office.~~

16683 **Drafting note: Repeal of obsolete existing § 23-303 is recommended.**

16684 CHAPTER 32.

16685 MUSEUMS AND OTHER CULTURAL INSTITUTIONS.

16686 **Drafting note: Museums and other cultural institutions, existing Chapters 18, 18.1,**
16687 **23, 24, and 25 of Title 23, are reorganized as proposed Articles 2 through 6 in Chapter 32.**
16688 **Also logically relocated as proposed Article 7 in Chapter 32 are provisions relating to two**
16689 **other cultural institutions, the Virginia Commission for the Arts (existing Article 4 (§ 2.2-**
16690 **2508 et seq.) of Chapter 25 of Title 2.2) and the Virginia Arts Foundation (existing Article**
16691 **1 (§ 2.2-2700 et seq.) of Chapter 27 of Title 2.2).**

16692 Article 1.

16693 General Provisions.

16694 **Drafting note: Existing provisions relating to educational entities in general are**
16695 **consolidated in proposed Article 1.**

16696 § 23.1-3200. Governing boards of educational institutions; removal of members.

16697 A. Notwithstanding any other provision of law, the Governor may remove from office
16698 for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board
16699 of any educational institution established pursuant to this chapter and fill the vacancy resulting
16700 from the removal. Each appointment to fill a vacancy is subject to confirmation by the General
16701 Assembly.

16702 B. The Governor shall set forth in a written public statement his reasons for removing
16703 any member pursuant to subsection A at the time the removal occurs. The Governor is the sole
16704 judge of the sufficiency of the cause for removal as set forth in subsection A.

16705 **Drafting note: The provisions of existing subsections A and C of § 2.2-108 that**
 16706 **apply to other educational institutions in general are logically reorganized as proposed §§**
 16707 **23.1-3100 and 23.1-3200. Technical changes are made.**

16708

CHAPTER 25.

16709

FRONTIER CULTURE MUSEUM OF VIRGINIA.

16710

Article 2.

16711

Frontier Culture Museum of Virginia.

16712 **Drafting note: Existing Chapter 25 (§ 23-296 et seq.) is reorganized as proposed**
 16713 **Article 2 of Chapter 32.**

16714 § ~~23-296~~ 23.1-3201. Frontier Culture Museum of Virginia ~~created; purpose established.~~

16715 ~~There is hereby created the~~ The Frontier Culture Museum of Virginia (the Museum) is
 16716 established as a state agency and educational institution. The purpose of the ~~museum~~ Museum is
 16717 to construct, operate, and maintain, in the Augusta ~~County/Staunton/Waynesboro~~ County,
 16718 Staunton, and Waynesboro area of the Commonwealth, an outdoor museum ~~in order~~ to
 16719 commemorate on an international scale the ~~contribution which~~ contributions of the pioneers and
 16720 colonial frontiersmen and frontierswomen of the eighteenth and nineteenth centuries ~~made~~
 16721 the creation and development of the United States. The Museum is ~~an educational institution~~
 16722 ~~with responsibility to administer certain~~ responsible for administering such historical and
 16723 interpretive programs as may be established by the board of trustees of the Museum.

16724 **Drafting note: Technical changes.**

16725 § ~~23-297~~ 23.1-3202. Board of ~~Trustees; membership; terms; officers and committees;~~
 16726 compensation trustees.

16727 A. The ~~Frontier Culture~~ Museum of Virginia shall be administered by a ~~Board of~~
 16728 Trustees board of trustees (the board) consisting of no more than 25 members. The members
 16729 shall be appointed as follows: five members of the House of Delegates ~~shall be appointed~~ by the
 16730 Speaker of the House of Delegates; in accordance with the rules of proportional representation
 16731 contained in the Rules of the House of Delegates, three members of the Senate ~~shall be~~

16732 ~~appointed~~ by the Senate Committee on Rules; and nine nonlegislative citizen members ~~shall be~~
16733 ~~appointed~~ by the Governor. The Governor may appoint, upon recommendation of the ~~Board of~~
16734 ~~Trustees board~~, up to eight additional nonlegislative citizen members ~~for four-year terms~~ who
16735 may be nonresidents of the Commonwealth ~~and who shall serve at no expense to the~~
16736 ~~Commonwealth~~.

16737 B. Legislative members shall serve terms coincident with their terms of office. ~~After the~~
16738 ~~initial staggering of terms, nonlegislative Nonlegislative citizen~~ members shall be appointed
16739 ~~shall serve~~ for ~~four-year~~ terms of four years. Appointments to fill vacancies, other than by
16740 expiration of a term, shall be ~~made~~ for the unexpired ~~term~~ terms. Vacancies shall be filled in the
16741 same manner as the original appointments. All members may be reappointed.

16742 C. The ~~Board of Trustees board~~ shall elect a chairman, vice-chairman, and such other
16743 officers as it deems necessary. ~~Seven or more of the members of the Board of Trustees shall~~
16744 ~~constitute an executive committee~~ The meetings of the board shall be held at the call of the
16745 chairman or whenever the majority of the members so request. The board may appoint an
16746 executive committee consisting of at least seven members for the transaction of business in the
16747 recess of the board.

16748 ~~The Board of Trustees~~ D. Members of the board shall be reimbursed for all reasonable
16749 and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813
16750 and 2.2-2825 ~~and shall be compensated at the per diem rate established for members of the~~
16751 ~~General Assembly for meetings~~. Nonlegislative citizen members shall receive no compensation
16752 for their services. Legislative members shall be compensated as provided in § 30-19.12.
16753 Funding for the costs of compensation and expenses of the members shall be provided by the
16754 ~~Frontier Culture~~ Museum.

16755 **Drafting note: Technical changes are made. A substantive change is made in**
16756 **proposed subsections A and D to (i) remove the restriction that members who are not**
16757 **residents of the Commonwealth shall serve at no expense to the Commonwealth and (ii)**
16758 **specify that all members are entitled to reimbursement for reasonable and necessary**

16759 expenses, but only legislative members are entitled to be compensated at a per diem rate.
16760 A substantive change is made in proposed subsection C to specify that the board may
16761 appoint an executive committee for the transaction of business in the recess of the board.
16762 Similar language is found in the enabling statutes of other boards in proposed Title 23.1.
16763 The existing statute is silent on the appointment and powers of the executive committee.
16764 § ~~23-298~~ 23.1-3203. ~~Powers of Board of Trustees; donation~~ Duties of the board.
16765 A. The ~~Board of Trustees~~ board shall:
16766 1. Establish, operate, and maintain the ~~Frontier Culture~~ Museum ~~of Virginia~~ to
16767 commemorate the contributions ~~which of~~ the pioneers and colonial frontiersmen and
16768 frontierswomen ~~made~~ to the creation of this nation;
16769 2. Employ an executive director and such assistants as may be required and confer such
16770 duties and responsibilities as determined necessary;
16771 3. Adopt a flag, seal, and other emblems for use in connection with the Museum;
16772 4. Establish a nonprofit corporation to develop and maintain public awareness of the
16773 ~~Frontier Culture~~ Museum ~~of Virginia~~;
16774 5. Receive and expend gifts, grants, and donations of any kind from whatever sources
16775 determined, including donations accepted by the American Frontier Culture Foundation on
16776 behalf of the Museum;
16777 6. Adopt regulations and set fees concerning the use and visitation of properties under its
16778 control;
16779 7. ~~Acquire, with~~ With the consent of the Governor, acquire by purchase, lease, gift,
16780 devise, or condemnation proceedings lands, property, and structures deemed necessary to the
16781 purpose of the Museum ~~by purchase, lease, gift, devise or condemnation proceedings~~. The title
16782 to such acquired land and property ~~acquired~~ shall be in the name of the Commonwealth. In the
16783 exercise of the power of eminent domain granted under this section, the Museum may proceed
16784 in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1;

16785 8. Convey by lease land and structures to any person, association, firm, or corporation,
16786 with the consent of the Governor, for such terms and on such conditions as the Museum may
16787 determine;

16788 9. Enter into contracts to further the purpose of the Museum, ~~which have been approved~~
16789 ~~by the Attorney General~~; and

16790 10. Elect any past member of the ~~Board of Trustees~~ board to the honorary position of
16791 trustee emeritus. Trustees emeriti shall serve as honorary members for life, shall not have voting
16792 privileges, and shall be elected in addition to those positions set forth in § ~~23-297~~ 23.1-3202.

16793 B. In addition to the powers granted by subsection A, the ~~Board~~ board may, ~~from time to~~
16794 ~~time~~, evaluate the significance ~~or~~ and suitability of the furnishings, household items, and other
16795 objects ~~heretofore and hereinafter~~ acquired by purchase, gift ~~or donations~~, or donation with or
16796 for the Museum, for the purpose of accurately presenting the means, tastes, and lifestyles of the
16797 people living during the era depicted by the Museum ~~depicts and within the limitations of the~~
16798 ~~furnishings, household items, and other objects that would have been available to and within the~~
16799 ~~means of such persons~~. The ~~Board~~ board may ~~dispose of~~ exchange or sell those furnishings,
16800 household items, and other objects ~~determined by the Board that it determines~~ to be of little or
16801 no significance or suitability for achieving the ~~purposes~~ purpose or mission of the Museum ~~by~~
16802 ~~exchange or sale, so as~~ long as such disposition is not inconsistent with the terms of the
16803 acquisition of the relevant property. ~~At the discretion of the Board, sales~~ Sales of these items
16804 may be conducted by auction houses recognized for their expertise in the sale of such property.

16805 C. Any furnishings, household goods, and other objects previously acquired by donation
16806 or purchase and the net proceeds of any sale of these items as provided in subsection B shall
16807 constitute a discrete fund of the ~~Frontier Culture~~ Museum of Virginia and shall be used solely
16808 for the acquisition of period furnishings, household goods, and other objects consistent with the
16809 purpose and mission of the Museum.

16810 D. Donations to the Museum of any funds, securities, and any other property, real or
16811 personal, for use in accordance with its purpose and mission; shall constitute endowments or

16812 unrestricted gifts ~~within the meaning for the purposes~~ of § ~~23-9.2~~ 23.1-101. The ~~Board~~ board
 16813 may change the form of investment of any such funds, securities, or other property, real or
 16814 personal, if the change in such form is not inconsistent with the terms of the instrument under
 16815 which such property was acquired; and may sell, grant, or convey any such property; ~~however,~~
 16816 except that any transfers of real property ~~may~~ shall be made only with the consent of the
 16817 Governor.

16818 **Drafting note: A substantive change is made in proposed subdivision A 8: the**
 16819 **requirement for the Attorney General to approve contracts that the board enters is**
 16820 **removed. The Attorney General does not exercise approval of such contracts. Technical**
 16821 **changes are made, including striking the superfluous term "from time to time" in**
 16822 **subsection B per Code Commission policy.**

16823 CHAPTER 24.

16824 BOARDS OF REGENTS; GUNSTON HALL.

16825 Article 3.

16826 Gunston Hall.

16827 **Drafting note: Existing Chapter 24 (§ 23-295 et seq.) is reorganized as proposed**
 16828 **Article 3 of Chapter 32.**

16829 § ~~23-295~~ 23.1-3204. Board of Regents of Gunston Hall; and Board of Visitors for
 16830 Gunston Hall established.

16831 ~~There is hereby created the~~ The Board of Regents of Gunston Hall ~~and the Board of~~
 16832 Visitors for Gunston Hall (Board of Regents) is established as an educational institution to
 16833 manage, maintain, and operate Gunston Hall and accept and administer gifts of real and
 16834 personal property made for the benefit of Gunston Hall. The Board of Visitors for Gunston Hall
 16835 is established. Membership of both collegial bodies shall be pursuant to the terms and conditions
 16836 of the deed of gift of Gunston Hall from Louis Hertle to the Commonwealth ~~of Virginia~~. The
 16837 duties ~~for~~ of the two boards are prescribed in Chapter 138 of the ~~1932~~ Acts of Assembly of 1932
 16838 and Chapter 175 of the ~~1948~~ Acts of Assembly of 1948. ~~As such, the Board of Regents is~~

16839 ~~declared an educational institution with all the rights, powers, privileges, and immunities under~~
16840 ~~law. The Board of Regents shall manage, maintain and operate Gunston Hall and accept and~~
16841 ~~administer gifts of real and personal property made for the benefit of Gunston Hall.~~

16842 **Drafting note: Technical changes.**

16843 § ~~23-295.1~~ 23.1-3205. ~~Certain powers~~ Powers of the Board of Regents.

16844 A. The Board of Regents may ~~from time to time~~ undertake to determine the significance
16845 or suitability of the furnishings, household items, and other objects ~~heretofore and hereafter~~
16846 acquired by purchase, gift, or ~~donations with or~~ donation for Gunston Hall, for the purpose of
16847 accurately presenting Gunston Hall according to the means and taste of George Mason ~~and~~
16848 ~~within the limitations of the furnishings, household items, and other objects that would have~~
16849 ~~been available to him and within his means~~. Those furnishings, household items, and other
16850 objects determined by the Board of Regents to be of little or no significance or unsuitable for
16851 achieving this purpose may be ~~disposed of~~ exchanged or sold by the Board ~~by exchange or sale~~
16852 of Regents if not inconsistent with the terms of the acquisition ~~thereof of the items~~. ~~At the~~
16853 ~~discretion of the Board, such~~ Such sales may be conducted by auction houses recognized for ~~the~~
16854 their expertise in the sale of such items.

16855 B. Any such furnishings, household goods, and other objects ~~previously~~ acquired by
16856 donation or purchase and the net proceeds of any sale of these items as provided in subsection A
16857 shall constitute a discrete fund of Gunston Hall, restricted to future acquisitions of period
16858 furnishings, household goods, and other objects consistent with the purposes set forth in
16859 subsection A; and the conservation of all such holdings of Gunston Hall.

16860 C. Donations to Gunston Hall of any funds, securities, and any other property, real or
16861 personal, for use in accordance with the mission of Gunston Hall; shall constitute endowments
16862 or unrestricted gifts ~~within the meaning for the purposes~~ of § ~~23-9.2~~ 23.1-101. The Board of
16863 Regents may (i) change the form of investment of any such funds, securities, or other property,
16864 real or personal, provided that the same are form is not inconsistent with the terms of the
16865 instrument under which the ~~same were~~ property was acquired, and ~~to~~ (ii) sell, grant, or convey

16866 any such property, except that any transfers of real property ~~may shall~~ be made only with the
16867 consent of the Governor.

16868 **Drafting note: Technical changes, including striking the superfluous term "from**
16869 **time to time" in subsection A per Code Commission policy.**

16870 ~~CHAPTER 23.~~

16871 ~~JAMESTOWN-YORKTOWN FOUNDATION.~~

16872 ~~Article 4.~~

16873 ~~Jamestown-Yorktown Foundation.~~

16874 **Drafting note: Existing Chapter 23 (§ 23-287 et seq.) is reorganized as proposed**
16875 **Article 4 of Chapter 32.**

16876 § ~~23-287~~ 23.1-3206. Jamestown-Yorktown Foundation ~~continued; Board of Trustees,~~
16877 ~~officers and executive committee established; board of trustees.~~

16878 A. The Jamestown-Yorktown Foundation, ~~hereinafter referred to as the Foundation, is~~
16879 ~~hereby continued and shall be deemed to be~~ (the Foundation) is established as an ~~institution of~~
16880 ~~higher education within the meaning of §§ 23-3.1 and 23-9.2~~ educational institution to
16881 administer certain historical museums and such related programs as may be established by the
16882 board of trustees.

16883 B. The Foundation shall be administered by ~~the Board a board~~ a board of ~~Trustees consisting of~~
16884 ~~the following ex officio~~ trustees: (the board). The Governor, the Lieutenant Governor, the
16885 Attorney General, the Speaker of the House of Delegates, the President Pro Tempore of the
16886 Senate, the Chairman of the House Appropriations Committee, either the Chairman or the
16887 Chairman Emeritus of the Senate Finance Committee, to be determined by the Senate
16888 Committee on Rules, ~~and~~ the Secretary of Education, and the president of the Jamestown-
16889 Yorktown Foundation, Inc., shall serve ex officio. ~~In addition, there~~ There shall be 12
16890 nonlegislative citizen members appointed by the Governor from the Commonwealth at large for
16891 four-year terms ~~who shall be,~~ subject to confirmation by ~~a majority of the members of each~~
16892 ~~house of~~ the General Assembly; eight members of the House of Delegates appointed by the

16893 Speaker of the House of Delegates ~~from the membership thereof for terms concurrent with the~~
16894 ~~terms for which they have been elected to office~~ in accordance with the rules of proportional
16895 representation contained in the Rules of the House of Delegates; four members of the Senate
16896 appointed by the Senate Committee on Rules ~~from the membership of the Senate for terms~~
16897 ~~concurrent with the term for which they have been elected to office~~; five members annually
16898 elected by the ~~Board of Trustees~~ board, some of whom may be nonresidents of the
16899 Commonwealth; and any ~~and all chairmen emeriti~~ chairman emeritus elected by the ~~Board of~~
16900 ~~Trustees~~ board pursuant to § ~~23-288~~ 23.1-3207. ~~The president of the Jamestown-Yorktown~~
16901 ~~Foundation, Inc. shall also serve as a member of the Board of Trustees. Nonresident members of~~
16902 ~~the Board of Trustees shall serve at no expense to the Commonwealth.~~

16903 Legislative and ex officio members shall serve terms coincident with their terms of
16904 office. Appointments to fill vacancies, other than by expiration of a term, shall be for the
16905 unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

16906 C. The ~~Board of Trustees~~ board shall elect a chairman, vice-chairman, and such other
16907 officers as ~~are deemed it deems~~ necessary. The chairman shall appoint at least seven ~~or more~~
16908 members ~~of the Board~~ to constitute an executive committee, ~~the membership of~~ which shall
16909 include the chairman and vice-chairman. The meetings of the board shall be held at the call of
16910 the chairman or whenever the majority of the members so request.

16911 ~~Resident members of the Board of Trustees~~ D. Nonresident members of the board shall
16912 serve at no expense to the Commonwealth. Members who are residents of the Commonwealth
16913 shall be reimbursed for all reasonable and necessary expenses incurred in the performance of
16914 their duties as provided in §§ 2.2-2813 and 2.2-2825 and shall receive compensation at the per
16915 diem rate established for members of the General Assembly as provided in § 30-19.12. The
16916 funding for the costs of compensation and expenses of the members shall be provided by the
16917 Foundation.

16918 ~~B. The Foundation is an educational institution and has the further responsibility to~~
16919 ~~administer certain historical museums and such related programs as may be established as~~
16920 ~~defined from time to time.~~

16921 **Drafting note: Technical changes.**

16922 ~~§ 23-288~~ 23.1-3207. Powers and duties Duties.

16923 The Foundation board shall ~~have the power and duty to~~:

16924 1. Do all things necessary and proper to (i) foster through its living-history museums,
16925 Jamestown Settlement and Yorktown Victory Center, an awareness and understanding of the
16926 early history, settlement, and development of the United States through the convergence of
16927 American Indian, European, and African cultures and the enduring legacies bequeathed to the
16928 nation; ~~to~~ (ii) commemorate Jamestown as the first permanent English-speaking settlement in
16929 the United States and its contributions to the building of ~~our~~ the Commonwealth and the nation;
16930 ~~to~~ (iii) commemorate the winning of American independence on the battlefield at Yorktown;
16931 and ~~to~~ (iv) enhance our understanding of the making of the United States Constitution and Bill
16932 of Rights, including ~~Virginia's~~ the Commonwealth's role in shaping the fundamental principles
16933 of the American constitutional system.;

16934 2. Administer, develop, and maintain at Jamestown and Yorktown permanent
16935 commemorative shrines and historical museums.;

16936 3. Adopt names, flags, seals, and other emblems for use in connection with such shrines
16937 and copyright the same in the name of the Commonwealth.;

16938 4. Enter into contracts to further the purposes of the Foundation, ~~which have been~~
16939 ~~approved by the Attorney General.~~;

16940 5. Establish nonprofit corporations as instrumentalities to assist in administering the
16941 affairs of the Foundation.

16942 6. With the consent of the Governor, acquire by purchase, lease, gift, devise, or
16943 condemnation proceedings lands, property, and structures deemed necessary for the purposes of
16944 the Foundation ~~by purchase, lease, gift, devise or condemnation proceedings~~. The title to ~~the~~

16945 such acquired land and property ~~acquired~~ shall be in the name of the Commonwealth. In the
16946 exercise of the power of eminent domain granted under this section, the Foundation may
16947 proceed in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1-;

16948 7. With the consent of the Governor, convey by lease land to any person, association,
16949 firm, or corporation for such ~~term~~ terms and on such conditions as the Foundation may
16950 determine-;

16951 8. Receive and expend gifts, grants, and donations from whatever source derived for the
16952 purposes of the Foundation-;

16953 9. Employ an executive director and such deputies and assistants as may be required-;

16954 10. Elect any past chairman of the ~~Board of Trustees~~ board to the honorary position of
16955 ~~Chairman Emeritus~~ chairman emeritus. Chairmen emeriti shall serve as honorary members for
16956 life. Chairmen emeriti shall be elected in addition to the at-large positions defined in § ~~23-287-~~
16957 23.1-3206;

16958 11. With the consent of the Governor, enter into agreements or contracts with private
16959 entities for the promotion of tourism through marketing without participating in competitive
16960 sealed bidding or competitive negotiation, provided that a demonstrable cost savings, as
16961 reviewed by the Secretary of Education, can be realized by the Foundation and such agreements
16962 or contracts are based on competitive principles-;

16963 12. Determine ~~what~~ which paintings, statuary, works of art, manuscripts, and artifacts
16964 may shall be acquired by purchase, gift, or loan, and exchange or sell ~~the same~~ such items if not
16965 inconsistent with the terms of such purchase, gift, loan, or other acquisition-; and

16966 13. Change the form of investment of any funds, securities, or other property, real or
16967 personal, provided the ~~same are~~ form is not inconsistent with the terms of the instrument under
16968 which the ~~same were~~ property was acquired, and sell, grant, or convey any such property, except
16969 that any transfers of real property may shall be made only with the consent of the Governor.

16970 **Drafting note: A substantive change is made in proposed subdivision 4: The**
16971 **requirement for the Attorney General to approve contracts that the board enters is**

16972 removed. The Attorney General does not exercise approval of such contracts. Technical
16973 changes are made.

16974 § ~~23-289~~ 23.1-3208. ~~Authority to adopt regulations as to use and visitation of properties~~
16975 Regulations.

16976 A. The ~~Board of Trustees, or the executive committee thereof, of the Foundation board~~
16977 or its executive committee may adopt ~~such~~ regulations ~~from time to time~~, concerning the use
16978 and visitation of properties under the control of the Jamestown-Yorktown Foundation, to protect
16979 ~~or and~~ secure such properties and the public enjoyment ~~thereof of such properties~~.

16980 B. Any person, who knowingly violates a regulation of the Foundation may be requested
16981 by an agent or employee of the Foundation to leave the property and upon the failure of such
16982 person so to do, ~~shall be is~~ guilty of ~~a~~ trespass, as provided in § 18.2-119.

16983 **Drafting note: Technical changes, including striking the superfluous term "from**
16984 **time to time" in subsection A per Code Commission policy.**

16985 § ~~23-290~~ 23.1-3209. Authority to contract debts and obligations payable from revenues.

16986 The Foundation, acting by and through the corporation authorized by § ~~23-288~~ 23.1-
16987 3207, may contract debts and obligations to the extent of its anticipated revenues. Such debts
16988 and obligations shall be paid only from the revenues of the Foundation.

16989 **Drafting note: Technical changes.**

16990 ~~§ 23-290.1.~~

16991 **Drafting note: Repealed by Acts 2011, cc. 345 and 356, cl. 2.**

16992 ~~§§ 23-291, 23-292.~~

16993 **Drafting note: Expired by the terms of Acts 1998, c. 799, cl. 2, on July 1, 2008.**

16994 ~~§§ 23-293, 23-294.~~

16995 **Drafting note: These sections are deleted because they are carried as reserved in**
16996 **the existing title.**

16997 ~~CHAPTER 18.~~

16998 ~~THE SCIENCE MUSEUM OF VIRGINIA.~~

16999 Article 5.

17000 Science Museum of Virginia.

17001 **Drafting note: Existing Chapter 18 (§ 23-239 et seq.) is reorganized as proposed**

17002 **Article 5 of Chapter 32.**

17003 ~~§ 23-239 23.1-3210. Science Museum—created; essential governmental function of~~
17004 ~~Virginia established.~~

17005 ~~There is hereby created and constituted an educational institution of the Commonwealth~~
17006 ~~of Virginia to be known as "The Science Museum of Virginia," hereinafter in this chapter~~
17007 ~~sometimes referred to as the "Museum." The Museum is hereby declared to be (the Museum) is~~
17008 ~~established as an educational institution of the Commonwealth and~~ a public body and
17009 instrumentality for the dissemination of education. The exercise by the Museum of the powers
17010 conferred by this ~~chapter shall be deemed and held to be~~ article is the performance of an
17011 essential governmental function.

17012 **Drafting note: Technical changes.**

17013 ~~§ 23-241. Reserved.~~

17014 **Drafting note: This section is deleted because they are carried as reserved in the**
17015 **existing title.**

17016 ~~§ 23-242. Organization.~~

17017 ~~The Museum shall contain a headquarters and six divisions to encompass the following~~
17018 ~~major areas of science:~~

17019 ~~Physical Sciences~~

17020 ~~Botanical Sciences~~

17021 ~~Natural History~~

17022 ~~Industry and Technology~~

17023 ~~Oceanography and Limnology~~

17024 ~~Zoological Gardens.~~

17025 **Drafting note: Existing § 23-242 is stricken as obsolete.**

17026 § ~~23-243~~ 23.1-3211. ~~To be governed by board~~ Board of trustees; ~~appointment of~~
17027 members.

17028 A. The Museum shall be governed by a board of trustees; (the board) consisting of
17029 fifteen 15 members; ~~each of whom~~ who shall be appointed by the Governor. ~~One~~ At least one of
17030 the members ~~appointed to the board~~ shall be a member of the Virginia Academy of Science. ~~The~~
17031 ~~appointments shall be~~ All appointments are subject to confirmation by the General Assembly ~~if~~
17032 ~~in session and, if not, then at its next succeeding session. The board of trustees will hereinafter~~
17033 ~~in this chapter be referred to as the "board."~~.

17034 B. Members shall be appointed for terms of five years. Appointments to fill vacancies,
17035 other than by expiration of a term, shall be for the unexpired terms. No member is eligible to
17036 serve more than two consecutive five-year terms; however, a member appointed to serve an
17037 unexpired term is eligible to serve two consecutive five-year terms immediately succeeding
17038 such unexpired term.

17039 C. No member shall receive a salary for his service on the board.

17040 § ~~23-245~~. ~~Officers of board.~~

17041 D. The board shall ~~select~~ elect a chairman and a secretary from its membership; and
17042 ~~under rules adopted by itself~~ may elect ~~one of its members as a~~ vice-chairman from its
17043 membership. ~~It shall elect one of its members as secretary.~~

17044 § ~~23-248~~. ~~Meetings of board.~~

17045 E. The board shall meet at such times as it deems appropriate ~~and on call of the chairman~~
17046 ~~when in his opinion meetings are expedient or necessary.~~

17047 § ~~23-249~~. ~~Quorum of board.~~

17048 F. Seven members of the board shall constitute a quorum for all purposes.

17049 **Drafting note: The provisions of existing §§ 23-243, 23-244, 23-245, 23-248, and 23-**
17050 **249 are combined to form this proposed section relating to the membership of the board of**
17051 **trustees. Technical changes are made.**

17052 § ~~23-246~~. ~~Oath of members.~~

17053 ~~Before entering upon the discharge of his duties, each member of the board shall take the~~
17054 ~~usual oath of office.~~

17055 **Drafting note: Existing § 23-246 is stricken as duplicative of § 49-1, which states**
17056 **that "[e]very person before entering upon the discharge of any function as an officer of**
17057 **this Commonwealth shall take and subscribe the following oath: 'I do solemnly swear (or**
17058 **affirm) that . . . I will faithfully and impartially discharge all the duties incumbent upon**
17059 **me'"**

17060 ~~§ 23-247. Bonds of members.~~

17061 ~~Each member of the board shall give bond, with corporate surety, in such penalty as is~~
17062 ~~fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on~~
17063 ~~the bonds shall be paid from funds available to the Museum.~~

17064 **Drafting note: Existing § 23-247 is stricken as obsolete. The Museum does not**
17065 **currently require its members to give such bond.**

17066 ~~§ 23-244. Terms of members; vacancies.~~

17067 ~~The members of the board shall be appointed for terms of five years each beginning~~
17068 ~~from the expiration of the respective terms of their predecessors, except that an appointment to~~
17069 ~~fill a vacancy shall be for the unexpired term and that the initial appointments to increase the~~
17070 ~~board to fifteen members shall be for such terms of less than five years as may be necessary to~~
17071 ~~stagger the expiration of terms so that the terms of not more than four members expire in any~~
17072 ~~one year. Members of the board may be suspended or removed by the Governor at his pleasure.~~
17073 ~~For the purpose of succession, the initial appointments of members for terms of less than five~~
17074 ~~years shall be deemed appointments to fill vacancies. No person shall be eligible to serve for or~~
17075 ~~during more than two successive terms; provided, however, any person appointed to fill a~~
17076 ~~vacancy may be eligible for two additional successive terms after the term of the vacancy for~~
17077 ~~which he was appointed has expired. The members of the board shall receive no salaries.~~

17078 **Drafting note: The membership provisions of existing § 23-244 are stricken here**
17079 **and incorporated as proposed subsections B and C of § 23.1-3211 where appropriate. The**

17080 provision concerning initial appointments is stricken as obsolete. The provision concerning
 17081 the Governor's authority to remove a member is relocated to proposed § 23.1-3200.

17082 § ~~23-240~~ 23.1-3212. ~~Purposes~~ Duties of the board.

17083 The ~~purposes of The Science Museum of Virginia are: to deepen~~ board shall seek to:

17084 1. Deepen our understanding of man and his environment; ~~to promote~~

17085 2. Promote a knowledge of the scientific method and thus encourage objectivity in the
 17086 everyday affairs of man; ~~to engage~~

17087 3. Engage in instruction and research in the sciences in order to educate citizens of all
 17088 ages in the concepts and principles of science and how these concepts and principles form the
 17089 foundation upon which rests our technological society and its economy; ~~to use~~

17090 4. Use, subject to approval of the accredited educational affiliates concerned, Museum
 17091 personnel in educational programs; ~~to motivate~~

17092 5. Motivate and stimulate young people to seek careers in science; ~~to encourage~~

17093 6. Encourage an understanding of the history of scientific endeavor; ~~to provide~~

17094 7. Provide special facilities and collections for the study of ~~Virginia's~~ the
 17095 Commonwealth's natural resources; and ~~to foster~~

17096 8. Foster a love of nature and concern for its preservation. ~~These purposes are hereby~~
 17097 ~~declared to be a matter of legislative determination.~~

17098 **Drafting note: Purposes are rewritten as duties in furtherance of the Code**
 17099 **Commission policy to not set out purposes in the Code Technical changes are made.**

17100 § ~~23-250~~ 23.1-3213. Powers ~~and duties~~ of the board.

17101 The board ~~is hereby authorized and empowered~~ may:

17102 1. ~~To select~~ Select sites for the Museum and ~~the its~~ divisions ~~thereof~~ and ~~to~~ provide for
 17103 the erection, care, and preservation of all property belonging to the Museum;

17104 2. ~~To appoint~~ Appoint the ~~Director~~ director of the Museum; (the director) and prescribe
 17105 his duties and salary;

17106 3. ~~To prescribe rules and regulations~~ Establish policies for the operation of the Museum,
17107 including, ~~but not limited to,~~ the kinds and types of instruction and exhibits, and the ~~making~~
17108 development of plans for expansion ~~from time to time~~ of the Museum;

17109 4. ~~To employ~~ Employ planning consultants and architects ~~in relation to establishment for~~
17110 any expansion of the Museum ~~and any expansions thereof~~;

17111 5. ~~To acquire~~ Acquire by purchase, gift, loan, or otherwise land necessary for
17112 establishment and exhibits, displays, and expansion of the Museum, ~~and exhibits and displays~~;

17113 6. ~~To enter~~ Enter into contracts for construction of physical facilities;

17114 7. ~~To adopt~~ Adopt a seal; ~~and~~

17115 8. ~~To charge~~ Charge for admission to the Museum, ~~if deemed appropriate; and~~

17116 § 23-252. Acceptance of gifts; expenditures; application of §§ 23-3.1 and 23-9.2.

17117 ~~A. The board is authorized, on~~ 9. On behalf of the Commonwealth and in furtherance of
17118 the purposes of the Museum, ~~to~~ receive and administer gifts, bequests, and devises of property
17119 of any kind whatsoever, and grants from agencies of the United States government, and ~~to~~
17120 expend, or authorize the expenditure of, funds derived from such sources and funds appropriated
17121 by the General Assembly to the Museum.

17122 ~~B. The Museum shall be deemed to be an institution of higher education within the~~
17123 meaning of §§ 23-3.1 and 23-9.2.

17124 ~~C. Gifts heretofore made to the Museum by political subdivisions of the Commonwealth~~
17125 are hereby validated.

17126 **Drafting note: Existing §§ 23-250 and 23-252 are combined. Existing subsection A**
17127 **of § 23-252 is incorporated as proposed subdivision 9 of this section; existing subsection B**
17128 **of § 23-252 is incorporated into proposed § 23.1-101; and existing subsection C is stricken**
17129 **as obsolete. Technical changes are made, including striking the superfluous term "from**
17130 **time to time" in subdivision 3 per Code Commission policy.**

17131 ~~§ 23-251~~ 23.1-3214. Agents and employees.

17159 furnishings, grounds, and other properties ~~thereof shall be~~ is vested in a board of trustees (the
17160 board) composed of ~~the following persons:~~ (i) ~~ex officio members:~~ the Governor, the Speaker of
17161 the House of Delegates, and the mayor of the City of Richmond, who shall serve ex officio, and
17162 (ii) ~~regular members: the trustees who are in office on June 27, 1958, and their successors from~~
17163 ~~time to time, consisting of not less than at least 25 persons and but~~ not more than 35 ~~persons~~
17164 nonlegislative citizen members. ~~The term of office of all regular Nonlegislative citizen~~ members
17165 ~~who are in office on June 27, 1958, shall continue until June 30, 1963, and shall expire at that~~
17166 ~~time. All successors from time to time, whether for a full term or for the remainder of an~~
17167 ~~unexpired term,~~ shall be appointed ~~and commissioned~~ by the Governor after consideration of a
17168 list of ~~nominated trustees~~ nominees from the Museum submitted at least 60 days before the
17169 expiration of the member's term for which the nominations are being made. ~~The trustees~~
17170 ~~appointed to hold office beginning on July 1, 1963, shall be divided as nearly as may be, into~~
17171 ~~five equal groups, their terms of office to expire, respectively, one, two, three, four and five~~
17172 ~~years thereafter. All trustees subsequently appointed~~

17173 B. Nonlegislative citizen members shall ~~hold office be appointed~~ for a term terms of five
17174 years ~~unless appointed for the remainder of an unexpired term~~. No ~~person shall be~~ nonlegislative
17175 citizen member is eligible to serve ~~consecutively for~~ more than two ~~successive complete~~
17176 consecutive five-year terms; however, a member appointed to serve an unexpired term is
17177 eligible to serve two consecutive five-year terms immediately succeeding such unexpired term.

17178 C. Nine ~~trustees~~ members shall constitute a quorum at any meeting and a majority vote
17179 of those members present shall control in all matters.

17180 ~~§ 23-253.2. Bylaws; president of Museum.~~

17181 ~~Such trustees~~ D. The board shall adopt bylaws governing ~~their~~ its organization and
17182 procedure and may ~~from time to time~~ alter and amend the ~~same~~ bylaws.

17183 E. The ~~trustees~~ board shall elect one of ~~their~~ its members president of the Museum.

17184 ~~§ 23-253.3. Executive committee.~~

17185 ~~Such trustees~~ F. The board may ~~also~~ provide for an executive committee, composed of
 17186 ~~not less than at least~~ three ~~trustees, which committee members that~~ may exercise the powers
 17187 vested in it and perform the duties imposed upon ~~the trustees by this chapter to the extent~~
 17188 ~~designated and permitted it~~ by the board.

17189 **Drafting note: The provisions of existing §§ 23-253.1, 23-253.2, and 23-253.3 are**
 17190 **combined. Technical changes are made, including striking the superfluous term "from**
 17191 **time to time" in proposed subsections A and D per Code Commission policy.**

17192 ~~§ 23-253.4 23.1-3218. Authority of trustees generally~~ Powers of the board.

17193 ~~Such trustees are vested with full authority to~~ A. The board may: (i) manage

17194 1. Manage, control, maintain, and operate the Museum, including ~~the its~~ contents,
 17195 furnishings, grounds funds, property, and endowments ~~thereof;~~ (ii) charge

17196 2. Charge for admission to the Museum ~~if deemed proper;~~ (iii) employ

17197 3. Employ a director, who shall be the chief executive officer of the Museum, and such
 17198 persons as may be necessary to manage, control, maintain, and operate the ~~same~~ Museum; (iv)
 17199 suspend or

17200 4. Consistent with subdivision 15 of § 2.2-2905, suspend and remove ~~at pleasure any~~
 17201 person so employed employees; (v) ~~determine what paintings, statuary and~~

17202 5. Determine which works of art ~~may shall~~ be kept, housed, or exhibited in the Museum;
 17203 (vi) acquire

17204 6. Acquire by purchase, gift, loan, or otherwise ~~paintings, statuary and~~ works of art and
 17205 ~~to~~ exchange or sell ~~the same such works~~ if not inconsistent with the terms of the purchase, gift,
 17206 loan, or other acquisition ~~thereof;~~ (vii) enter

17207 7. Enter into agreements with organizations interested in art; (viii) adopt

17208 8. Adopt a seal; (ix) stimulate

17209 9. Stimulate and assist in the formation of new organizations; (x) ~~do~~

17210 10. Do such other things as ~~they deem it deems~~ proper to promote art education ~~in the~~
 17211 ~~realm of art~~ throughout the Commonwealth ~~through the Museum, which is hereby constituted~~

17212 ~~and declared an educational institution, an institution of learning, and a public body and~~
17213 ~~instrumentality for the dissemination of education; and (xi) receive~~

17214 11. Receive and administer on behalf of the Commonwealth gifts, bequests, and devises
17215 of real and personal property for the endowment of the Museum or ~~for~~ any special purpose
17216 designated by the donor.;

17217 ~~The trustees are hereby authorized to change~~ 12. Change the form of investment of any
17218 funds, securities, or other property, real or personal, provided that the same are form is not
17219 inconsistent with the terms of the instrument under which the ~~same~~ property was acquired. The
17220 trustees may sell, grant, and convey any such property, but, in the case of real property, only by
17221 ~~and~~ with the written consent of the Governor.;

17222 ~~The trustees may from time to time confer~~ 13. Confer the honorary degree of patron of
17223 arts on any person who has, ~~in their opinion,~~ made an outstanding contribution ~~in the realm of~~ to
17224 art, ~~but not provided that no~~ more than two such degrees shall be conferred in any calendar year;
17225 and

17226 14. Adopt regulations to establish classes of membership in the Museum.

17227 B. Nothing in this section shall be construed to prohibit the assessment and levying of a
17228 service charge pursuant to the provisions of Chapter 34 (§ 58.1-3400 et seq.) of Title 58.1.

17229 C. The exercise ~~by the Museum~~ of the powers conferred on the board by this ~~chapter~~
17230 ~~shall be deemed and held to be~~ article is the performance of an essential governmental function.

17231 **Drafting note: A portion of clause (x) of existing § 23-253.4 is stricken here and**
17232 **incorporated instead into proposed § 23.1-3216. Existing § 23-253.5 is incorporated as**
17233 **proposed subdivision A 14. A reference to the employment of a director of the Museum is**
17234 **included in proposed subdivision A 3 for the sake of clarity. A technical change is made in**
17235 **proposed subdivision A 4 to make clear that while the suspension and removal of most**
17236 **employees of the Museum are subject to the provisions of the Virginia Personnel Act (§**
17237 **2.2-2900 et seq.), certain employees identified as requiring specialized and professional**
17238 **training are exempt from the provisions of such act. Technical changes are made.**

17239 ~~§ 23-253.5. Classes of membership; testamentary disposition.~~

17240 ~~Such trustees are vested with full authority to establish classes of membership in the~~
17241 ~~Museum under such regulations as to them may seem proper. All members making a~~
17242 ~~contribution of \$1,000 or more prior to June 27, 1958, may dispose of their membership by last~~
17243 ~~will and testament.~~

17244 **Drafting note: The provisions of the first sentence of existing § 23-253.5 are**
17245 **stricken here and incorporated as proposed subdivision A 14 of § 23.1-3218. The second**
17246 **sentence of existing § 23-253.5 is stricken as obsolete.**

17247 ~~§ 23-253.6 23.1-3219.~~ Authority of Art and Architectural Review Board.

17248 The Art and Architectural Review Board shall ~~have no power or authority to not~~ control,
17249 manage, or supervise in any way the ~~trustees board~~ in the exercise of ~~the its~~ powers and ~~the~~
17250 ~~performance of the~~ duties ~~provided for in this chapter,~~ except that in the matter of additions,
17251 repairs, and alterations ~~of to~~ the ~~exterior of the~~ Museum ~~itself building~~ the Art and Architectural
17252 Review Board shall continue to exercise the powers now conferred on it by law, ~~which powers~~
17253 ~~are specifically reserved to the Board.~~

17254 **Drafting note: A substantive change is made to specify that the Art and**
17255 **Architectural Review Board is authorized to exercise powers conferred to it by law in**
17256 **relation to additions, repairs, and alterations to the exterior of the Museum. Existing law**
17257 **does not distinguish between the interior and the exterior of the building. Technical**
17258 **changes are made.**

17259 ~~§ 23-253.7 23.1-3220.~~ Expenditures for current expenses; ~~annual report.~~

17260 All ~~money moneys~~ received by the ~~Museum board~~ for current expenses in ~~conducting~~
17261 ~~operating~~ the Museum shall be paid into the state treasury ~~of Virginia,~~ where it shall be set aside
17262 as a special fund for the operation of the Museum, ~~for which purpose such money is hereby~~
17263 ~~appropriated,~~ to be paid by the State Treasurer on warrants of the Comptroller issued upon
17264 vouchers signed by the president of the Museum or his duly authorized agent. ~~The Museum~~

17265 ~~shall be deemed to be an institution of higher education within the meaning of §§ 23-3.1 and 23-~~
17266 ~~9.2.~~

17267 § 23.1-3221. Annual report.

17268 The ~~Board of Trustees~~ board shall submit an annual report to the Governor and General
17269 Assembly on or before November 1 of each year, ~~such report to contain~~ containing, at a
17270 minimum, the annual financial statements of the Museum for the fiscal year ending the
17271 preceding June 30. Such report shall be submitted as a report document as provided in the
17272 procedures of the Division of Legislative Automated Systems for the processing of legislative
17273 documents and reports and shall be posted on the General Assembly's website.

17274 **Drafting note: The provision in the first paragraph of existing § 23-253.7 declaring**
17275 **the Museum an institution of higher education is stricken and incorporated instead into**
17276 **proposed § 23.1-101. The provision in the second paragraph of existing § 23-253.7, relating**
17277 **to the annual report of the board, is reorganized as a distinct section. Technical changes**
17278 **are made.**

17279 Article ~~4~~ 7.

17280 Virginia Commission for the Arts and Virginia Arts Foundation.

17281 **Drafting note: Existing Article 4 (§ 2.2-2508 et seq.) of Chapter 25 and existing**
17282 **Article 1 (§ 2.2-2700 et seq.) of Chapter 27 of Title 2.2 are logically combined and**
17283 **relocated as proposed Article 7 of Chapter 32.**

17284 ~~§ 2.2-2508~~ 23.1-3222. Virginia Commission for the Arts established; ~~official agency to~~
17285 ~~receive and disburse funds from National Foundation on the Arts~~ purpose; ~~membership; terms;~~
17286 ~~compensation.~~

17287 A. The Virginia Commission for the Arts (the "Commission") is established as ~~an~~
17288 advisory a supervisory commission within the meaning of § 2.2-2100; in the executive branch of
17289 state government.

17290 B. The Commission is designated the official agency of the Commonwealth to receive
17291 and disburse any funds made available to the Commonwealth by the National ~~Foundation on~~
17292 Endowment for the Arts.

17293 C. The Commission shall consist of ~~thirteen~~ 13 members appointed by the Governor
17294 subject to confirmation by the General Assembly. No employee of the Commonwealth or
17295 member of the General Assembly ~~shall be~~ is eligible for appointment as a member of the
17296 Commission. At least one ~~member~~, but no more than two members, shall be appointed from
17297 each ~~Congressional~~ congressional district in the Commonwealth.

17298 D. ~~Except for initial appointments, each member~~ Members shall ~~serve a five-year term;~~
17299 ~~provided that no member of the Commission who serves a full five-year term shall be eligible~~
17300 ~~for appointment during the five-year period following the expiration of his term~~ be appointed
17301 for one term of five years; however, a member appointed to serve an unexpired term is eligible
17302 to serve a full five-year term immediately succeeding the unexpired term. Appointments to fill
17303 vacancies, other than by expiration of a term, shall be for the unexpired terms. ~~All vacancies~~
17304 Vacancies shall be filled ~~for the balance of the unexpired term~~ in the same manner as the
17305 original appointments. No member who serves a full five-year term is eligible for reappointment
17306 during the five-year period following the expiration of his term.

17307 E. The Commission shall ~~designate one of its members as~~ elect a chairman from among
17308 its membership.

17309 F. A majority of the members of the Commission shall constitute a quorum.

17310 F.-G. The members of the Commission shall ~~not~~ receive ~~any~~ no compensation for their
17311 services, but shall be reimbursed for the reasonable and necessary expenses incurred in the
17312 discharge performance of their duties as provided in § 2.2-2825.

17313 **Drafting note: "Advisory" is changed to "supervisory" in subsection A in light of**
17314 **the definition of such terms in § 2.2-2100 and the functions of the Commission. Technical**
17315 **changes are made.**

17316 § ~~2.2-2509~~ 23.1-3223. Duties of the Commission.

- 17317 | A. The Commission shall ~~perform among others the following duties:~~
- 17318 | 1. Stimulate and encourage throughout the Commonwealth growth in artistic quality and
- 17319 | excellence, public interest and participation in the arts, and access to high quality and affordable
- 17320 | art for all Virginians;
- 17321 | 2. Make recommendations concerning appropriate methods to encourage economic
- 17322 | viability, an intellectually stimulating environment for artists, and participation in and
- 17323 | appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the
- 17324 | Commonwealth;
- 17325 | 3. Promote the development and implementation of a planned, sequential, and
- 17326 | comprehensive program of arts education, taught by licensed teachers endorsed in arts
- 17327 | education, in the public elementary and secondary schools of the Commonwealth;
- 17328 | 4. Provide supplemental learning opportunities to the public school arts education
- 17329 | curriculum;
- 17330 | 5. Encourage the development of a network of professional arts organizations, the media,
- 17331 | and arts promoters, ~~including, but not limited to, the literary, visual, and performing arts~~ for the
- 17332 | production of classical and new works of art, and diversity in artistic expressions in media
- 17333 | including the literary, visual, and performing arts;
- 17334 | 6. Provide funding for and technical assistance to artists, recognized nonprofit arts
- 17335 | organizations, and arts organizations and activities ~~which that~~ celebrate and preserve the various
- 17336 | cultures represented among the citizens of the Commonwealth;
- 17337 | 7. Encourage and support the creation of new works of art, arts organizations whose
- 17338 | primary objective is to increase public access to the arts, particularly in underserved areas, and
- 17339 | performing arts tours to increase the availability of this form of artistic expression throughout
- 17340 | the Commonwealth;
- 17341 | 8. Establish a program of financial assistance to provide scholarships, grants, and other
- 17342 | awards to artists who demonstrate exceptional ability and talent;

17343 9. Establish an advisory panel composed of artists, art administrators, and citizens to
17344 advise the Commission concerning fiscal matters;

17345 10. Encourage arts organizations to dedicate to ~~endowment~~ their endowments at least
17346 one dollar of the price of each adult admission to performances or exhibitions or at least one
17347 percent of moneys collected in fund campaigns;

17348 11. Encourage arts organizations to develop and implement endowment enlargement
17349 plans ~~which~~ that yield enough income to underwrite one-third of the organizations' annual
17350 operating costs;

17351 12. Apply to and enter into contracts and agreements with the United States or any
17352 appropriate agency or officer of the United States for participation in or receipt of aid from any
17353 federal program respecting the arts, ~~and, in respect thereto, enter into contracts and agreements~~
17354 ~~with the United States or any appropriate agency thereof~~;

17355 13. Provide incentives to local ~~governments~~ governing bodies to encourage public
17356 support and funding of the arts;

17357 14. Accept gifts, contributions, and bequests of money or any other thing to be used for
17358 carrying out the purposes of this article;

17359 15. Develop specific procedures for the administration and implementation of a program,
17360 so long as any such program is for the benefit of a nonprofit organization, ~~qualifying as a § 501~~
17361 ~~(e)-(3)~~ 501(c)(3) organization under the Internal Revenue Code, whereby interest earned on
17362 endowment funds donated to stimulate and encourage public interest and enjoyment of music
17363 and the performing arts may be matched by state funds appropriated for this program, and
17364 prepare written guidelines to govern such program; and

17365 16. Administer any funds available to the Commission and disburse such funds in
17366 accordance with the purposes of this article. In allocating funds to be disbursed to arts
17367 organizations, the Commission shall give preferential consideration to arts organizations
17368 actively implementing an endowment enlargement plan, either individually or as members of a
17369 regional consortium of arts organizations.

17370 B. Nothing in this article shall be construed to affect the statutory purposes of the
17371 Virginia Museum of Fine Arts.

17372 **Drafting note: Technical changes.**

17373 § ~~2.2-2510~~ 23.1-3224. ~~Agency supervision; employment of personnel; budget~~
17374 ~~preparation~~ Director of the Commission.

17375 The Governor may appoint a ~~Director~~ director of the Commission, who shall serve at ~~his~~
17376 the pleasure of the Governor. The ~~Director~~ director may employ the personnel required to assist
17377 the Commission in the exercise and performance of its powers and duties. The ~~Director~~ director
17378 shall supervise and manage such personnel and shall prepare, approve, and submit all requests
17379 for appropriations, and be responsible for all expenditures pursuant to appropriations.

17380 **Drafting note: Technical changes.**

17381 Article 1.

17382 Virginia Arts Foundation.

17383 **Drafting note: Existing Article 1 (§ 2.2-2700 et seq.) of Chapter 27 of Title 2.2 is**
17384 **combined with existing Article 4 (§ 2.2-2508 et seq.) of Chapter 25 of Title 2.2 as proposed**
17385 **Article 7 of Chapter 32.**

17386 § ~~2.2-2700~~ 23.1-3225. Virginia Arts Foundation established; board of trustees;
17387 compensation; staff.

17388 A. The Virginia Arts Foundation (the "Foundation"); is established to serve as ~~an~~
17389 advisory a supervisory foundation; within the meaning of § 2.2-2100, in the executive branch of
17390 state government and ~~shall be deemed is~~ a body politic and corporate to be organized and to
17391 have such powers ~~and duties~~ as provided in ~~this article~~ § 23.1-3226.

17392 B. The Foundation shall be governed by a board of trustees (the board), consisting of the
17393 members of the Virginia Commission for the Arts.

17394 C. Any person designated by the board ~~of trustees~~ to handle the funds of the Foundation
17395 shall give bond, with corporate surety, in a penalty fixed by the Governor, conditioned upon the

17396 faithful discharge of his duties. Any premium on the bond shall be paid from funds available to
17397 the Foundation.

17398 D. The board ~~of trustees~~, acting as members of the Virginia Commission for the Arts,
17399 ~~shall be~~ are entitled to reimbursement for all actual and necessary expenses, as provided by §
17400 ~~2.2-2509~~ 23.1-3222.

17401 E. The ~~Director~~ director of the ~~Virginia~~ Commission ~~for the Arts~~ shall serve as the
17402 chairman, and the staff of such Commission shall serve as staff for the Foundation.

17403 **Drafting note: "Advisory" is changed to "supervisory" in subsection A in light of**
17404 **the definition of such terms in § 2.2-2100 and the functions of the Commission. Technical**
17405 **changes are made.**

17406 § ~~2.2-2704~~ 23.1-3226. Powers of the Foundation.

17407 The Foundation may:

17408 1. Make expenditures from the Fund's interest and income to assist (i) the Virginia
17409 Commission for the Arts in promoting the arts in the Commonwealth in accordance with § ~~2.2-~~
17410 ~~2704~~ 23.1-3228 and ~~to assist not for profit~~ (ii) nonprofit arts and cultural institutions and
17411 organizations ~~within~~ in the Commonwealth to assess, enhance, and plan for enhancement of
17412 their fiscal stability, financial management and control capabilities, and capacity to raise funds
17413 for the furtherance of their respective missions from nongovernmental sources;

17414 2. Accept, hold, and administer gifts and bequests of money, securities, or other
17415 property, absolutely or in trust, for the purposes for which of the Foundation ~~is created~~;

17416 3. Enter into contracts and execute all instruments necessary and appropriate to carry out
17417 the Foundation's purposes;

17418 4. Explore and make recommendations concerning other possible dedicated revenue
17419 sources for the Fund; and

17420 5. Perform any lawful acts necessary or appropriate to carry out the purposes of the
17421 Foundation.

17422 **Drafting note: Technical changes.**

17423 § ~~2.2-2702~~ 23.1-3227. Virginia Arts Foundation Fund.

17424 A. There is hereby created in the state treasury a special nonreverting fund to be known
17425 as the Virginia Arts Foundation Fund, ~~a special nonreverting trust fund, referred to in this article~~
17426 as "the Fund." The Fund shall be established on the books of the Comptroller, ~~to be~~
17427 administered by the Foundation.

17428 B. The Fund shall include such funds as may be appropriated by the General Assembly;
17429 revenues transferred to the Fund from the special license plates for Virginians for the Arts
17430 program pursuant to § 46.2-749.2:2; voluntary contributions collected through the income tax
17431 checkoff for the arts pursuant to subdivision B 8 of § 58.1-344.3; and designated gifts,
17432 contributions, and bequests of money, securities, or ~~other~~ property of ~~whatsoever~~ any other
17433 character.

17434 C. All money, securities, or other property designated for the Fund ~~and any interest or~~
17435 income therefrom shall be paid into the state treasury and credited to the Fund. Interest earned
17436 on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in
17437 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general
17438 fund but shall remain in the Fund ~~and shall not revert to the general fund. Expenditures and~~
17439 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
17440 Comptroller upon written request signed by persons authorized by the Foundation. The Fund's
17441 principal ~~shall is~~ not be subject to expenditure by the Foundation.

17442 **Drafting note: Technical changes.**

17443 ~~§ 2.2-2703. Expired.~~

17444 **Drafting note: This section was derived from former § 9-84.09:4, as amended by**
17445 **Acts 1997, c. 878, and amended by Acts 2000, c. 27, and expired by its own terms on June**
17446 **30, 2001.**

17447 § ~~2.2-2704~~ 23.1-3228. Gifts and bequests; exemption from taxation.

17448 Gifts and bequests of money, securities, or other property to the Fund, and the interest or
17449 income ~~therefrom from such gifts and bequests, shall be deemed~~ are gifts to the Commonwealth,

17450 and the Fund ~~shall be~~ is exempt from all state and local taxes. Unless otherwise restricted by the
 17451 terms of the gift or bequest, the Foundation may sell, exchange, or otherwise dispose of such
 17452 gifts and bequests. The proceeds from such transactions shall be deposited to the credit of the
 17453 Fund. The Foundation shall not actively solicit private donations for the Fund; however, this
 17454 limitation shall not prevent the Foundation from actively encouraging financial support for the
 17455 Foundation through the special license plate and income tax checkoff programs.
 17456 Notwithstanding any other provision of this section, the Foundation may accept and solicit
 17457 public and private contributions for the limited purpose of assisting ~~Virginia not for profit~~
 17458 nonprofit arts and cultural institutions and organizations; in the Commonwealth to enhance the
 17459 fiscal stability, financial management, and fundraising abilities of such organizations.

17460 **Drafting note: Technical changes.**

17461 TITLE 32.1. HEALTH.

17462 CHAPTER ~~22~~ 5.3.

17463 COMMONWEALTH HEALTH RESEARCH BOARD AND FUND; CHRISTOPHER REEVE
 17464 STEM CELL RESEARCH FUND.

17465 **Drafting note: Existing Chapters 22 (§ 23-277 et seq.) and 22.1 (§ 23-286.1) are**
 17466 **logically reorganized as proposed Chapter 5.3 of Title 32.1 (Health). Obsolete provisions**
 17467 **are stricken and technical changes are made.**

17468 ~~§ 23-277. Definitions.~~

17469 ~~As used in this chapter, unless the context clearly indicates otherwise:~~

17470 ~~"Board" means the Commonwealth Health Research Board.~~

17471 ~~"Council" means the State Council of Higher Education for Virginia.~~

17472 ~~"Fund" means the Commonwealth Health Research Fund.~~

17473 **Drafting note: The definitions of "Board" and "Fund" are incorporated in**
 17474 **proposed § 32.1-162.23 of Chapter 5.3 of Title 32.1. The definition of "Council" is stricken**
 17475 **as obsolete ("Council" is defined for existing Chapter 22 but not used in the chapter).**

17476 ~~§ 23-278~~ 32.1-162.23. Commonwealth Health Research Board ~~created~~ established.

17477 A. ~~There is hereby created, as an independent body, the~~ The Commonwealth Health
17478 Research Board (the Board) is established as an independent body. The purpose of the Board
17479 ~~shall be is~~ to provide financial support; from the Commonwealth Health Research Fund (the
17480 Fund), in the form of grants, donations, or other assistance, for research efforts that have the
17481 potential of maximizing human health benefits for the citizens of the Commonwealth. Research
17482 efforts eligible for support by the Board shall include traditional medical and biomedical
17483 research ~~relating to the causes and cures of diseases as well as research~~ related to health services
17484 ~~and,~~ the delivery of health care, and the causes and cures of diseases.

17485 B. The Board shall be composed of seven members. ~~The, of whom three shall be~~
17486 appointed by the Governor ~~shall appoint three members of the Board who shall be confirmed by~~
17487 ~~the affirmative vote of a majority of those voting in each house of the General Assembly. The~~
17488 and four shall be appointed by the Joint Rules Committee ~~shall appoint the other four members~~
17489 ~~of the Board who shall be confirmed by the affirmative vote of a majority of those voting in~~
17490 ~~each house of.~~ All appointments to the Board are subject to confirmation by the General
17491 Assembly. ~~The initial members shall be appointed for terms of office as follows: one of the~~
17492 ~~members appointed by the Governor shall be appointed for a term of one year; one of the~~
17493 ~~members appointed by the Joint Rules Committee shall be appointed for a term of two years;~~
17494 ~~one of the members appointed by the Governor and one of the members appointed by the Joint~~
17495 ~~Rules Committee shall be appointed for terms of three years; one of the members appointed by~~
17496 ~~the Joint Rules Committee shall be appointed for a term of four years; and one of the members~~
17497 ~~appointed by the Governor and one of the members appointed by the Joint Rules Committee~~
17498 ~~shall be appointed for terms of five years.~~ Appointments ~~thereafter~~ shall be for terms of five
17499 years. Appointments to fill vacancies, other than by expiration of a term, shall be for the
17500 unexpired terms. Vacancies ~~in the membership of the Board~~ shall be filled ~~by appointment of~~
17501 ~~the entity initially making the appointment for the unexpired portion of the term in the same~~
17502 manner as the original appointments.

17503 No member shall ~~be eligible to~~ serve ~~for~~ more than two ~~successive~~ consecutive five-year
17504 terms; however, ~~after the expiration of a term of four years or less or after the expiration of the~~
17505 ~~remainder of a term to which he was appointed to fill a vacancy, two additional terms may be~~
17506 ~~served by such member if appointed thereto. Immediately after such appointment, the members~~
17507 ~~shall enter upon the performance of their duties~~ a member appointed to serve an unexpired term
17508 is eligible to serve two additional consecutive five-year terms immediately succeeding such
17509 unexpired term.

17510 C. ~~The members~~ Members of the Board shall have substantial experience or expertise,
17511 personal or professional, in at least one of the following areas: medicine, medical or scientific
17512 research, public policy, government, business, or education. No member shall be an incumbent
17513 elected official, state official ~~or,~~ state employee, or member of the governing board of a state
17514 agency or institution. Members of the Board need not be residents of the Commonwealth.

17515 D. The ~~members~~ Board shall elect annually a chairman and vice-chairman from among
17516 its ~~members~~ membership. The chairman, or in his absence, the vice-chairman, shall preside at
17517 all meetings of the Board.

17518 E. A majority of the members of the Board serving at any one time shall constitute a
17519 quorum for the transaction of business.

17520 F. The Board shall meet annually or more frequently at the call of the chairman.

17521 E. ~~Notwithstanding the provisions of § 2.2-2813, members of the Board shall receive~~
17522 ~~compensation for their services at the rate provided in Item 1 of Chapter 924 of the 1997 Acts of~~
17523 ~~Assembly used to compensate General Assembly members for the time actually spent in the~~
17524 ~~discharge of their duties and shall receive reimbursement for actual expenses incurred in the~~
17525 ~~performance of their duties on behalf of the Board.~~

17526 G. The members of the Board shall receive no compensation for their services but shall
17527 be reimbursed for the reasonable and necessary expenses incurred in the performance of their
17528 duties as provided in § 2.2-2825. Such ~~compensation and~~ expenses shall be paid from the Fund.

17529 **Drafting note: The first sentence of subsection E of existing § 23-278 is stricken as**
17530 **obsolete. Currently, members of the Board do not receive such compensation for their**
17531 **services but are reimbursed for reasonable and necessary expenses. Technical changes are**
17532 **made, including removing language concerning the initial staggering of terms.**

17533 § ~~23-279~~ 32.1-162.24. Duties of the Board.

17534 The Board shall ~~perform the following duties~~:

17535 1. Establish specific criteria and procedures governing its decisions to support research
17536 efforts consistent with its purposes, including, ~~but not limited to~~, (i) encouraging collaborative
17537 research efforts among two or more institutions or organizations, (ii) giving priority to those
17538 research efforts ~~where from which~~ Board support can be leveraged to foster contributions from
17539 federal agencies or other entities, and (iii) supporting both new research efforts and the
17540 expansion or continuation of existing research efforts;

17541 2. Establish requirements for the submission of research proposals, including, ~~but not~~
17542 ~~limited to~~, (i) a clear statement of the problem or opportunity to be addressed; (ii) the specific
17543 objectives; (iii) a description of how the results will maximize human health benefits for the
17544 citizens of the Commonwealth; (iv) a budget for the research effort, including other anticipated
17545 sources of financial assistance; and (v) the time frame for ~~the conduct of~~ conducting the
17546 research;

17547 3. Evaluate the proposals in accordance with the criteria established by the Board and the
17548 provisions of this chapter; and

17549 4. Evaluate the implementation and results of all research efforts receiving support from
17550 the Board.

17551 **Drafting note: The phrase "but not limited to" is removed when using the term**
17552 **"including" based on § 1-218, which states "'Includes' means includes, but not limited to."**
17553 **Technical changes are made.**

17554 § ~~23-281~~ 32.1-162.25. Powers of the Board.

17555 In order to carry out its ~~purpose~~ purposes, the Board ~~shall have the power to~~ may:

17556 1. Make grants ~~or other expenditures or~~ and disbursements from the Fund ~~to provide that~~
17557 support ~~for~~ research efforts approved by the Board in accordance with the purposes of this
17558 chapter; ~~however, the~~ and pay expenditures from the Fund that are necessary to carry out the
17559 purposes of this chapter. The Board ~~shall is~~ not ~~be~~ obligated to make annual or other periodic
17560 disbursements or expenditures;

17561 2. Contract for the services of consultants to review research proposals and ~~to~~ assist in
17562 the evaluation of the research efforts funded by the Board;

17563 3. Contract for other professional services to assist the Board in the performance of its
17564 duties and responsibilities;

17565 4. Accept, hold, administer, and solicit gifts, grants, bequests, contributions, or other
17566 assistance from federal agencies, the Commonwealth, or any other public or private source to
17567 carry out the purposes of this chapter;

17568 5. Enter into any agreement or contract relating to the acceptance or use of any grant,
17569 assistance, or support provided by or to the Board, or otherwise in furtherance of the purposes of
17570 this chapter;

17571 6. Perform any lawful acts necessary or appropriate to carry out the purposes of the
17572 Board; and

17573 7. Employ such staff as is necessary to perform the Board's duties. The Board may
17574 determine the duties of such staff and fix the salaries and compensation of such staff, which
17575 shall be paid from the Fund. Such staff ~~shall be~~ are employees of the Department of Accounts
17576 and ~~shall be~~ are entitled to all benefits available to state employees as provided by law.

17577 **Drafting note: Technical changes.**

17578 § ~~23-280~~ 32.1-162.26. Conditions and restrictions on financial assistance.

17579 A. The Board shall provide financial support only ~~to~~ for research efforts that satisfy the
17580 following conditions:

17581 1. The research shall be conducted by ~~state~~ public institutions of higher education,
17582 agencies of the Commonwealth, or nonprofit organizations exempt from income taxation
17583 pursuant to § 501(c)(3) of the Internal Revenue Code and located in the Commonwealth;

17584 2. The institution, agency, or organization shall ~~provide a cash amount for the support~~
17585 ~~provided by the Board in such~~ match a percentage of the Board's support ~~as~~ in a cash amount
17586 required by the Board ~~deems appropriate~~;

17587 3. ~~Support~~ No support provided by the Board shall ~~not~~ be used by the recipient to
17588 finance capital improvements or renovations; for indirect costs incurred by the institution,
17589 agency, or organization in its administration of the financial support; or for any other purpose
17590 proscribed by the Board; and

17591 4. Recipients of support provided by the Board shall agree to provide the Board with
17592 such information regarding the implementation of the research effort, and ~~to~~ allow such
17593 monitoring and review of the research effort, as may be required by the Board to ensure
17594 compliance with the terms by under which the support is provided.

17595 B. Any support provided by the Board shall be used by the recipient only for personal
17596 services, contractual services, material, supplies, and equipment directly related to the approved
17597 research effort.

17598 **Drafting note: Technical changes.**

17599 § 23-282.

17600 **Drafting note: Repealed by Acts 2002, cc. 591 and 612.**

17601 § 23-283 32.1-162.27. Cooperation with other agencies.

17602 All agencies of the Commonwealth shall cooperate with the Board and, upon request,
17603 assist the Board in the performance of its duties and responsibilities.

17604 **Drafting note: No change.**

17605 § 23-284 32.1-162.28. Commonwealth Health Research Fund established;
17606 administration.

17607 A. There is hereby created in the ~~State Treasury~~ state treasury a special, nonreverting
17608 revolving fund to be known as the Commonwealth Health Research Fund (the Fund). The Fund
17609 shall be established on the books of the State Comptroller.

17610 B. The Fund shall consist of all stock and cash distributed to the Commonwealth as a
17611 policyholder pursuant to the conversion of Blue Cross and Blue Shield of Virginia, doing
17612 business as Trigon Blue Cross Blue Shield, from a mutual insurance company to a Virginia
17613 stock corporation known as Trigon Healthcare, Inc., exclusive of cash paid by Blue Cross and
17614 Blue Shield of Virginia or its successor to the Commonwealth in connection with such
17615 conversion, which was assumed as general fund revenue in Chapter 912 of the 1996 Acts of
17616 Assembly. The Fund shall also consist of any moneys appropriated from the general fund,
17617 grants and donations received by the Board, and other moneys received by the State Treasurer
17618 and designated for deposit in the Fund. Interest and other income earned on moneys in the Fund
17619 shall remain in the Fund and be credited to ~~the Fund~~ it. Any moneys remaining in the Fund,
17620 including interest and other income thereon, at the end of each fiscal year shall not revert to the
17621 general fund but shall remain in the Fund.

17622 C. Notwithstanding any other provision of law, the moneys and other property
17623 comprising constituting the Fund shall be invested, reinvested, and managed by the Board of the
17624 Virginia Retirement System as provided in § 51.1-124.36. The State Treasurer ~~shall is~~ not ~~be~~
17625 held liable for losses suffered by the Virginia Retirement System on investments made under the
17626 authority of this section.

17627 D. ~~The Moneys in the~~ Fund shall be expended solely for the purpose of supporting
17628 research efforts approved by the Board and any other purpose permitted by this chapter.

17629 E. An amount not to exceed six percent of the moving average of the market value of the
17630 Fund calculated over the previous five years or since inception, whichever is shorter, on a one-
17631 year delayed basis, net of any administrative fee assessed pursuant to subsection E of § 51.1-
17632 124.36, may be expended in a calendar year for any purpose permitted by this chapter. The
17633 Board ~~shall is~~ not ~~be~~ required to expend such amount in a calendar year, and any amount up to

17634 such six percent that is not expended in a calendar year may be expended in any other calendar
17635 year.

17636 F. ~~The disbursement of moneys~~ Expenditures and disbursements from the Fund shall be
17637 made by the State Treasurer on warrants issued by the ~~State~~ Comptroller ~~at the~~ upon written
17638 request ~~of signed by~~ the chairman of the Board.

17639 **Drafting note: Technical changes are made, including updating special fund**
17640 **language to reflect current standard language for such funds.**

17641 § ~~23-285 32.1-162.29. Forms~~ Form and audit of accounts and records; ~~audit of same.~~

17642 A. The accounts and records of the Board showing the receipt and disbursement of funds
17643 from whatever source derived shall be in such form as the Auditor of Public Accounts
17644 prescribes.

17645 B. The accounts and records of the Board ~~shall be~~ are subject to an annual audit by the
17646 Auditor of Public Accounts or his legal representative.

17647 **Drafting note: Technical changes.**

17648 § ~~23-286 32.1-162.30. Reports to the Governor and General Assembly~~ Annual report.

17649 The Board shall submit ~~a report annually~~ to the Governor and the General Assembly an
17650 annual executive summary of the interim activity and work of the Board no later than the first
17651 day of each regular session of the General Assembly. The executive summary shall be submitted
17652 as a report document as provided in the procedures of the Division of Legislative Automated
17653 Systems for the processing of legislative documents and reports and shall be posted on the
17654 General Assembly's website. The ~~report~~ executive summary shall include information regarding
17655 research efforts supported by the Board and expenditures from the Fund.

17656 **Drafting note: The current standard language for submitting reports to the**
17657 **Governor and the General Assembly is incorporated into the existing reporting language.**

17658 CHAPTER 22.1.

17659 CHRISTOPHER REEVE STEM CELL RESEARCH FUND.

17660 **Drafting note: The contents of existing Chapter 22.1 (§ 23-286.1) are logically**
17661 **incorporated into proposed Chapter 5.3 of Title 32.1 (Health) since the Christopher Reeve**
17662 **Stem Cell Research Fund is created to be administered and implemented by the**
17663 **Commonwealth Health Research Board.**

17664 § ~~23-286.1~~ 32.1-162.31. Christopher Reeve Stem Cell Research Fund.

17665 A. From such funds as may be appropriated by the General Assembly and any gifts,
17666 grants, or donations from public or private sources, there is hereby created in the state treasury a
17667 special, nonreverting, revolving, and permanent fund, to be known as the Christopher Reeve
17668 Stem Cell Research Fund ~~(the Fund)~~. The Christopher Reeve Stem Cell Research Fund shall be
17669 established ~~in on~~ the books of the ~~State~~ Comptroller and shall be administered and implemented
17670 by the ~~Commonwealth Health Research~~ Board, ~~the independent body created in Chapter 22 (§~~
17671 23-277 et seq.) in accordance with the provisions of this section. Interest earned on moneys in
17672 the Christopher Reeve Stem Cell Research Fund shall remain in the Christopher Reeve Stem
17673 Cell Research Fund and be credited to it. Any moneys remaining in the Christopher Reeve Stem
17674 Cell Research Fund, including interest thereon, at the end of each fiscal year, ~~including interest~~
17675 ~~thereon~~, shall not revert to the general fund but shall remain in the Christopher Reeve Stem Cell
17676 Research Fund. Expenditures and disbursements from the Christopher Reeve Stem Cell
17677 Research Fund, which may consist of grants, donations, or other assistance, shall be made by the
17678 State Treasurer on warrants issued by the Comptroller upon written request ~~bearing the~~
17679 signature of signed by the chairman or ~~the~~ vice-chairman of the ~~Commonwealth Health~~
17680 Research Board.

17681 B. Moneys in the Christopher Reeve Stem Cell Research Fund shall be used solely to
17682 support medical and biomedical stem cell research conducted in ~~Virginia~~ institutions of higher
17683 education in the Commonwealth that relates to the causes and cures of disease, including, ~~but~~
17684 ~~not limited to~~, paralysis caused by spinal cord injury, diabetes, cancer, heart disease, and
17685 neurological disorders, such as amyotrophic lateral sclerosis (Lou Gehrig's disease) and multiple
17686 sclerosis.

17687 C. The grants, donations, or other assistance provided ~~hereunder pursuant to this section~~
17688 shall be awarded in accordance with the ~~Commonwealth Health Research~~ Board's specific
17689 criteria and procedures, requirements for submission of research proposals, and evaluation
17690 mechanisms established pursuant to ~~Chapter 22 (§ 23-277 et seq.) this chapter~~. However, no
17691 requirement for matching funds shall apply to the grants, donations, or other assistance awarded
17692 pursuant to the Christopher Reeve Stem Cell Research Fund, and the leveraging of funds ~~shall~~
17693 ~~be is~~ incidental to the support provided under this section. The grants, donations, or other
17694 assistance provided hereunder may be awarded to support stem cell research that is not eligible
17695 for federal research funds through the National Institutes of Health. No moneys from the
17696 Christopher Reeve Stem Cell Research Fund may be provided to any entity that conducts human
17697 stem cell research from stem cells obtained from human embryos, or for conducting such
17698 research; however, research conducted using stem cells other than embryonic stem cells may be
17699 funded.

17700 **Drafting note: Technical changes are made, including (i) incorporating language**
17701 **from existing § 23-286.2 that clarifies the role of the Commonwealth Health Research**
17702 **Board in administering the Christopher Reeve Stem Cell Research Fund and (ii) updating**
17703 **special fund language to reflect current standard language for such funds.**

17704 ~~§ 23-286.2. Duties of the Commonwealth Health Research Board vis-a-vis the Fund.~~
17705 ~~In addition to the duties conferred on the Commonwealth Health Research Board~~
17706 ~~pursuant to Chapter 22 (§ 23-277 et seq.), the Board shall administer and implement the~~
17707 ~~Christopher Reeve Stem Cell Research Fund in accordance with the provisions of this chapter~~
17708 ~~and, except where otherwise required, the provisions of its originating chapter.~~

17709 **Drafting note: The provisions of existing § 23-286.2 are incorporated into proposed**
17710 **§ 32.1-162.31 to remove redundancy.**

17711 #

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) of the Code of Virginia). 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 Code of Virginia 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 of the Code of Virginia).
 - 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 the Administrative Process Act.
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" -- based on similar provisions in 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.

1 **Final Regulation**

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

4 Part I

5 General Provisions

6 **§ 1.1. Purpose.**

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

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

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

21 **§ 1.2. Definitions.**

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

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

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

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

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

35 ["Adopt textual matter by reference" means to include text from a document or publication in
36 the regulation as a requirement or provision of the regulation.]

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, except that the
145 requirements do not apply to materials adopted by reference to the Code of Federal Regulations or The
146 Federal Register, or by reference to regulations of other Virginia agencies:

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

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

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

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

156 **§ 1.5. Place of filings; consultations; inquiries. Method of filing.**

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

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

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

171 **§ 1.6. Internet address; contact information; consequential changes.**

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

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

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

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

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

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

190 **§ 1.7 Waiver by registrar.**

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

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

195 **§ 1.8 Agency regulatory coordinator.**

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

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

200 PART II.

201 REGULATIONS REQUIRED TO BE FILED.

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

203 **§ 2.1 Registration of Filing regulations.**

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

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

210 B. The agency shall file the full text of a regulation with the registrar, except text that is
211 incorporated by reference pursuant to § [~~2.2-4034~~ 2.2-4103] of the Code of Virginia shall be filed
212 in accordance with Part III of this chapter.

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

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

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

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

223 24VAC30-390-10. Virginia Scenic Highways and Byways (Filed by Description with the
224 Registrar of Regulations).

225 Description: The regulations governing Virginia's scenic highways and byways establish the
226 policies and procedures which the Commonwealth Transportation Board, the department, local
227 governing bodies, and the Department of Conservation and Recreation will follow in adding or
228 deleting a route from the lists of scenic highways or Virginia byways. The policy includes a list
229 of criteria which proposed road segments must meet before they can be considered for addition.
230 These include aesthetic, cultural and safety factors.
231
232
233
234

235
236 Document available for inspection at the following location:
237 Virginia Department of Transportation
238 Management Services Division
239 1401 East Broad Street, 7th Floor
240 Richmond, VA 23219
241

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

246 **~~§ 2.2. Registration by filing in full.~~**

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

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

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

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

258 **~~§ 2.3. Registration by filing description.~~**

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

- 261 ~~1. Regulations which are expressly addressed to named individuals or organizations;~~
262 ~~2. Regulations which are concerned only with any of the following:~~
- 263 ~~a. Public officers and employees;~~
 - 264 ~~b. Elections;~~
 - 265 ~~c. Students;~~
 - 266 ~~d. Persons in state mental, penal and other institutions;~~

- 267 e. ~~State property or funds;~~
268 f. ~~Public contracts;~~
269 g. ~~Defense functions;~~
270 h. ~~Police operations of an enforcement, prosecutorial or investigatory character; or~~
271 i. ~~Money grants, benefits, loans, or subsistence or welfare payments;~~
272 3. ~~The size of the document's pages differs significantly from the standard page size of the Virginia~~
273 ~~Register of Regulations or the Virginia Administrative Code;~~
274 4. ~~The material is not available in document form; for example, if the material is only available in~~
275 ~~electronic form or on computer tape or discs; or~~
276 5. ~~Regulations which are both of a temporary nature and operative only in limited localities.~~

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

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

279 ~~In every instance in which the Registrar authorizes an agency to file a regulatory document by~~
280 ~~description, a current document shall be maintained and, upon request, be made available to the public by~~
281 ~~the agency. This current document shall be deemed to be filed in its entirety with the Registrar and shall,~~
282 ~~at any time during business hours, be made available to the Registrar upon request.~~

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

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

287 **~~§ 2.4. Supplemental information required to be supplied.~~**

288 ~~The Commission, through the Registrar, from time to time, may make general or special calls for~~
289 ~~additional information. The Act requires prompt response to all such requests. Unless specifically~~
290 ~~requested, no particular form is required for statements furnishing such supplemental information except~~
291 ~~that they must be signed, and filed in duplicate if the agency desires one copy stamped and returned as a~~
292 ~~receipt. The following additional information is regularly and generally hereby required to be on file~~

293 ~~respecting all regulations subject to the Act, whether the regulations are required to be registered by filing~~
294 ~~in full or by filing by description:~~

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

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

308 ~~3. Existing official publication of regulations. When an agency's regulations are regularly published~~
309 ~~in official publications (e.g., annual reports, etc.), or if the agency regularly makes newspaper~~
310 ~~publication of regulations, the agency shall coordinate with the Registrar, the publication, of~~
311 ~~published regulations as they appeared in The Virginia Register of Regulations. If, due to the~~
312 ~~length of the regulation, only a summary of the regulation was published in the Register, the~~
313 ~~agency shall advise the Registrar of its need to proceed with publication in other sources, in order~~
314 ~~that the Registrar can process the document in a timely manner.~~

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

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

321 **~~§ 2.5. Data required to be included in filed regulations.~~**

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

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

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

330 **§ 2.6 Final agency action date; effective date; statutory authority.**

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

334 B. When Virginia law allows a regulation to be effective upon the filing of the regulation with
335 the registrar, the agency should select an effective date at least three business days after filing.
336 [This subsection does not apply to emergency regulations adopted pursuant to § 2.2-4011 of the
337 Code of Virginia.]

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

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

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

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

349 3. When a regulation is required to conform with federal law or regulation, the agency
350 shall provide a citation to the specific federal law or regulation to which conformity is
351 required.

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

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

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

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

361 **§ 2.7. Supplemental information; exemption to APA.**

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

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

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

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

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

377 **§ 2.8 Withdrawal of a final regulation; publication.**

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

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

382 2. Agency contact information;

383 3. The publication information; and

384 4. The date of agency action.

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

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

389 **§ 2.9 Omissions and errors.**

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

393 B. The notification shall be filed with the registrar within [~~three~~ seven] business days of the
394 date that the agency becomes aware of the omission or error.

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

397 PART III

398 [~~Adoption of Textual Matter by~~] Incorporation by Reference.

399 **§ 3.1. Filing requirements for material adopted by reference.**

400 ~~A. Where regulations, which are filed in full, adopt textual matter by reference to other publications~~
401 ~~as defined in § 1.2, such incorporated publications, in their entirety, shall also be filed with the~~
402 ~~Registrar. Whether the referenced material is required to be filed in full or by descriptive statement,~~

403 the agency shall make copies of all referenced publications available for public inspection and copying
404 along with its other regulations.

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

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

410 ~~1. Reference to the specific regulation adopting the outside material;~~

411 ~~2. The filing date and effective date of the regulation; and~~

412 ~~3. A notation containing the name of the agency.~~

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

416 **~~§ 3.2. Statement of availability.~~**

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

419 ***Drafting note: This section is unnecessary.***

420 **§ 3.1:1 Incorporation by reference permitted.**

421 A. A regulation may [~~incorporate~~ adopt] textual matter by reference to all or any part of a
422 publication or document. For the purposes of this part, a publication and a document are
423 interchangeable. The material in the document [~~is incorporated by reference into~~ becomes] the
424 text of the regulation and [~~becomes~~] an enforceable part of the regulation.

425 B. The agency must comply with the provisions of §§ 3.1:2 and 3.1:3 of this chapter when
426 incorporating a document by reference [~~except as provided in § 3.3 of this chapter.~~

427 C. Effective [insert effective date of this regulation], an agency may not [~~incorporate~~ adopt]
428 prospective changes to an incorporated document by referring to a future edition or revision of the
429 document or by using "as updated," "as [~~may be~~] amended," "future editions," or similar

430 language. [If an agency wishes to adopt changes to an incorporated document, it must do so
431 through a regulatory action. When a document that an agency has incorporated by reference
432 subsequently is modified by the publisher, the agency may adopt the modification but shall do so
433 through a separate regulatory action.] However, when an agency incorporates by reference
434 provisions of the Code of Virginia, the Acts of the General Assembly, or the Virginia
435 Administrative Code into a regulation, future amendments to the incorporated provisions are
436 included unless other intent is specifically stated in the regulation.

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

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

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

450 ***The third sentence of subsection C is modeled on § 1-220 of the Code of Virginia***
451 ***regarding incorporation of state law into local ordinances.***

452 **§ 3.1:2 Filing requirements.**

453 A. When an agency adopts textual matter in a regulation by reference to a document, the
454 agency shall file a copy of the referenced document with the regulation submission package. The
455 document shall be filed in its entirety, unless the registrar has approved a request for the
456 document to be filed by descriptive statement as provided in § 3.3 B. The agency shall also
457 provide information as to where copies of the incorporated publications may be procured.

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

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

463 **§ 3.1:3 Regulation text.**

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

468 ***Drafting note: This new section replaces § 3.1 B and reflects current practice. The***
469 ***publisher's website address, physical address, and contact information will be***
470 ***included on the Document Incorporated by Reference (DIBR) list at the end of the***
471 ***chapter.***

472 **§ 3.3. Exemptions to filing of documents ~~adopted~~ or incorporated by reference;**
473 **requirements.**

474 A. The requirements established in §§ ~~3.1~~ 3.1:2 and ~~3.2~~ 3.1:3 do not apply to incorporation of
475 textual matter by reference to material published in the Federal Register or the Code of Federal
476 Regulations, or by reference to regulations of other Virginia agencies. Where such references are
477 made, ~~however, the citation shall be~~ the regulatory text must contain a citation sufficient for
478 accurate identification of the referenced material.

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

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

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

488 2. Where the referenced material has not been published in the Code of Federal
489 Regulations but appears in the Federal Register, the agency must include in the

490 ~~regulatory text~~ the volume, page, and date of that publication shall be given and, if the
491 material is in codified form, the C.F.R. citation should be given. Example: ~~16 C.F.R.~~
492 ~~§ 19.1, 39 F.R. 23605 (Nov. 4, 1974).~~ the Federal Register. Example: 79 FR 264, January
493 2, 2014.

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

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

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

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

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

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

520 PART IV.

521 ADMINISTRATIVE LAW APPENDIX.

522 **~~§ 4.1. Contents of Appendix; supplementation.~~**

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

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

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

535 **~~§ 4.2. Omissions and errors.~~**

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

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

539 Part V

540 Forms

541 **§ 5.1. Filing requirements.**

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

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

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

551 **§ 5.2. Exemption from filing a form.**

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

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

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

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

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

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

563 **§ 5.3. Filing process for changes only to forms** **Modification of forms in the Virginia**
564 **Administrative Code.**

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

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

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

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

575 **§ 5.4. Publication.**

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

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

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

584 Part VI

585 Virginia Register of Regulations

586 **§ 6.1. Availability and official version.**

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

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

Comments from Agency Regulatory Coordinators

Section	Agency and Comment	Proposed Response
1.7	Department of Motor Vehicles (DMV): The regulation does not provide for a process to request and obtain a waiver, including who may make such a request.	The process for making a request will be addressed in the Style Manual. The Regulatory Coordinator, or his designee, would make the request in writing.
2.1 B	Department of Professional and Occupation Regulation (DPOR): Change § 2.2-4031 to § 2.2-4103.	The regulations have been updated to reflect the correct citation of § 2.2-4103.
2.7 B	DMV: Three business days to respond to a request from the Registrar appears excessively onerous given the provisions of § 2.2-4103 regarding withholding of payment of compensation or expenses for failure to respond promptly to the requests of the Registrar, or to comply with the regulations of the Commission. A timeline of five business days could be less onerous on agencies if agencies need to compile information at the request of the Registrar. Five business days would be consistent with the timelines for agencies to respond to FOIA requests.	The Registrar needs a prompt reply from the agency to meet contractual publication deadlines. The Registrar can extend the deadline.
3.1:1 C	DMV: The prohibition on incorporating prospective changes is excessively onerous on agencies. Pursuant to § 2.2-4103 where regulations adopt textual matter by reference to publications agencies must file with the Registrar copies of the referenced publications. The regulation should allow agencies to file with the Registrar the amended document for publication similar to the process used for amended forms in section 5.3. This will give the public ample notice of changes to the document that have been incorporated by reference without requiring the lengthy regulatory process.	An agency must comply with the provisions of the Administrative Process Act and the Register Act to adopt and file the text of a regulation. Subsequent amendments to the text of a regulation, whether that text is spelled out in the regulation or is included by referring to an outside document, must be accomplished through a new regulatory action. Unlike a form, documents that have been incorporated by reference are substantive and contain regulatory text. Therefore, the Code Commission regulations cannot establish a process for filing a revised incorporated document similar to the one in Part V for filing a revised form. In addition, prospective incorporation may also be an impermissible delegation of regulatory authority from the agency to the author of the document or publication.
3.1:1 C	Department of Transportation (VDOT): Asks for clarification as to the type of "separate regulatory action" that would be required to adopt a modification when a document incorporated by reference by an agency is modified by the publisher.	The action that is required to adopt such a modification would be whatever type of regulatory action available to the agency under the Administrative Process Act.
3.1:1 C	VDOT: VDOT stated that formalizing the Style Manual's current prohibition on prospective incorporation should pose no hardship.	The provision in § 3.1:1C is modeled on § 1-222 of the Code of Virginia regarding local ordinances that

	<p>However, VDOT questioned whether the same rule applicable to incorporation by reference provisions of the Code of Virginia, the Acts of the General Assembly, or the Virginia Administrative Code should be applied to federal laws and regulations – namely, that when such provisions are incorporated by reference in a regulation, future amendments to the incorporated provisions are included, unless other intent is specifically stated.</p> <p>DMV: Amend 3.1:1 C to include the Code of Federal Regulations so that future amendments to the incorporated provisions are included unless other intent is specifically stated in the regulation.</p>	<p>incorporate state law; thus, the regulation was limited to state law. In 2011, staff of the Division of Legislative Services researched the issue of incorporating federal law into the Code of Virginia, and noted that (i) the Code of Virginia does not address whether Virginia law is automatically conformed to the referenced section of federal law as the federal law is amended and (ii) two opinions of the Attorney General conclude that a statute that incorporates by reference a prospective federal law or regulation is an unconstitutional delegation of legislative power. The research also revealed that the majority view in other jurisdictions concurs with the opinion of the Attorney General.</p>
<p>3.1:1 D</p>	<p>VDOT: Disallowing VDOT the ability to incorporate its own documents by reference into its regulations would impair the CTB's and VDOT's ability to fulfill their obligations to preserve the integrity of the Commonwealth's transportation system, as well as public safety. Presumably, the prohibition against incorporating an agency's own documents would not apply to regulatory material, but this restriction would still pose a hardship. Most of VDOT's regulations that incorporate documents by reference incorporate a combination of VDOT documents and external documents. Granting the ability to incorporate external documents by reference (such as those from the federal government, the Association of State Highway and Transportation Officials (AASHTO) or the Institute of Traffic Engineers (ITE)) but not allowing VDOT the same privilege would create an artificial distinction between categories of documents based solely on the source of the document.</p> <p>Other concerns are the size of certain documents and the scope, such as conditions specific to Virginia.</p> <p>VDOT supports the ability to demonstrate the existence of unique or unusual circumstances that would permit it to incorporate its own documents by reference.</p> <p><i>Note: See the attached complete response from VDOT for additional information and examples of each category of document.</i></p> <p>Department of Medical Assistance Services (DMAS): DMAS expressed a concern that this change would prevent it from being able to refer to</p>	<p>The regulation addresses the concerns raised because it allows an agency to incorporate one of its own documents in unique or unusual circumstances.</p> <p>The proposed regulation would not affect 12VAC30-60-303 C, which does not actually incorporate the Medicaid</p>

	<p>specific forms that providers are required to use and provided a Medicaid Memo and form that is referred to in 12VAC30-60-303(C).</p> <p>Another concern was that DMAS may need to incorporate a Medicaid Memo that may be lengthy. Finally, DMAS noted that in an effort to keep Medicaid regulations and Medicaid contract law in synch, and to prevent further separation between these two bodies of law, DMAS will need to continue to reference the Medicaid Provider Agreement and specific Medicaid memos and forms into its regulations.</p>	<p>Memo into the regulations. The prohibition on incorporating a guidance document would not prevent DMAS from filing a required form. Moreover, forms that are incorporated into or used in administering a regulation must be filed with the Registrar under 2.2-4031 of the COV.</p> <p>The regulation addresses this concern because it allows an agency to incorporate one of its own documents in unique or unusual circumstances.</p>
3.1:2	<p>VDOT: Certain VDOT regulations that incorporate documents by reference that are filed by description, such as a technical document from the Institute of Traffic Engineers concerning methods for calculating trip data for the Traffic Impact Analysis Regulations (24VAC30-155). Historically, these documents were submitted by completing a Registrar Office form, including a summary of the document and a copy of the table of contents, with a description of where the document could be inspected at the agency, and where the document could be obtained. With increased use of the Internet, under the requirements in § 3.1:2 (Pages 16-17 of proposal) agencies will be required to file the Internet content, either by submitting a read-only electronic copy or a printed copy of the Internet content when permitted to do so by the Registrar. Otherwise, a copy of the document will be required to be submitted as part of the regulatory package.</p> <p>Many documents are no longer available in pre-printed form, and must be accessed from the Internet. For lengthy documents, storage of a printed copy might pose a long-term storage problem for the Registrar. Conversely, filing an electronic version might pose some difficulties in uploading to the Registrar's Regulatory Information site, especially if the document contains a lot of graphics. However, in such cases, a physical storage medium (CD or flash drive) could be used to transmit the information.</p>	<p>The regulations provide for filing by several methods. If the electronic version is too large to be uploaded to the Regulatory Information System, the agency may file by email, flash drive, or other method approved by the Registrar.</p>
3.3 A	<p>DMV: Amend the section so that 3.1:1, as well as 3.1:2 and 3.1:3, does not apply to incorporation of textual matter by reference to material published in the Federal Register or the Code of Federal Regulations, or by reference to regulations of other Virginia agencies.</p>	<p>The requirements of § 3.1:1 should apply to the adoption of the text of a federal regulation by reference so the line should not be amended.</p>

3.3 A 1 b	DMV: If federal regulations are amended, and remain applicable to the agency, what process will be required to amend the date of the federal regulation? Will a separate regulatory action be required pursuant 3.1:1 C?	As with any amendment to a regulation, a regulatory action is required to adopt a new version of a federal regulation.
	DPOR: With the extensive rewrite, for those sections being repealed in their entirety, will the repealed section numbers be included in the “revised” chapter of regulations (with a notation that they have been repealed) – otherwise, anyone who looks and notices the non-sequential numbers may be confused and possibly think they are missing some of the sections.	The revised regulations will be renumbered to eliminate confusion.
General	DPOR: With the changes to this set of regulations, will the Form, Style and Procedure Manual for Publication of Virginia Regulations be updated as well in the near future – otherwise, there may be inconsistencies between the two (for example, the proposed new language in § 2.9 B requires notification of errors to be made within 3 business days while § 1.16 of the Style Manual requires notifications to be made in 7 days which I believe is more appropriate; and § 3.3 now includes the requirements for incorporation by reference while these requirements are already included in § 4.18 and Part VIII of the Style Manual).	Response: The Form, Style, and Procedure Manual will be updated in the near future. The regulations have been updated to change 3 business days to 7 days for notification of errors.



Virginia Code <vacode@dls.virginia.gov>

Proposed revisions to the Code Commission's regulations

Velazquez, Melissa (DMV) <Melissa.Velazquez@dmv.virginia.gov> Mon, Sep 21, 2015 at 10:52 AM
To: Virginia Code <vacode@dls.virginia.gov>, "codes@dls.virginia.gov" <codes@dls.virginia.gov>
Cc: "Lloyd, Rose (DMV)" <rose.lloyd@dmv.virginia.gov>, "Klotz, Barbara (DMV)" <barbara.klotz@dmv.virginia.gov>

Below are comments/suggestions regarding the proposed revisions to the Regulations of the Virginia Code Commission for Implementing the Virginia Register Act.

Comments:

1. Line 193, § 1.7- The regulation does not provide for a process to request and obtain a waiver, including who may make such a request.
2. Line 372, § 2.7B- The regulation states that "An agency shall respond to a request from the registrar within three business days of the request, unless a different response time is approved by the registrar." Three business days appears excessively onerous given that pursuant to § 2.2-4103 the Governor, may, withhold the payment of compensation or expenses of any officer or employee of any agency in whole or part whenever the Commission certifies to him that the agency has failed to respond promptly to the requests of the Registrar, or to comply with the regulations of the Commission. A five business days timeline could be less onerous on agencies if agencies need to compile information at the request of the Registrar. Five business days would be consistent with the timelines for agencies to respond to FOIA requests.
3. Line 435, § 3.1:1C- The regulation prohibits an agency from incorporating prospective changes to an incorporated document by referring to a future edition or revision of the document or by using "as updated," "as amended," "future editions," or similar language. When a document that an agency has incorporated by reference is modified by the publisher, the agency must adopt the modification through a separate regulatory action. This is excessively onerous on agencies. Pursuant to § 2.2-4103 where regulations adopt textual matter by reference to publications agencies must file with the Registrar copies of the referenced publications. The regulation should allow agencies to file with the Registrar the amended document for publication similar to the process used for amended forms in section 5.3. This will give the public ample notice of changes to the document that have been incorporated by reference without requiring the lengthy regulatory process.
4. Line 490, § 3.3A.1.b.-The regulation provides that when a federal regulation is incorporated in the chapter, that regulation shall be as it exists and has been published on a certain date. Line 439-442, § 3.1:1C provides that when an agency incorporates by reference provisions of the Code of Virginia, the Acts of the

General Assembly, or the Virginia Administrative Code into a regulation, future amendments to the incorporated provisions are included unless other intent is specifically stated in the regulation. Shouldn't this also apply to federal regulations? Shouldn't Line 441, § 3.1:1C be amended to include Code of Federal Regulations after Virginia Administrative Code?

5. Line 490, § 3.3A.1.b-If federal regulations are amended, and remain applicable to the agency, what process will be required to amend the date of the federal regulation? Will a separate regulatory action be required pursuant 3.1:1 C? (since at line 439,it states that when a document that an agency has incorporated by reference is modified by the publisher, the agency may adopt the modification but shall do so through a separate regulatory action.)

6. Line 479, § 3.3.A. Should this line be amended to add § 3.1:1 before §3.1:2 and 3.1:3, so that § 3.1:1 as well as §§ 3.1:2 and 3.1:3 do not apply to incorporation of textual matter by reference to material published in the Federal Register or the Code of Federal Regulations, or by reference to regulations of other Virginia agencies?

Melissa K. Velazquez, Esq.

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Confidentiality Statement



Virginia Code <vacode@dls.virginia.gov>

Proposed revisions to the Code Commission's regulations

Courtney, Mark (DPOR) <Mark.Courtney@dpor.virginia.gov>

Mon, Oct 5, 2015 at 5:00 PM

To: Virginia Code <vacode@dls.virginia.gov>

Cc: "Broz-Vaughan, Mary (DPOR)" <Mary.Broz-Vaughan@dpor.virginia.gov>

Karen:

Based on my review of the proposed revisions to the Code Commission's regulations, I would like to offer the following comments:

1. In § 2.1 B, on line 216, the proposed wording cites § 2.2-4031 while I believe the correct citation is to § 2.2-4103;
2. With the extensive rewrite, for those sections being repealed in their entirety, will the repealed section numbers be included in the "revised" chapter of regulations (with a notation that they have been repealed) – otherwise, I'm concerned anyone who looks and notices the non-sequential numbers may be confused and possibly think they are missing some of the sections; and
3. With the changes to this set of regulations, will the *Form, Style and Procedure Manual for Publication of Virginia Regulations* be updated as well in the near future – otherwise, there may be inconsistencies between the two (for example, the proposed new language in § 2.9 B requires notification of errors to be made within 3 business days while § 1.16 of the *Style Manual* requires notifications to be made in 7 days which I believe is more appropriate; and § 3.3 now includes the requirements for incorporation by reference while these requirements are already included in § 4.18 and Part VIII of the *Style Manual*).

Thanks - Mark

Mark N. Courtney

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VDOT Comments on Proposed Changes to Code Commission Regulations

In response to a solicitation of input from the State Registrar of Regulations, VDOT has prepared the following input concerning proposed changes to the Code Commission's regulations pertaining to the *Virginia Administrative Code (VAC)*. Many of these changes reflect current practices of the Registrar's Office, advances in technology, and clarifications of existing provisions.

These comments relate to those regulations promulgated by the Commonwealth Transportation Board (CTB), as well as those promulgated by the Commissioner of Highways and VDOT pursuant to state laws. Comments have been provided using the "Summary of Changes" document format provided by the Registrar to ensure that significant changes or clarifications have been addressed.

In general, granting the Registrar in § 1.7 (Page 7 of proposal) the ability to waive requirements established in these regulations to address unique situations, provided state law is not violated, allows the flexibility necessary to offer adequate information to those affected by the state regulatory process, while not imposing undue burdens on the promulgating agency. VDOT appreciates the opportunity to provide input in connection with these revisions.

Summary of Changes

- 1. Title: Change title on Page 1 of proposal from "Regulations of the Virginia Code Commission for Implementing the Virginia Register Act" to "Regulations for Filing and Publishing Agency Regulations."**

VDOT Comment: *This change more accurately reflects the purpose of the Code Commission regulations, which is reasonable and appropriate.*

- 2. File by Description: Eliminate current provision in § 2.1 (Page 8 of proposal) that permits an agency to file a regulation by description in lieu of filing full text. The only exception is text that is incorporated by reference to another publication, such as a building code.**

VDOT Comment: *Documentation from the VAC indicates that only three agencies have regulations filed by description: VDOT, the Department of General Services, and the Judicial Inquiry and Review Commission, so this provision will only affect a small number of agencies. The CTB and VDOT have 14 regulations filed by description. VDOT agrees that elimination of this option is reasonable and appropriate to enable enhanced accessibility to state regulations. Those regulations filed by description are "grandfathered," so any subsequent action on them will require that they be either filed in full text form or repealed.*

VDOT is evaluating those regulations to determine whether they should be retained and filed in full text form, repealed, or reclassified as Guidance Documents. This effort is consistent with previous reviews of the Commonwealth's Transportation Board's regulatory inventory. For example, in July of 2015, the CTB repealed the VAC entry for the Guide for Abandonments and Discontinuances, and directed that it be

reclassified as a Guidance Document, in concurrence of a recommendation by the Office of the Attorney General's Regulatory Task Force. Documentation is being processed to implement this action. Further action to address this class of regulations is ongoing.

3. Forms:

- **Provide agencies ability to update forms associated with a regulation (e.g., licensure applications) in new § 5.3 (Page 21 of proposal) without going through the regulatory process.**

VDOT Comment: *This provision will facilitate the ability of agencies to make revisions to forms more responsively and more readily than the regulatory process allows. Forms are generally considered to be non-regulatory in nature, so it is unnecessary to subject their revision to a lengthy amendment process for cases in which statutory references must be updated, changes in titles or organizational structure must be made, etc.*

- **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 (new § 5.4 of proposal (Page 21)).**

VDOT Comment: *This option is consistent with simplification of the revision process described in the preceding change, and will promote efficiency and conservation of resources, since forms will not need to be scanned and published, which adds to the size of the paper version of the Register.*

4. Incorporation by Reference:

- Disallow prospective incorporation of a document.

VDOT Comment: *The new provision § 3.1:1 C (Page 16 of proposal) states the following:*

Effective [insert effective date of this regulation], an agency may not incorporate prospective changes to an incorporated document by referring to a future edition or revision of the document or by using "as updated," "as amended," "future editions," or similar language. When a document that an agency has incorporated by reference is modified by the publisher, the agency may adopt the modification but shall do so through a separate regulatory action. However, when an agency incorporates by reference provisions of the Code of Virginia, the Acts of the General Assembly, or the Virginia Administrative Code into a regulation, future amendments to the incorporated provisions are included unless other intent is specifically stated in the regulation.

VDOT was under the impression that this practice of prospective incorporation is not currently allowed, given the proscription against its use in PART VIII. (Incorporation by

reference) § 8.1 of the Registrar's current Style Manual (" . . . Regulations must refer to a specific edition or source to which the public may refer; therefore, the agency shall avoid phrases like "as amended" or "including future amendments."). Therefore, formalizing its prohibition should pose no hardship. However, VDOT would question whether the same rule applicable to incorporation by reference provisions of the Code of Virginia, the Acts of the General Assembly, or the Virginia Administrative Code should be applied to federal laws and regulations – namely, that when such provisions are incorporated by reference in a regulation, future amendments to the incorporated provisions are included, unless other intent is specifically stated.

In addition, VDOT would seek clarification as to the type of "separate regulatory action" that would be required to adopt a modification when a document incorporated by reference by an agency is modified by the publisher.

- Address when an agency may incorporate by reference one of its own documents.

VDOT Comment: The new provision § 3.1:1 D (Page 16 of proposal) states the following:

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

The drafting note indicates the only Code of Virginia provision addressing incorporation by reference is § 2.2-4103: Where regulations adopt textual matter by reference to publications other than the Federal Register or Code of Federal Regulations, the agency shall (i) file with the Registrar copies of the referenced publications, (ii) state on the face of or as notations to regulations making such adoptions by reference the places where copies of the referred publications may be procured, and (iii) make copies of such referred publications available for public inspection and copying along with its other regulations. This section clarifies incorporation by reference and reflects the current practice of 454 the Registrar's Office and most agencies.

Disallowing VDOT the ability to incorporate its own documents by reference into its regulations would impair the CTB's and VDOT's ability to fulfill their obligations to preserve the integrity of the Commonwealth's transportation system, as well as public safety. Presumably, the prohibition against incorporating an agency's own documents would not apply to regulatory material, but this restriction would still pose a hardship. Most of VDOT's regulations that incorporate documents by reference incorporate a combination of VDOT documents and external documents. Granting the ability to incorporate external documents by reference (such as those from the federal government, the Association of State Highway and Transportation Officials (AASHTO) or the Institute of Traffic Engineers (ITE)) but not allowing VDOT the same privilege would create an artificial distinction between categories of documents based solely on the source of the document.

For example, VDOT's regulation, Standards for Use of Traffic Control Devices to

Classify, Designate, Regulate, and Mark State Highways (24VAC30-315), incorporates by reference the following documents: the Manual on Uniform Traffic Control Devices for Streets and Highways, and the Virginia Supplement to the MUTCD, which includes the Virginia Work Area Protection Manual. The MUTCD was adopted by reference in accordance with title 23, United States Code, Section 109(d) and Title 23, Code of Federal Regulations, Part 655.603, and is approved as the national standard for designing, applying, and planning traffic control devices. The Virginia Supplement to the MUTCD promulgates state standards for traffic control devices that exceed minimum federal requirements and presents pertinent traffic control device design, installation, and operation details not covered in the National MUTCD. The Work Area Protection Manual is considered to be part of the Virginia Supplement, but is physically separate from the rest of that document to facilitate its use as a training tool in the field.

It would be inconsistent to permit the National MUTCD to be incorporated by reference but not the Virginia Supplement to the MUTCD solely because one is produced by the federal government and the other is produced by a state agency. This distinction is especially unwarranted because the Virginia Supplement covers the same subject matter as the MUTCD and is subject to review by the Federal Highway Administration. So there is some degree of external oversight to ensure that the Supplement is consistent with federal requirements.

As another example, VDOT's Traffic and Mobility Planning Division has a number of regulations relating to land use and land development in connection with the state highway system, covering topics such as access management, traffic impact analysis, and the acceptance of streets into the secondary system of highways. These regulations incorporate documents by reference from a variety of internal and external sources, and limiting VDOT's flexibility to include the necessary documents would impair the agency's ability to enforce the regulations in a meaningful manner.

Specifically, the Land Use Permit Regulations (24VAC30-151) include documents incorporated by reference from the federal government (the MUTCD), documents from external engineering organizations (AASHTO, the Illuminating Engineering Society of North America, etc.) a policy statement on bicycle and pedestrian accommodation from the CTB, as well as a number of VDOT-produced technical engineering documents (the Road and Bridge Specifications, Road Design Manual, etc.). These documents help outline the requirements that must be followed when the highway right of way is occupied for purposes other than travel by issuance of a permit. Otherwise, VDOT would have no way to ensure that the highway is not damaged or altered in a manner than impairs its intended function, or poses a hazard to public safety. VDOT's internal documents that are incorporated by reference generally deal with activities occurring on state-owned right of way, where the agency has an obligation to exert a higher degree of care and control. Without such care and control, the road surface might degrade prematurely, leading to costly or more frequent repairs, might not be restored after the work is performed to the same condition as before, or might pose

Allowing some technical documents to be incorporated by reference but not others because they were produced by VDOT fails to take into account the fact that these documents are often closely related to, or receive similar levels of external oversight, as documents produced by an external entity. For example, VDOT's Road Design Manual is generally based on AASHTO standards, such as those found in A Policy on

Geometric Design of Highways and Streets, a comprehensive reference manual to assist in design formulation and established engineering practices supplemented by recent research. The VDOT manual takes into account conditions specific to the Commonwealth, such as variations in climate, geography, etc., that necessitate some design or material changes to provide a safe, durable highway.

Including the provisions of the CTB policy on pedestrian/bicycle accommodations would be feasible, because the policy is not lengthy. However, it would be virtually impossible to set out all of the applicable requirements that a permittee might need to follow directly in the Land Use Permit Regulations in lieu of incorporating these by reference, due to the scope of the design manual, and the types of permits allowed, such as utility installations, pipelines, lighting, attachments to bridges, construction of drainage structures, etc.

VDOT supports the ability to demonstrate the existence of unique or unusual circumstances that would permit it to incorporate its own documents by reference.

On a related issue VDOT has some regulations that incorporate documents by reference that are filed by description, such as a technical document from the Institute of Traffic Engineers concerning methods for calculating trip data for the Traffic Impact Analysis Regulations (24VAC30-155). Historically, these documents were submitted by completing a form, including a summary of the document and a copy of the table of contents, with a description of where the document could be inspected at the agency, and where the document could be obtained. With increased use of the Internet, under the requirements in § 3.1:2 (Pages 16-17 of proposal) agencies will be required to file the Internet content, either by submitting a read-only electronic copy or a printed copy of the Internet content when permitted to do so by the Registrar. Otherwise, a copy of the document will be required to be submitted as part of the regulatory package.

Many documents are no longer available in pre-printed form, and must be accessed from the Internet. For lengthy documents, storage of a printed copy might pose a long-term storage problem for the Registrar. Conversely, filing an electronic version might pose some difficulties in uploading to the Registrar's Regulatory Information site, especially if the document contains a lot of graphics. However, in such cases, a physical storage medium (CD or flash drive) could be used to transmit the information.

5. Omission of certain provisions in VAC: Section 30-150 of the Code of Virginia 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 of the Code of Virginia).

- **Add ability of Registrar to omit (i) purpose statements, (ii) applicability statements, and (iii) other nonregulatory provisions in new § 1.3 C (Page 5 of proposal).**
- **Give discretion to Registrar in new § 1.3 D (Page 5 of proposal) to include material that would otherwise be omitted - for example, SCC may need inclusion of a severability clause because it is exempt from the Administrative Process Act.**

VDOT Comment: *The drafting note to new § 1.3 C indicates that omission of such*

text is current practice, and the Registrar now removes a purpose statement after consultation with the agency. Furthermore, generally, effective date clauses and severability clauses are removed without consulting with the agency, but the agency is notified of the removal. The new provision explicitly allows agencies the ability to petition the Registrar to restore items such as effective date clauses, purpose statements, etc.

Allowing an agency to show cause in new § 1.3 D why items such as purpose and applicability statements should be included provides necessary flexibility, and may enhance clarity or provide additional information as to the scope of a regulation. For example, a regulation may only apply to secondary roads but not primary roads, or apply to the use of funds as authorized by a certain statute.

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 in new § 2.6 (Pages 12-13 of proposal).

VDOT Comment: *VDOT has several regulations that fall under this provision, such as one dealing with traffic markers, signs, and other control devices. This provision is not anticipated to cause any problems for VDOT, and the agency has timed its filings in the past to allow the Registrar time to update the VAC online.*

7. Withdrawal of final regulation: Provide a mechanism in new § 2.8 (Page 14 of proposal) 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.

VDOT Comment: *VDOT has not had occasion to use such a mechanism, but it is reasonable and appropriate to provide for such a circumstance should it become necessary.*

8. Rules of construction: Add general rules of construction in new § 1.2:2 (Page 4 of proposal) addressing headlines of sections, gender, and use of "includes, but not limited to" -- based on similar provisions in the Code of Virginia.

VDOT Comment: *The drafting notes in the regulation state that these rules are consistent with rules in Title 1 of the Code of Virginia. Clarifying what is meant by words like "number" and defining the word "or" should help agencies standardize their regulatory references, since the meaning of such words are clearly established by the Code Commission.*

9. Computation of time: Clarify computation of time period in new § 1.2:1 (Page 3 of proposal) based on publication in the Virginia Register to state the day of publication shall not be counted as part of the required time period, except for the comment period designated in § 2.2-4007.06 of the Code of Virginia.

VDOT Comment: *This clarification formalizes a practice already used by VDOT in calculating time periods, so there should be no hardship in meeting this requirement.*

10. Official version of Virginia Register: Clarify in new § 6.1 (Page 22 of proposal) 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.

VDOT Comment: This clarification reflects changes in practices through expanded use of the Internet for accessing and retrieving regulations and associated documentation. VDOT believes it is reasonable and appropriate to make a formal statement as to the status of the online version of the Virginia Register, and allow for the option to publish in print form. In fact, VDOT discontinued its subscription to the printed version of The Virginia Register many years ago, and relies on online postings from the Department of Planning and Budget's Regulatory Town Hall and The Virginia Register for documentation of regulatory actions.

11. Other miscellaneous changes: Update to reflect statutory changes, current terminology, and current practices and technology, such as electronic filing (§ 1.5 on Page 6 of proposal) and the inclusion of a web address in a regulation (new § 1.6 on Page 7 of proposal).

VDOT Comment: These changes reflect advances in technology, trends to minimize paper-based documentation systems, and enhanced accessibility through the Internet. For example, the Registrar has discontinued the requirement that multiple, hand-signed printed copies of all regulatory packages be submitted in lieu of electronic submissions through the Regulatory Town Hall and the Regulatory Information System, which has streamlined the process greatly, and has improve accessibility to documentation relating to a given regulatory action.

Providing a means for updating Internet addresses in a regulation facilitates the ability to make changes in a responsive fashion, so that users have the most accurate information available, and is consistent with the Code Commission's statutory authority to make consequential changes made necessary by the use of titles, terminology, etc., as indicated by the drafting note.



Virginia Code <vacode@dls.virginia.gov>

Fwd: Proposed revisions to the Code Commission's regulations

Karen Perrine <kperrine@dls.virginia.gov>
To: Virginia Code <vacode@dls.virginia.gov>

Fri, Nov 6, 2015 at 3:08 PM

—— Forwarded message ——

From: **McClellan, Emily (DMAS)** <Emily.McClellan@dmas.virginia.gov>
Date: Fri, Nov 6, 2015 at 2:11 PM
Subject: RE: Proposed revisions to the Code Commission's regulations
To: Karen Perrine <kperrine@dls.virginia.gov>
Cc: "McCormick, Brian (DMAS)" <Brian.McCormick@dmas.virginia.gov>, "Simmons, Victoria (DMAS)" <Victoria.Simmons@dmas.virginia.gov>

Dear Karen,

Thank you so much for the opportunity to submit a comment at this late date!

DMAS wanted to comment on section 3.1:1 (D), which states, "...an agency may not incorporate one of its own documents by reference unless the agency establishes that the documents or circumstances are unique and highly unusual."

This change would pose significant challenges for DMAS, particularly with regard to those regulations that establish rules for Medicaid providers. For example, Medicaid providers are frequently required to submit specific forms to Medicaid in order to provide services. If DMAS is unable to refer to these specific forms in its regulations, it could be difficult to utilize the regulations as a vehicle to inform providers of their obligations under the law.

The attached Medicaid Memo (which includes one of these required forms) is currently referred to in regulations (12 VAC 30-60-303(C)). If DMAS were not permitted to reference this memo, all of the content of the memo and the attached form would need to be incorporated into regulations, which would be burdensome – not just for DMAS, but for the other agencies and entities that would be required to review these regulations, including the OAG, DPB, HHR, and the Governor.

At the current time, and due to recent court cases, Medicaid providers operate under two increasingly separate bodies of law: 1) the regulations included in the Virginia Administrative Code; and 2) contractual obligations defined by the Medicaid Provider Agreement and the Medicaid Manuals. In a recent Virginia Court of Appeals case (*1st Stop Health Services vs. DMAS* (63 Va. App. 266, 756 S.E.2d 183, 2014 Va. App. LEXIS131 (April 8, 2014))) Medicaid Manual provisions were given the full force and effect of law.

In an effort to keep Medicaid regulations and Medicaid contract law in synch, and to prevent further separation between these two bodies of law, DMAS will need to continue to reference the Medicaid Provider Agreement and specific Medicaid memos and forms into its regulations. DMAS would appreciate it if its position could be presented to the Code Commission so it could reconsider item 3.1:1(D).

Thank you again for allowing us an opportunity to provide comment.

Sincerely, Emily McClellan



Department of Medical Assistance Services
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MEDICAID MEMO

TO: All Providers of Pre-Admission Screening Services Participating in the Virginia Medical Assistance Program and Managed Care Organizations

FROM: Cynthia B. Jones, Director
Department of Medical Assistance Services

MEMO: Special
DATE: 10/3/2012

SUBJECT: Development of Special Criteria for the Purposes of Pre-Admission Screening

The purpose of this memorandum is to notify providers of criteria that were developed for children (birth up to age 21) with disabilities seeking long-term care services (such as nursing facility or home and community-based care waivers). This information is provided as guidance for pre-admission screening teams and hospital screeners to be used in addition to the existing pre-admission screening process. These guidelines do not replace the requirements for pre-admission screening using the existing process.

Please find attached a worksheet which may be of assistance when completing pre-admission screenings. Use of this worksheet is optional. Please review the instructions on the worksheet carefully as this worksheet does not replace the requirements for completing the pre-admission screening documents.

This information will be incorporated into the Pre-Admission Screening Provider Manual.

VIRGINIA MEDICAID WEB PORTAL

DMAS offers a web-based Internet option to access information regarding Medicaid or FAMIS member eligibility, claims status, check status, service limits, service authorizations, and electronic copies of remittance advices. Providers must register through the Virginia Medicaid Web Portal in order to access this information. The Virginia Medicaid Web Portal can be accessed by going to: www.virginiamedicaid.dmas.virginia.gov. If you have any questions regarding the Virginia Medicaid Web Portal, please contact the Xerox State Healthcare Web Portal Support Helpdesk, toll free, at 1-866-352-0496 from 8:00 a.m. to 5:00 p.m. Monday through Friday, except holidays. The MediCall audio response system provides similar information and can be accessed by calling 1-800-884-9730 or 1-800-772-9996. Both options are available at no cost to the provider. Providers may also access service authorization information including status via KePRO's Provider Portal, effective October 31, 2011 at <http://dmas.kepro.com>.

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ELIGIBILITY VENDORS

DMAS has contracts with the following eligibility verification vendors offering internet real-time, batch and/or integrated platforms. Eligibility details such as eligibility status, third party liability, and service limits for many service types and procedures are available. Contact information for each of the vendors is listed below:

Passport Health Communications, Inc. www.passporthealth.com sales@passporthealth.com Telephone: 1 (888) 661-5657	SIEMENS Medical Solutions – Health Services Foundation Enterprise Systems/HDX www.hdx.com Telephone: 1 (610) 219-2322	Emdeon www.emdeon.com Telephone: 1 (877) 363-3666
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“HELPLINE”

The “HELPLINE” is available to answer questions Monday through Friday from 8:00 a.m. to 5:00 p.m., except on holidays. The “HELPLINE” numbers are:

1-804-786-6273	Richmond area and out-of-state long distance
1-800-552-8627	All other areas (in-state, toll-free long distance)

Please remember that the “HELPLINE” is for provider use only. Please have your Medicaid Provider Identification Number available when you call.

Attached Number of Pages: (15)

**VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (DMAS)
WORKSHEET TO DETERMINE LONG-TERM CARE SERVICES**
(The use of this worksheet is optional.)

Individual being assessed: _____ Date: _____

STEP 1: Based on a completed Virginia Uniform Assessment Instrument (UAI), check how the individual scores in the following categories (based on definitions in the User's Manual: Virginia UAI, revised 7/05).

ADLs	Check if Semi-Dependent (d)	Check if Dependent (D)	OTHER FUNCTIONS	Check if Semi-Dependent (d)	Check if Dependent (D)
Bathing			Medication Administration		
Dressing			Behavior Pattern & Orientation (combination variable)		
Toileting			Mobility		
Transferring			Joint Motion		
Eating/Feeding					
Bowel					
Bladder					

STEP 2: Apply the above responses to the variables below.

Number of ADL Dependencies: _____
 Medication Administration: Check if Semi-dependent _____ or Dependent _____
 Behavior Pattern & Orientation: Check if Semi-dependent _____ or Dependent _____
 Mobility: Check if Semi-dependent _____ or Dependent _____
 Joint Motion: Check if Semi-dependent _____ or Dependent _____

STEP 3: Apply the responses in Step 2 to the criteria below.

CATEGORY 1: Individuals must meet items #1 and #2 in category 1; plus either item #3 or #4.

- 1) Rated dependent in 2 to 4 ADLs: _____ YES; PLUS
- 2) Rated semi-dependent or dependent in behavior pattern and orientation: _____ YES; PLUS
- 3) Rated semi-dependent in joint motion: _____ YES; OR
- 4) Rated dependent in medication administration: _____ YES.

CATEGORY 2: Individuals must meet all items in this category.

- 1) Rated dependent in 5 to 7 ADLs: _____ YES; PLUS
- 2) Rated dependent in mobility: _____ YES.

CATEGORY 3: Individuals must meet all items in this category.

- 1) Rated semi-dependent in 2-7 ADLs: _____ YES; PLUS
- 2) Rated dependent in mobility: _____ YES; PLUS
- 3) Rated dependent in behavior and orientation: _____ YES.

STEP 4: Individuals MUST have a medical nursing need to meet criteria for long term care services. This means: 1) the individual's medical condition requires observation and assessment to assure evaluation of needs due to an inability for self-observation or evaluation; OR 2) the individual has complex medical conditions that may be unstable or have the potential for instability; OR 3) the individual requires at least one ongoing medical or nursing service. (See attached for examples and additional explanation.)

The individual does have medical nursing needs: _____ YES (briefly describe):

STEP 5: Determination of whether the individual meets criteria for long term care services.

- 1. Individual meets at least one of the three categories in Step 3: _____ YES; AND
- 2. Individual has medical nursing needs as defined in Step 4: _____ YES.
- 3. Individual is seeking waiver services and meets the definition of "at risk" _____ YES (see definition below)

This individual meets criteria (i.e., both 1. and 2. above in Step 5 are answered "YES"): _____ YES; _____ NO.

Assessor: _____ Date: _____

**VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (DMAS)
WORKSHEET TO DETERMINE LONG-TERM CARE SERVICES**
(The use of this worksheet is optional.)

Use of this worksheet does not eliminate the use of the required documentation for the completion of a pre-admission screening for Long-Term Care Services.

This worksheet was developed to assist providers with understanding and applying the criteria for Long-Term Care Services (such as services in a nursing facility), Program for the All-Inclusive Care for the Elderly (PACE), or services in the Elderly or Disabled with Consumer Direction (EDCD), or Technology Assisted Waivers. The definitions used on this worksheet are taken directly from the Users' Manual: Virginia Uniform Assessment Instrument (UAI).

This worksheet will guide screening teams through the process of determining whether or not an individual meets the criteria for services by reviewing the activities of daily living (ADLs), the medical/nursing needs, and in the case of waivers, the "at-risk" determination.

At a minimum, a completed pre-admission screening package consists of the following completed forms:

1. Virginia Uniform Assessment Instrument (UAI);
2. DMAS-96 Medicaid-Funded Long Term Care Services Authorization Form;
3. Letter documenting to the individual the approval or denial of services. If denied, appeal rights shall be provided;
4. DMAS-97 Individual Choice - Institutional Care or Waiver Services Form; and if Nursing Facility Services are authorized; and
5. If nursing facility services are authorized, the DMAS-95 MI/ID/RC Level I and if appropriate Level II Screening for Mental Illness, Intellectual Disabilities, or Related Conditions.

Pre-Admission Screening packages are not valid unless all of the documents listed above are completed. Please review the Medicaid Pre-Admission Screening Provider Manual for more information. The manual and all forms associated with pre-admission screenings are available on the DMAS web portal at: www.virginiamedicaid.dmas.virginia.gov.

Screening teams may also access Frequently Asked Questions (or submit questions for response) and find additional reference materials (such as the Users' Manual: Virginia UAI, Pre-Admission Screening Manual, etc.) at the following link:

[http://www.dmas.virginia.gov/ltc-Pre admin screeners.htm](http://www.dmas.virginia.gov/ltc-Pre_admin_screener.htm)

Information may also be found on the DMAS website at: www.dmas.virginia.gov

ADDITIONAL INFORMATION FOR COMPLETING THE WORKSHEET TO DETERMINE AUTHORIZATION FOR MEDICAID-FUNDED LONG-TERM CARE SERVICES

A. AUTHORIZATION OF MEDICAID-FUNDED LONG-TERM CARE SERVICES:

The pre-admission screening process preauthorizes a continuum of long-term care services available to an individual under the Virginia Medical Assistance Program. Medicaid-funded long-term care services are covered by the program for individuals whose needs meet the criteria established by program regulations. The authorization for Medicaid-funded long-term care must be rescinded at any point that the individual is determined to no longer meet the criteria for Medicaid-funded long-term care. . An individual's need for care must meet these criteria before any authorization for payment by Medicaid will be made for either institutional or non-institutional long-term care services.

In accordance with 12VAC30-60-300, Medicaid-funded long-term care services may be provided in either a community-based care or a facility setting. The criteria for assessing an individual's eligibility for Medicaid payment of long-term care consist of two components: (i) functional capacity (the degree of assistance an individual requires to complete activities of daily living (ADLs); and (ii) medical or nursing needs.

The criteria for assessing an individual's eligibility for Medicaid payment of community-based care consist of three components: (i) functional capacity (the degree of assistance an individual requires to complete ADLs); (ii) medical or nursing needs; and (iii) the individual's risk of institutional placement in the absence of community-based waiver services. In order to qualify for either Medicaid-funded facility or community-based care, the individual must meet the criteria for the alternative institutional placement for each waiver. For example, an individual must meet nursing facility (the alternative institutional placement for the Elderly or Disabled with Consumer Direction (EDCD) Waiver) criteria in order to be approved for the EDCD Waiver.

For waiver services authorization – individuals must also meet the "at-risk" definition in order to receive services. "At risk" is defined by 42 CFR §441.302(1): *"Initial Evaluation. An evaluation of the need for the level of care provided in a hospital, a NF, or an ICF/ID when there is reasonable indication that a recipient might need the services in the near future (that is, a month or less) unless he or she receives home and community based services. For purposes of this section 'evaluation' means a review of the individual recipient's condition to determine (i) if the recipient requires the level of care provided in a hospital as defined in Sec. 440.10 of this subchapter, a NF as defined in section 1919(a) of the Act, or an ICF/ID as defined by Sec. 440.150 of this subchapter, and (ii) that the recipient, but for the provision of waiver services would otherwise be institutionalized in such a facility."*

B. AUTHORIZED SCREENERS FOR LONG-TERM CARE SERVICES:

For screenings of individuals in the community, the Pre-Admission Screening team is responsible for documenting on the state-designated assessment instrument that the individual meets the criteria for institutional or community-based waiver services and for authorizing admission to Medicaid-funded long-term care. For pre-admission screenings of individuals in a hospital, the screening shall be conducted by staff in the acute care hospital prior to the individual's discharge. The rating of functional dependencies on the assessment instrument must be based on the individual's ability to function in a community environment, not including any institutionally induced dependence (*Code of Virginia*, § 32.1-330).

C. SCORING CRITERIA FOR CHILDREN'S ASSESSMENTS:

The following information has been added to assist with the assessment of children. This information was developed and piloted by staff of the Virginia Department of Health, the Virginia Department of Social Services, and DMAS. Please continue to use the definitions contained within the *User's Manual: Virginia Uniform Assessment Manual (UAI)* in addition to the information provided below when coding the UAI sections. A cross-walk has been included. For each definition where separate guidance is provided for assessing children, please use the scoring criteria below to indicate the child's level of dependency for each activity.

Scoring Criteria:

- 0- The child's condition is successfully managed at home; the caregiver is able to provide the care independently; or the child is able to complete the task independently. (**Independent or "I"**)
- 1- The child has moderate impairments; the child/caregiver requires at least daily assistance or unskilled/companion support to successfully support the child in the home. (**Semi-Dependent or "d"**)
- 2- The child exhibits substantial impairment/disability; the child/caregiver is in need of: skilled, trained assistance, or behavioral intervention to be supported at home. (**Dependent or "D"**)

3- The child has severe impairment/disability or has complex medical or behavioral needs that require 24-hour care equal to that of an institution. (Dependent or "D")

Use of the scoring criteria outlined below is not mandatory, but provides an alternative manner for scoring children.

D. DEFINITIONS OF DEPENDENCIES: Definitions for scoring an individual's functional and medical needs are described below and are found in the *User's Manual: Virginia Uniform Assessment Instrument (revised 7/05)*. Additional guidance for screening children has been added to the end of each assessment item.

KEY: Independent = (I) Semi-Dependent = (d) Dependent = (D)

Bathing: Getting in and out of the tub, preparing the bath (e.g., turning on the water), washing oneself, and towel drying. Some individuals may report various methods of bathing that constitute their usual pattern. For example, they may bathe themselves at a sink or basin five days a week, but take a tub bath two days of the week when an aide assists them. The questions refer to the method used **most or all of the time** to bathe the entire body.

- Does Not Need Help. Individual gets in and out of the tub or shower, turns on the water, bathes entire body, or takes a full sponge bath at the sink and does not require immersion bathing, without using equipment or the assistance of any other person. (I)
- Mechanical Help Only. Individual usually needs equipment or a device such as a shower/tub chair/stool, grab bars, pedal/knee controlled faucet, long-handled brush, and/or a mechanical lift to complete the bathing process. (d)
- Human Help Only (D)
 - Supervision (Verbal Cues, Prompting). Individual needs prompting and/or verbal cues to safely complete washing the entire body. This includes individuals who need someone to teach them how to bathe.
 - Physical Assistance (Set-up, Hands-On Care). Someone fills the tub or brings water to the individual, washes part of the body, helps the individual get in and out of the tub or shower, and/or helps the individual towel dry. Individuals who only need human help to wash their backs or feet would not be included in this category. Such individuals would be coded as "Does Not Need Help".
- Mechanical and Human Help. Individual usually needs equipment or a device *and* requires assistance of other(s) to bathe. (D)
- Performed by Others. Individual is completely bathed by other(s) and does not take part in the activity at all. (D)

Additional Information for "Bathing" for Children

The following information has been added to assist with the assessment of children. Please continue to use the definitions contained within the *User's Manual: Virginia UAI* in addition to the information provided below when completing the UAI sections. See Section C of this document for scoring criteria for children.

For Children from birth to age 4 - Definition:

Considerations for children birth through 4 include: safety concerns such as: seizure activity, water depth, balance, and/or awareness to surroundings. Based on Child Development criteria, a child younger than 12 months should be totally dependent on another person for bathing. Children 1-4 years should physically participate in bathing but may require supervision, physical assistance, and help in and out of the tub.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
Birth – 12 Months	<input type="checkbox"/> Needs adaptive equipment <input type="checkbox"/> Has characteristics that make bathing very difficult: hypertonia, hypotonia, combative behavior, spastic involuntary movement, or sensory/cognitive issues
13 Months – 4 Years	<input type="checkbox"/> Needs adaptive equipment <input type="checkbox"/> Has characteristics that make bathing very difficult: hypertonia, hypotonia, combative behavior, spastic involuntary movement, or sensory/cognitive issues

For children from age 5 to 21 years of age - Definition:

Considerations: If the child has the ability to perform this task safely, this task may include the ability to regulate water temperature and turning faucets on/off. Please note safety concerns such as: seizure activity, water depth, balance, and/or awareness to surroundings. Based on Child Development criteria, a child should be able to physically and cognitively perform all essential components of the task, safely, and without assistance. If the child is not able to perform the task independently, the use of supervision should be considered.

Due to: (score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
5 – 6 Years	<input type="checkbox"/> Needs adaptive equipment <input type="checkbox"/> Has characteristics that make bathing very difficult: hypertonia, hypotonia, combative behavior, spastic involuntary movement, or sensory/cognitive issues <input type="checkbox"/> Needs complete physical assistance <input type="checkbox"/> Needs to be lifted in and out of the bathtub or shower <input type="checkbox"/> Lacks understanding of risk and must be supervised for safety
6 – 21 Years	<input type="checkbox"/> Needs adaptive equipment <input type="checkbox"/> Has characteristics that make bathing very difficult: hypertonia, hypotonia, combative behavior, spastic involuntary movement, or sensory/cognitive issues <input type="checkbox"/> Needs complete physical assistance <input type="checkbox"/> Needs to be lifted in and out of the bathtub or shower <input type="checkbox"/> Needs step-by-step cueing to complete the task <input type="checkbox"/> Lacks understanding of risk and must be supervised for safety

Dressing: Getting clothes from closets and/or drawers, putting them on, fastening, and taking them off. Clothing refers to clothes, braces, and artificial limbs worn daily. Individuals who wear pajamas or gown with robe and slippers as their usual attire are considered dressed.

- Does Not Need Help. Individual usually completes the dressing process without help from others. If the only help someone gets is tying shoes, do not count as needing help. (I)
- Mechanical Help Only. Individual usually needs equipment or a device such as a long-handled shoehorn, zipper pulls, specially designed clothing or a walker with an attached basket to complete the dressing process. (d)
- Human Help Only (D)
 - Supervision (Verbal Cues, Prompting). Individual usually requires prompting and/or verbal cues to complete the dressing process. This category also includes individuals who are being taught to dress.
 - Physical Assistance (Set-up, Hands-On Care). Individual usually requires assistance from another person who helps in obtaining clothing, fastening hooks, putting on clothes or artificial limbs, etc.
- Mechanical and Human Help. Individual usually needs equipment or a device and requires assistance of other(s) to dress. (D)
- Performed by Others. Individual is completely dressed by another individual and does not take part in the activity at all. (D)
- Is Not Performed. Refers only to bedfast individuals who are considered not dressed. (D)

Additional Information for Assessing "Dressing" for Children

For Children from birth to age 4 - Definition:

Considerations for children birth through 4 include: safety concerns such as: seizure activity, balance, and/or awareness to surroundings. Based on Child Development criteria, a child younger than 12 months should be totally dependent on another for dressing. Children 1-4 years should physically participate in dressing, but may require supervision or reminders, physical assistance, help with fasteners, or shoes, or selecting clothes. See Section C of this document for scoring criteria for children.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
Birth – 18 Months	<input type="checkbox"/> Has characteristics that make dressing very difficult: hypertonia, hypotonia, combative behavior, spastic involuntary movement, or sensory/cognitive issues <input type="checkbox"/> Has complex medical equipment that makes dressing very difficult.
19 Months – 24 Months	<input type="checkbox"/> Has characteristics that make dressing very difficult: hypertonia, hypotonia, combative behavior, spastic involuntary movement, or sensory/cognitive issues <input type="checkbox"/> Has complex medical equipment that makes dressing very difficult.

	<input type="checkbox"/> Does NOT assist with dressing, such as helping to lace arms in sleeves or legs into pants
25 Months – 36 Months	<input type="checkbox"/> Has characteristics that make dressing very difficult: hypertonia, hypotonia, combative behavior, spastic involuntary movement, or sensory/cognitive issues <input type="checkbox"/> Has complex medical equipment that makes dressing very difficult. <input type="checkbox"/> Does NOT assist with dressing, such as helping to lace arms in sleeves or legs into pants <input type="checkbox"/> Unable to pull off hats, socks or mittens
37 Months – 4 Years	<input type="checkbox"/> Has characteristics that make dressing very difficult: hypertonia, hypotonia, combative behavior, spastic involuntary movement, or sensory/cognitive issues <input type="checkbox"/> Has complex medical equipment that makes dressing very difficult. <input type="checkbox"/> Does NOT assist with dressing, such as helping to lace arms in sleeves or legs into pants <input type="checkbox"/> Unable to dress self independently

For children from age 5 to 21 years of age - Definition:

Considerations: This should include the ability to select appropriate clothing for weather. Please note safety concerns such as: seizure activity, balance, and prones to skin irritation/allergies. Based on Child Development criteria, a child should be able to physically and/or cognitively perform all essential components of the task, safely, without assistance. Make a recommendation if adapted clothing would assist with independence, such as: Velcro closures pull-on pants or zipper pulls.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
5 – 21 Years	<input type="checkbox"/> Needs physical assistance with getting clothing on. (This does NOT include fasteners such as buttons, zippers and snaps or other adaptive equipment.) <input type="checkbox"/> Has characteristics that make dressing very difficult: hypertonia, hypotonia, combative behavior, spastic involuntary movement, or sensory/cognitive issues <input type="checkbox"/> Needs physical assistance with adaptive equipment. <input type="checkbox"/> Has complex medical equipment that makes dressing very difficult.

Toileting: Ability to get to and from the bathroom, get on/off the toilet, clean oneself, manage clothes, and flush. A commode at any site may be considered the "bathroom" only if in addition to meeting the criteria for "toileting" the individual empties, cleanses, and replaces the receptacle, such as the bed pan, urinal, or commode, without assistance from other(s).

- Does Not Need Help. Individual uses the bathroom, cleans self, and arranges clothes without help. (I)
- Mechanical Help Only. Individual needs grab bars, raised toilet seat or transfer board and manages these devices without the aid of other(s). Includes individuals who use handrails, walkers, wheelchairs, or canes for support to complete the toileting process. Also includes individuals who use the bathroom without help during the day and use a bedpan, urinal, or bedside commode without help during the night and can empty this receptacle without assistance. (d)
- Human Help Only. (D)
 - Supervision (Verbal Cues, Prompting). Individual requires verbal cues and/or prompting to complete the toileting process.
 - Physical Assistance (Set-up, Hands-On Care). Individual usually requires assistance from another person who helps in getting to/from the bathroom, adjusting clothes, transferring on and off the toilet, or cleansing after elimination. The individual participates in the activity.
- Mechanical and Human Help. Individual usually needs equipment or a device and requires assistance of other(s) to toilet. (D)
- Performed by Others. Individual does use the bathroom, but is totally dependent on another's assistance. Individual does not participate in the activity at all. (D)
- Is Not Performed. Individual does not use the bathroom. (D)

Additional Information for Assessing "Toileting" for Children

For Children from birth to age 4 - Definition:

Considerations for children birth through 4 include: a child younger than 4 years may require diapers. Children 4-5 years may need intermittent supervision, cuing, and minor physical assistance, may have occasional night-time bedwetting, and may have occasional accidents during waking hours. You should also note assistance with bowel

and bladder programs or appliances such as ostomies or urinary catheters. See Section C of this document for scoring criteria for children.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
Birth – 36 Months	<input type="checkbox"/> Has complex medical equipment making toileting very difficult <input type="checkbox"/> Has a complex medical condition making toileting very difficult
37 Months – 4 Years	<input type="checkbox"/> Has complex medical equipment making toileting very difficult <input type="checkbox"/> Has a complex medical condition making toileting very difficult <input type="checkbox"/> Has no awareness of being wet or soiled in waking hours <input type="checkbox"/> Does NOT use toilet/potty chair when placed there by caregiver

For children from age 5 to 21 years of age - Definition

Considerations: This should include the ability to transfer on and off the toilet, cleansing of self, managing pads, managing catheter. Please note safety concerns such as: medical concerns, frequent infections or hygiene needs. Based on Child Development criteria, a child should be able to physically and cognitively perform all essential components of the task safely, without assistance if 6 years of age or older.

Example: A child age 5 or older showing some success of training should not be scored 2 or greater.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
5 – 6 Years	<input type="checkbox"/> Has complex medical equipment making toileting very difficult <input type="checkbox"/> Has a complex medical condition making toileting very difficult <input type="checkbox"/> Incontinent during the day (of bowel and / or bladder) <input type="checkbox"/> Utilizes incontinence supplies <input type="checkbox"/> Needs physical help (other than wiping)
7 – 21 Years	<input type="checkbox"/> Has complex medical equipment making toileting very difficult <input type="checkbox"/> Has a complex medical condition making toileting very difficult <input type="checkbox"/> Incontinent during the day (of bowel and / or bladder) <input type="checkbox"/> Utilizes incontinence supplies <input type="checkbox"/> Needs physical help, step-by-step cues, or toileting schedule

Transferring: Means the individual's ability to move between the bed, chair, and/or wheelchair. If a person needs help with some transfers but not all, code assistance at the highest level.

- Does Not Need Help. Individual usually completes the transferring process without human assistance or use of equipment. (I)
- Mechanical Help Only. Individual usually needs equipment or a device, such as lifts, hospital beds, sliding boards, pulleys, trapezes, railings, walkers or the arm of a chair, to safely transfer, and individual manages these devices without the aid of another person. (d)
- Human Help Only (D)
 - Supervision (Verbal Cues, Prompting). Individual usually needs verbal cues or guarding to safely transfer.
 - Physical Assistance (Set-up, Hands-On Care). Individual usually requires the assistance of another person who lifts some of the individual's body weight and provides physical support in order for the individual to safely transfer.
- Mechanical and Human Help. Individual usually needs equipment or a device and requires the assistance of other(s) to transfer. (D)
- Performed By Others. Individual is usually lifted out of the bed and/or chair by another person and does not participate in the process. If the individual does not bear weight on any body part in the transferring process; he/she is not participating in the transfer. Individuals who are transferred with a mechanical or Hoyer lift are included in this category. (D)
- Is Not Performed. The individual is confined to the bed. (D)

For children from birth to 21 years of age – Definition

Considerations: Based on Child Development criteria, a child should be able to physically and cognitively perform all essential components of the task, safely, and without assistance if 6 years of age or older. See Section C of this document for scoring criteria for children.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
Birth – 36 Months	N/A
37 Months – 4 Years	<input type="checkbox"/> Needs full assistance with transfers. <input type="checkbox"/> Uses a mechanical lift
5 – 21 Years	<input type="checkbox"/> Needs physical help with transfers <input type="checkbox"/> Uses a mechanical lift

Bowel: *The physiological process of elimination of feces.*

- Does Not Need Help. The individual voluntarily controls the elimination of feces. If the individual on a bowel program never empties his or her bladder without stimulation or a specified bowel regimen, he or she is coded as "Does not need help," and the bowel/bladder training is noted under medical/nursing needs. In this case, there is no voluntary elimination; evacuation is planned. If an individual on a bowel regimen also has occasions of bowel incontinence, then he or she would be coded as incontinent, either less than weekly or weekly or more. (I)
- Incontinent Less than Weekly. The individual has involuntary elimination of feces less than weekly (e.g., every other week). (d)
- Ostomy - Self-Care. The individual has an artificial anus established by an opening into the colon (colostomy) or ileum (ileostomy) and he completely cares for the ostomy, stoma, and skin cleansing, dressing, application of appliance, irrigation, etc. *Individuals who use incontinence supplies such as briefs, pads, or diapers and correctly dispose of them should be coded here.* (d)
- Incontinent Weekly or More. The individual has involuntary elimination of feces at least once a week. *Individuals who use incontinence supplies such as briefs, pads, or diapers and do not correctly dispose of them should be coded here.* (D)
- Ostomy - Not Self-Care. The individual has an artificial anus established by an opening into the colon (colostomy) or ileum (ileostomy) and another person cares for the ostomy: stoma and skin cleansing, dressing, application of appliance, irrigations, etc. (D)

Bladder: *The physiological process of elimination of urine.*

- Does Not Need Help. The individual voluntarily empties his or her bladder. Individuals on dialysis who have no urine output would be coded "Does not need help" as he or she does not perform this process. Dialysis will be noted under medical/nursing needs. Similarly, individuals who perform the Crede method for himself or herself for bladder elimination would also be coded "Does not need help." (I)
- Incontinent Less than Weekly. The individual has involuntary emptying or loss of urine less than weekly. (d)
- External Device, Indwelling Catheter, or Ostomy - Self Care. The individual has a urosheath or condom with a receptacle attached to collect urine (external catheter); a hollow cylinder passed through the urethra into the bladder (internal catheter) or a surgical procedure that establishes an external opening into the ureter(s) (ostomy). The individual completely cares for urinary devices (changes the catheter or external device, irrigates as needed, empties and replaces the receptacle) and the skin surrounding the ostomy. *Individuals who use incontinence supplies such as briefs, pads, or diapers and correctly dispose of them should be coded here.* (d)
- Incontinent Weekly or More. The individual has involuntary emptying or loss of urine at least once a week. *Individuals who use incontinence supplies such as briefs, pads, or diapers and do not correctly dispose of them should be coded here.* (D)
- External Device - Not Self-Care. Individual has an urosheath or condom with a receptacle attached to collect urine. Another person cares for the individual's external device. (D)
- Indwelling Catheter - Not Self-Care. Individual has a hollow cylinder passed through the urethra into the bladder. Another person cares for the individual's indwelling catheter. This category includes individuals who self-catheterize, but who need assistance to set-up, clean up, etc. (D)
- Ostomy - Not Self-Care. Individual has a surgical procedure that establishes an external opening into the ureter(s). Another person cares for the individual's ostomy. (D)

NOTE: There are no additional criteria for children for the activities of bowel and bladder other than those stated above.

Eating/Feeding: The process of getting food/fluid by any means into the body. This activity includes cutting food, transferring food from a plate or bowl into the individual's mouth, opening a carton and pouring liquids, and holding a glass to drink. This activity is the process of eating food after it is placed in front of the individual.

- Does Not Need Help. Individual is able to perform all of the activities without using equipment or the supervision or assistance of another. (I)
- Mechanical Help Only. Individual usually needs equipment or a device, such as hand splints, adapted utensils, and/or nonskid plates, in order to complete the eating process. Individuals needing mechanically adjusted diets (pureed food) and/or food chopped are included in this category. (d)
- Human Help Only (D)
 - Supervision (Verbal Cues, Prompting). Individual feeds self, but needs verbal cues and/or prompting to initiate and/or complete the eating process.
 - Physical Assistance (Set-up, Hands-On Care). Individual needs assistance to bring food to the mouth, cut meat, butter bread, open cartons and/or pour liquid due to an actual physical or mental disability (e.g., severe arthritis, Alzheimer's). This category must not be checked if the individual is able to feed himself but it is more convenient for the caregiver to complete the activity.
- Mechanical and Human Help. Individual usually needs equipment or a device and requires assistance of other(s) to eat. (D)
- Performed By Others. Includes individuals who are spoon fed; fed by syringe or tube, or individuals who are fed intravenously (IV). *Spoon fed* means the individual does not bring any food to his mouth and is fed completely by others. *Fed by syringe or tube* means the individual usually is fed a prescribed liquid diet via a feeding syringe, NG-tube (tube from the nose to the stomach) or G-tube (opening into the stomach). *Fed by I.V.* means the individual usually is fed a prescribed sterile solution intravenously. Total parenteral nutrition (TPN) is the administration of a nutritionally adequate solution through an indwelling catheter into the superior vena cava. (D)

Additional Information for Assessing "Eating/Feeding" for Children For Children from birth to age 4 - Definition:

Considerations for children birth through 4 include: a child younger than 12 months should be totally dependent on another for feeding. Children 2-4 years should physically participate in eating, and may need constant supervision and/or assistance in setting up meals. You should also note other forms of feeding such as tube or intravenous. Please note safety concerns such as: seizure activity, choking, dietary restrictions, or allergies. See Section C of this document for scoring criteria for children.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
Birth – 36 Months	<input type="checkbox"/> Requires more than one hour per feeding and nutritional needs of child are met and performed safely <input type="checkbox"/> Receives tube feeding or TPN <input type="checkbox"/> Needs one to one monitoring to prevent choking, aspiration or other serious complications
37 Months – 4 Years	<input type="checkbox"/> Requires more than one hour per feeding and nutritional needs of child are met and performed safely <input type="checkbox"/> Receives tube feeding or TPN <input type="checkbox"/> Needs one to one monitoring to prevent choking, aspiration or other serious complications <input type="checkbox"/> Needs to be fed

For children from age 5 to 21 years of age - Definition:

Considerations: This should include the ability to regulate amount of intake, chew/ swallow, utilize utensils. You should also note other forms of feeding such as tube or intravenous. Supervision needs such as verbal prompting or eating disorders should also be noted. Please note safety concerns such as: seizure activity, choking, dietary restrictions, or allergies. Based on Child Development criteria, a child should be able to physically and/or cognitively perform all essential components of the task, safely, and without assistance.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
5 – 21 Years	<input type="checkbox"/> Receives tube feeding or TPN <input type="checkbox"/> Requires more than three hours per day for feeding or eating <input type="checkbox"/> Needs to be fed <input type="checkbox"/> Needs one to one monitoring to prevent choking, aspiration or other serious complications

BEHAVIOR PATTERN AND ORIENTATION

Behavior and Orientation are considered as a combination for service authorization. Please see the chart below that provides the combinations that determine whether or not an individual is independent (I), semi-dependent (d), or dependent (D) in both behavior and orientation for the purposes of pre-admission screening.

ORIENTATION PATTERN	BEHAVIOR PATTERN	Appropriate	Wandering/ Passive Less Than Weekly	Wandering/ Passive More Than Weekly	Abusive/Aggressive/ Disruptive Less Than Weekly	Abusive/Aggressive/ Disruptive More Than Weekly
	Oriented	I	I	I	d	d
	Disoriented Some spheres Some of the time	I	I	d	d	D
	Disoriented Some spheres All of the time	I	I	d	d	D
	Disoriented All spheres Some of the time	d	d	d	d	D
	Disoriented All spheres All of the time	d	d	d	D	D
	Comatose	D	D	D	D	D

Behavior Pattern: Behavior Pattern is the manner of conducting oneself within one's environment.

- Appropriate. The individual's behavior pattern is suitable or fitting to the environment. Appropriate behavior is of the type that adjusts to accommodate expectations in different environments and social circumstances. Behavior pattern does not refer to personality characteristics such as "selfish," "impatient," or "demanding," but is based on direct observations of the individual's actions. (I)
- Inappropriate Wandering, Passive, or Other. The individual's usual behavior is manifested in a way that does not present major management problems. Wandering is characterized by physically moving about aimlessly or mentally being non-focused. Passive behavior is characterized by a lack of awareness or interest in personal matters and/or in activities taking place in close proximity. Other characterizations of behavior such as impaired judgment, regressive behavior, agitation, or hallucinations that is not disruptive are included in this category. Wandering/Passive < weekly = (I); Wandering/Passive Weekly or More = (d).
- Inappropriate Abusive, Aggressive, or Disruptive means the individual's behavior is manifested by acts detrimental to the life, comfort, safety, and/or property of the individual and/or others. Agitations, hallucinations, or assaultive behavior that is detrimental are included in this category and specified in the space provided. Abusive/Aggressive/Disruptive < Weekly = (D); Abusive/Aggressive/Disruptive Weekly or More = (D).
- Comatose refers to the semi-conscious or comatose (unconscious) state. (D)

Additional Information for Assessing "Behavior Pattern" for Children

For Children from birth to age 4 - Definition:

Considerations for children birth through 4 include: a child who requires assistance to engage in safe actions and interactions and refrain from unsafe actions and interactions.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
6 months – 4 Years as it relates to Behavior Pattern	<input type="checkbox"/> Child exhibits disruptive or dangerous behavior such as: verbal and physical abuse to self or others, wandering, removing or destroying property, or acting in a sexually aggressive manner. <input type="checkbox"/> Reported neurological impairment <input type="checkbox"/> Hyper/Hypo sensitivity to external stimulus <input type="checkbox"/> Constant vocalizations/Perseveration <input type="checkbox"/> Impaired safety skills <input type="checkbox"/> Child engages in smearing behavior <input type="checkbox"/> Sleep deprivation

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
Birth – 12 Months as it relates to Orientation	<input type="checkbox"/> Reported cognitive impairment <input type="checkbox"/> Lack of awareness <input type="checkbox"/> Unable to respond to cues
13 Months – 36 Months as it relates to Orientation	<input type="checkbox"/> Reported cognitive impairment <input type="checkbox"/> Child is unable to communicate basic needs and wants (does not include inability to speak English) <input type="checkbox"/> Disorientation/Disassociation <input type="checkbox"/> Unable to follow directions <input type="checkbox"/> Unable to respond to cues
37 Months – 4 Years as it relates to Orientation	<input type="checkbox"/> Reported cognitive impairment <input type="checkbox"/> Child is unable to communicate basic needs and wants (does not include inability to speak English) <input type="checkbox"/> Disorientation/Disassociation <input type="checkbox"/> Unable to follow directions or routine <input type="checkbox"/> Unable to process information or social cues <input type="checkbox"/> Unable to recall personal information

For children from age 5 to 21 years of age - Definition:

Considerations: a child who requires assistance to engage in safe actions and interactions and refrain from unsafe actions and interactions. Example: A child who is injurious to self or others.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
5 – 21 Years as it relates to Behavior Pattern	<input type="checkbox"/> Child exhibits disruptive or dangerous behavior such as: verbal and physical abuse to self or others, wandering, removing or destroying property, or acting in a sexually aggressive manner. <input type="checkbox"/> Reported neurological impairment <input type="checkbox"/> Hyper/Hypo sensitivity to external stimulus <input type="checkbox"/> Constant vocalizations/Perseveration <input type="checkbox"/> Impaired safety skills <input type="checkbox"/> Child engages in smearing behavior <input type="checkbox"/> Sleep deprivation

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
5 – 21 Years as it relates to Orientation	<input type="checkbox"/> Reported cognitive impairment <input type="checkbox"/> Child is unable to communicate basic needs and wants (does not include inability to speak English) <input type="checkbox"/> Disorientation/Disassociation <input type="checkbox"/> Unable to follow directions or routine <input type="checkbox"/> Unable to recall personal information <input type="checkbox"/> Unable to process information or social cues

Orientation: *Orientation is the awareness of an individual within his or her environment in relation to time, place, and person.*

- Oriented. The individual has no apparent problems with orientation and is aware of who he or she is, where he or she, the day of the week, the month, and people around him or her. (I)
- Disoriented-Some Spheres, Some of the Time. The individual sometimes has problems with one or two of the three cognitive spheres of person, place, or time. Some of the Time means there are alternating periods of awareness-unawareness. (d)
- Disoriented-Some Spheres, All of the Time. The individual is disoriented in one or two of the three cognitive spheres of person, place, and time. All of the time means this is the individual's usual state. (d)
- Disoriented-All Spheres, Some of the Time. The individual is disoriented to person, place, and time periodically, but not always. (D)
- Disoriented-All Spheres, All of the Time. The individual is always disoriented to person, place, and time. (D)
- Comatose. The individual is in a semi-comatose or unconscious state or is otherwise non-communicative. (D)

NOTE: *There are no additional criteria for children for Orientation other than those stated above.*

MEDICATION ADMINISTRATION: *Medication Administration refers to the person(s) who administer medications or if the individual is being referred elsewhere, the person(s) who will administer medications following referral.*

- Without Assistance or No Medications. No Medications means the individual takes medication without any assistance from another person or does not take any medications - (I)
- Administered/Monitored by Lay Person(s). The individual needs assistance of a person without pharmacology training to either administer or monitor medications. This includes medication aides in assisted living facilities (certified but not licensed) - (D)
- Administered/Monitored by Professional Nursing Staff. The individual needs licensed or professional health personnel to administer or monitor some or all of the medications – (D)

NOTE: *There are no additional criteria for children for Medication Administration other than those stated above.*

Mobility: *The extent of the individual's movement outside his or her usual living quarters. Evaluate the individual's ability to walk steadily and his or her level of endurance.*

- Does Not Need Help. Individual usually goes outside of his or her residence on a routine basis. If the only time the individual goes outside is for trips to medical appointments or treatments by ambulance, car, or van, do not code the individual here because this is not considered going outside. These individuals would be coded either in the "confined - moves about" or "confined - does not move about" categories. (I)
- Mechanical Help Only. Individual usually needs equipment or a device to go outside. Equipment or device includes splint, special shoes, leg braces, crutches, walkers, wheelchairs, canes, handrails, chairlifts, and special ramps. (d)
- Human Help Only (D)
 - Supervision (Verbal Cues, Prompting). Individual usually requires assistance from another person who provides supervision, cues, or coaxing to go outside.
 - Physical Assistance (Set-up, Hands-On Care). Individual usually receives assistance from another person who physically supports or steadies the individual to go outside.
- Mechanical and Human Help. Individual usually needs equipment or a device and requires assistance of other(s) to go outside. (D)
- Confined - Moves About. Individual does not customarily go outside of his or her residence, but does go outside of his or her room. (D)
- Confined - Does Not Move About. The individual usually stays in his or her room. (D)

Additional Information for Assessing "Mobility" for Children

For Children from birth to age 4 - Definition:

Considerations for children birth through 4 include: a child younger than 5 years may require supervision for safety of the child. Children birth through 2 years may need intermittent physical assistance. See Section C of this document for scoring criteria for children.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
Birth – 6 Months	N/A
7 Months – 12 Months	<input type="checkbox"/> Unable to maintain a sitting position when placed <input type="checkbox"/> Unable to move self by rolling, crawling, or creeping
13 Months – 18 Months	<input type="checkbox"/> Unable to pull to stand up <input type="checkbox"/> Unable to sit alone <input type="checkbox"/> Requires a stander or someone to support the child's weight in a standing position <input type="checkbox"/> Unable to crawl or creep
19 Months – 24 Months	<input type="checkbox"/> Requires a stander or someone to support the child's weight in a standing position <input type="checkbox"/> Uses a wheelchair or other medical equipment to stand/walk. <input type="checkbox"/> Unable to take steps holding onto furniture
25 Months – 36 Months	<input type="checkbox"/> Requires a stander or someone to support the child's weight in a standing position <input type="checkbox"/> Uses a wheelchair or other medical equipment to stand/walk. <input type="checkbox"/> Does NOT walk or needs physical help to walk
37 Months – 4 Years	<input type="checkbox"/> Uses a wheelchair or other medical equipment to stand/walk. <input type="checkbox"/> Does NOT walk or needs physical help to walk

For children from age 5 to 21 years of age - Definition:

Considerations: This should include the ability to safely maneuver (ambulate) without assistance, creep up stairs, kneel without support, and assume standing position. Please note safety concerns such as: seizure activity, frequent falls, balance, and/or visual concerns. Based on Child Development criteria, a child should be able to physically and/or cognitively perform all essential components of the task, safely, and without assistance. See Section C of this document for scoring criteria for children.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
5 – 21 Years	<input type="checkbox"/> Does NOT walk or needs physical help to walk <input type="checkbox"/> Uses a wheelchair or other medical equipment to stand/walk.

JOINT MOTION: This is the individual's ability to move his or her fingers, arms, and legs (active range of movement or ROM) or, if applicable, the ability of someone else to move the individual's fingers, arms, and legs (passive ROM).

- Within Normal Limits or Instability Corrected means the joints can be moved to functional motion without restriction, or a joint does not maintain functional motion and/or position when pressure or stress is applied, but has been corrected by the use of an appliance or by surgical procedure. (I)
- Limited Motion means partial restriction in the movement of a joint including any inflammatory process in the joint causing redness, pain, and/or swelling that limits the motion of the joint. (d)
- Instability Uncorrected or Immobile means a joint does not maintain functional motion and/or position when pressure or stress is applied and the disorder has not been surgically corrected or an appliance is not used, or there is total restriction in the movement of a joint (e.g., contractures, which are common in individuals who have had strokes). (D)

NOTE: There are no additional criteria for children for Joint Motion other than those stated above.

E. EXAMPLES OF MEDICAL NURSING NEEDS:

Ongoing means that the medical/nursing needs are continuing, not temporary, or where the individual is expected to undergo or develop changes with increasing severity in status. "Ongoing" refers to the need for daily direct care and/or supervision by a licensed nurse that cannot be managed on an outpatient basis.

Specify the ongoing medical/nursing need in the space provided on page 7 of the UAI. An individual who is receiving rehabilitation services and/or special medical procedure does not automatically have ongoing medical/nursing needs as there should be documentation to support the rehabilitation services and/or special medical procedures such as physician orders or progress notes.

Indicate whether the individual has ongoing medical or nursing needs. This means:

- 1) The individual's medical condition requires observation and assessment to assure evaluation of needs due to an inability for self-observation or evaluation; OR
- 2) The individual has complex medical conditions that may be unstable or have the potential for instability; OR
- 3) The individual requires at least one ongoing medical or nursing service.

An individual with ongoing Medical Nursing Needs is defined (per the *User's Manual: Virginia UAI*) as "an individual with medical or nursing needs is someone whose health needs regular medical or nursing supervision, or care above the level which could be provided through assistance with ADLs, medication administration, and supervision and is not primarily for the care and treatment of mental illness. Does not include conditions of dementia/Alzheimer's diagnosis."

The following is a non-exclusive list of medical/nursing needs which may, but need not necessarily, indicate a need for medical or nursing supervision or care:

- Routine care of colostomy or ileostomy or management of neurogenic bowel and bladder;
- Use of physical (e.g., side rails, poseys) or chemical restraints;
- Routine skin care to prevent pressure ulcers for individuals who are immobile;
- Care of small uncomplicated pressure ulcers and local skin rashes;
- Management of those with sensory/cognitive, metabolic, or circulatory impairment with demonstrated clinical evidence of medical instability;
- Infusion therapy;
- Administration of oxygen;
- Application of aseptic dressings;
- Routine catheter care;
- Respiratory therapy;
- Therapeutic exercise and positioning;
- Chemotherapy and/or radiation;
- Dialysis;
- Suctioning;
- Tracheostomy care;
- Supervision for adequate nutrition and hydration for individuals who show clinical evidence of malnourishment or dehydration or have a recent history of weight loss or inadequate hydration which, if not supervised, would be expected to result in malnourishment or dehydration.

For Children from birth to age 4 - Definition:

Health impairments that require long-term, intensive, specialized services on a daily basis. See Section C of this document for scoring criteria for children.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
Birth – 4 Years	<input type="checkbox"/> Drainage Tubes <input type="checkbox"/> End-Stage Disease <input type="checkbox"/> Naso-gastric Tube Feeding <input type="checkbox"/> Oxygen <input type="checkbox"/> TPN <input type="checkbox"/> Severe Daily Pain Management <input type="checkbox"/> Suctioning <input type="checkbox"/> Tracheostomy <input type="checkbox"/> Transplant <input type="checkbox"/> Uncontrolled Seizures <input type="checkbox"/> Requires Use of Ventilator <input type="checkbox"/> Wound Care <input type="checkbox"/> Metabolic Disorder <input type="checkbox"/> Ostomy <input type="checkbox"/> Other

For children from age 5 to 21 years of age - Definition:

Health impairments that require long-term, intensive, specialized services on a daily basis.

Due To: (Score must be justified through one or more of the following conditions)

Age:	Mark All That Apply:
5 – 21 Years	<input type="checkbox"/> Drainage Tubes <input type="checkbox"/> End-Stage Disease <input type="checkbox"/> Naso-gastric Tube Feeding <input type="checkbox"/> Oxygen <input type="checkbox"/> TPN <input type="checkbox"/> Severe Daily Pain Management <input type="checkbox"/> Suctioning <input type="checkbox"/> Tracheostomy <input type="checkbox"/> Transplant <input type="checkbox"/> Uncontrolled Seizures <input type="checkbox"/> Requires Use of Ventilator <input type="checkbox"/> Metabolic Disorder <input type="checkbox"/> Ostomy <input type="checkbox"/> Wound Care <input type="checkbox"/> Other

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Meacham, Scott

SUMMARY

Forest fire protection compacts; codification. Codifies the text of the Southeastern Interstate Forest Fire Protection Compact and the Middle Atlantic Interstate Forest Fire Protection Compact, originally incorporated into the Code of Virginia by reference in 1956 and 1966, respectively. In the section that codifies the Southeastern Interstate Forest Fire Protection Compact, the names of state entities in the Commonwealth are updated and the authority to appoint one member of the Senate and one member of the House of Delegates to an advisory committee is shifted from the Governor to the Senate Committee on Rules and the Speaker of the House of Delegates, respectively, in conformity with current protocol.

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 10.1-1149 and 10.1-1150 of the Code of Virginia, relating to forest fire
2 protection compacts.

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

4 **1. That §§ 10.1-1149 and 10.1-1150 of the Code of Virginia are amended and reenacted as follows:**

5 **§ 10.1-1149. Southeastern Interstate Forest Fire Protection Compact.**

6 ~~Chapter 63 of the 1956 Acts of Assembly authorizing the Governor to execute a compact to~~
7 ~~promote effective prevention and control of forest fires in the Southeastern region of the United States,~~
8 ~~is incorporated in this Code by this reference.~~

9 § 1. The Governor is hereby authorized to execute, on behalf of the Commonwealth of Virginia,
10 a compact with any one or more of the states of Alabama, Florida, Georgia, Kentucky, Mississippi,
11 North Carolina, South Carolina, Tennessee, and West Virginia, which compact shall be in form
12 substantially as follows:

13 SOUTHEASTERN INTERSTATE FOREST FIRE PROTECTION COMPACT.

14 Article I.

15 The purpose of this compact is to promote effective prevention and control of forest fires in the
16 Southeastern region of the United States by the development of integrated forest fire plans, by the
17 maintenance of adequate forest fire fighting services by the member states, by providing for mutual aid
18 in fighting forest fires among the compacting states of the region and with states which are party to other
19 Regional Forest Fire Protection compacts or agreements, and for more adequate forest protection.

20 Article II.

21 This compact shall become operative immediately as to those states ratifying it whenever any
22 two or more of the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South
23 Carolina, Tennessee, Virginia, and West Virginia, which are contiguous have ratified it and Congress
24 has given consent thereto. Any state not mentioned in this article which is contiguous with any member

25 state may become a party to this compact, subject to approval by the legislature of each of the member
26 states.

27 Article III.

28 In each state, the state forester or officer holding the equivalent position who is responsible for
29 forest fire control shall act as compact administrator for that state and shall consult with like officials of
30 the other member states and shall implement cooperation between such states in forest fire prevention
31 and control.

32 The compact administrators of the member states shall coordinate the services of the member
33 states and provide administrative integration in carrying out the purposes of this compact.

34 There shall be established an advisory committee of legislators, forestry commission
35 representatives, and forestry or forest products industries representatives which shall meet from time to
36 time with the compact administrators. Each member state shall name one member of the Senate and one
37 member of the House of Representatives who shall be designated by that state's commission on
38 interstate cooperation, or if said commission cannot constitutionally designate the said members, they
39 shall be designated in accordance with laws of that state; and the Governor of each member state shall
40 appoint two representatives, one of whom shall be associated with forestry or forest products industries
41 to comprise the membership of the advisory committee. Action shall be taken by a majority of the
42 compacting states, and each state shall be entitled to one vote.

43 The compact administrators shall formulate and, in accordance with need, from time to time,
44 revise a regional forest fire plan for the member states.

45 It shall be the duty of each member state to formulate and put in effect a forest fire plan for that
46 state and take such measures as may be necessary to integrate such forest fire plan with the regional
47 forest fire plan formulated by the compact administrators.

48 Article IV.

49 Whenever the state forest fire control agency of a member state requests aid from the state forest
50 fire control agency of any other member state in combating, controlling or preventing forest fires, it shall

51 be the duty of the state forest fire control agency of that state to render all possible aid to the requesting
52 agency which is consonant with the maintenance of protection at home.

53 Article V.

54 Whenever the forces of any member state are rendering outside aid pursuant to the request of
55 another member state under this compact, the employees of such state shall, under the direction of the
56 officers of the state to which they are rendering aid, have the same powers (except the power of arrest),
57 duties, rights, privileges and immunities as comparable employees of the state to which they are
58 rendering aid.

59 No member state or its officers or employees rendering outside aid pursuant to this compact shall
60 be liable on account of any act or omission on the part of such forces while so engaged, or on account of
61 the maintenance, or use of any equipment or supplies in connection therewith; Provided, that nothing
62 herein shall be construed as relieving any person from liability for his own negligent act or omission, or
63 as imposing liability for such negligent act or omission upon any state.

64 All liability, except as otherwise provided hereinafter, that may arise either under the laws of the
65 requesting state or under the laws of the aiding state or under the laws of a third state on account of or in
66 connection with a request for aid, shall be assumed and borne by the requesting state.

67 Any member state rendering outside aid pursuant to this compact shall be reimbursed by the
68 member state receiving such aid for any loss or damage to, or expense incurred in the operation of any
69 equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries,
70 and subsistence of employees and maintenance of equipment incurred in connection with such request:
71 Provided, that nothing herein contained shall prevent any assisting member state from assuming such
72 loss, damage, expense or other cost or from loaning such equipment or from donating such service to the
73 receiving member state without charge or cost.

74 Each member state shall provide for the payment of compensation and death benefits to injured
75 employees and the representatives of deceased employees in case employees sustain injuries or are
76 killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms
77 as if the injury or death were sustained within such state.

78 For the purposes of this compact the term employee shall include any volunteer or auxiliary
79 legally included within the forest fire fighting forces of the aiding state under the laws thereof.

80 The compact administrators shall formulate procedures for claims and reimbursement under the
81 provisions of this article, in accordance with the laws of the member states.

82 Article VI.

83 Ratification of this compact shall not be construed to affect any existing statute so as to authorize
84 or permit curtailment or diminution of the forest fire fighting forces, equipment, services or facilities of
85 any member state.

86 Nothing in this compact shall be construed to limit or restrict the powers of any state ratifying
87 the same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the
88 enactment or enforcement of state laws, rules or regulations intended to aid in such prevention, control
89 and extinguishment in such state.

90 Nothing in this compact shall be construed to affect any existing or future cooperative
91 relationship or arrangement between any federal agency and a member state or states.

92 Article VII.

93 The compact administrators may request the United States Forest Service to act as a research and
94 coordinating agency of the Southeastern Interstate Forest Fire Protection Compact in cooperation with
95 the appropriate agencies in each state, and the United States Forest Service may accept responsibility for
96 preparing and presenting to the compact administrators its recommendations with respect to the regional
97 fire plan. Representatives of any federal agency engaged in forest fire prevention and control may attend
98 meetings of the compact administrators.

99 Article VIII.

100 The provisions of Articles IV and V of this compact which relate to mutual aid in combating,
101 controlling or preventing forest fires shall be operative as between any state party to this compact and
102 any other state which is party to a regional forest fire protection compact in another region: Provided,
103 that the legislature of such other state shall have given its assent to such mutual aid provisions of this
104 compact.

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Article IX.

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the Governor of such state, as the laws of such state shall provide, takes action to withdraw therefrom. Such action shall not be effective until six months after notice thereof has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.

§ 2. When the Governor shall have executed said compact on behalf of the Commonwealth of Virginia and shall have caused a verified copy thereof to have been filed with the Secretary of the Commonwealth, and when said compact also shall have been ratified by one or more of the states named in § 1 of this act, then said compact shall become operative and effective as between this State and such other state or states; and the Governor is hereby authorized and directed to take such action as may be necessary to complete the exchange of official documents between this State and any other state ratifying said compact.

§ 3. Pursuant to the provisions of Article III of said compact, the State Forester, under the general direction of the Secretary of Agriculture and Forestry, shall act as Compact Administrator for the Commonwealth of Virginia of the compact set forth in § 1 of this act.

As Compact Administrator, the State Forester shall be ex officio a member of the Advisory Committee of the Southeastern Interstate Forest Fire Protection Compact and chairman ex officio of the Virginia members of said Advisory Committee.

There shall be one group of four members of the Southeastern Interstate Forest Fire Protection Advisory Committee from the Commonwealth of Virginia. Each such member shall serve for a term of two years, or until his successor shall have been appointed and qualified, except as hereinafter provided. Two such members shall be members of the General Assembly, one from the Senate, to be appointed by the Senate Committee on Rules, and one from the House of Delegates, to be appointed by the Speaker of the House of Delegates, whose terms automatically shall terminate at the time when they cease to hold such legislative office; and their successors shall be appointed in like manner. The Governor shall appoint the two other members from the Commonwealth at large, one of whom shall be associated with

132 forestry or forest products industries. Vacancies occurring on the committee shall be filled for the
133 unexpired term by appointment by the Senate Committee on Rules, the Speaker of the House of
134 Delegates, or the Governor, respectively. The terms of each of the initial four memberships, whether or
135 not appointed at such time, shall begin upon the date which said compact shall become effective in
136 accordance with Article II of said compact.

137 The State Forester, as Compact Administrator for the Commonwealth of Virginia, may delegate,
138 from time to time, to any deputy or other subordinate in his office, the power to be present and
139 participate, including voting as his representative or substitute, at any meeting of or hearing by or other
140 proceeding of the Compact Administrators of the Advisory Committee.

141 § 4. The State Forester, under the general direction of the Secretary of Agriculture and Forestry,
142 as Compact Administrator, shall be vested with all powers provided for in said compact and all powers
143 necessary and incidental to the carrying out of said compact in every particular.

144 § 5. If any provision of this act or the application thereof to any person or circumstance is held
145 invalid, such invalidity shall not affect other provisions or applications of the act which can be given
146 effect without the invalid provision or application, and to this end the provisions of this act are declared
147 to be severable.

148 § 6. This act shall become effective the first day of July 1956.

149 **§ 10.1-1150. Middle Atlantic Interstate Forest Fire Protection Compact.**

150 ~~Chapter 6 of the 1966 Acts of Assembly authorizing the Governor to execute a compact to~~
151 ~~promote effective prevention and control of forest fires in the Middle Atlantic region of the United~~
152 ~~States, is incorporated in this Code by this reference.~~

153 § 1. The Governor is hereby authorized to execute, on behalf of the Commonwealth of Virginia,
154 a compact with any one or more of the states of Delaware, Maryland, New Jersey, Pennsylvania and
155 West Virginia which compact shall be in substantially the following form:

156 MIDDLE ATLANTIC INTERSTATE FOREST FIRE PROTECTION COMPACT

157 ARTICLE I

158 The purpose of this compact is to promote effective prevention and control of forest fires in the
159 Middle Atlantic region of the United States by the development of integrated forest fire plans, by the
160 maintenance of adequate forest fire fighting services by the member states, and by providing for mutual
161 aid in fighting forest fires among the compacting states of the region and with states which are party to
162 other regional forest fire protection compacts or agreements.

163 ARTICLE II

164 This compact shall become operative immediately as to those states ratifying it whenever any
165 two or more of the states of Delaware, Maryland, New Jersey, Pennsylvania, Virginia and West Virginia
166 which are contiguous have ratified it and Congress has given consent thereto.

167 ARTICLE III

168 In each state, the state forester or officer holding the equivalent position who is responsible for
169 forest fire control shall act as compact administrator for that state and shall consult with like officials of
170 the other member states and shall implement cooperation between such states in forest fire prevention
171 and control.

172 The compact administrators of the member states shall organize to coordinate the services of the
173 member states and provide administrative integration in carrying out the purposes of this compact.

174 The compact administrators shall formulate and, in accordance with need, from time to time,
175 revise a regional forest fire plan for the member states.

176 It shall be the duty of each member state to formulate and put in effect a forest fire plan for that
177 state and take such measures as may be necessary to integrate such forest fire plan with the regional
178 forest fire plan formulated by the compact administrators.

179 ARTICLE IV

180 Whenever the state forest fire control agency of a member state requests aid from the state forest
181 fire control agency of any other member state in combating, controlling or preventing forest fires, it shall
182 be the duty of the state forest fire control agency of that state to render all possible aid to the requesting
183 agency which is consonant with the maintenance of protection at home.

184 ARTICLE V

185 Whenever the forces of any member state are rendering outside aid pursuant to the request of
186 another member state under this compact, the employees of such state shall, under the direction of the
187 officers of the state to which they are rendering aid, have the same powers (except the power of arrest),
188 duties, rights, privileges and immunities as comparable employees of the state to which they are
189 rendering aid.

190 No member state or its officers or employees rendering outside aid pursuant to this compact shall
191 be liable on account of any act or omission on the part of such forces while so engaged, or on account of
192 the maintenance or use of any equipment or supplies in connection therewith.

193 All liability, except as otherwise provided hereinafter, that may arise either under the laws of the
194 requesting state or under the laws of the aiding state or under the laws of a third state on account of or in
195 connection with a request for aid, shall be assumed and borne by the requesting state.

196 Any member state rendering outside aid pursuant to this compact shall be reimbursed by the
197 member state receiving such aid for any loss or damage to, or expense incurred in the operation of any
198 equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries,
199 and maintenance of employees and equipment incurred in connection with such request: provided, that
200 nothing herein contained shall prevent any assisting member state from assuming such loss, damage,
201 expense or other cost or from loaning such equipment or from donating such services to the receiving
202 member state without charge or cost.

203 Each member state shall provide for the payment of compensation and death benefits to injured
204 employees and the representatives of deceased employees in case employees sustain injuries or are
205 killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms
206 as if the injury or death were sustained within such state.

207 For the purposes of this compact, the term "employee" shall include any volunteer or auxiliary
208 legally included within the forest fire fighting forces of the aiding state under the laws thereof.

209 The compact administrators shall formulate procedures for claims and reimbursement under the
210 provisions of this article, in accordance with the laws of the member states.

211 ARTICLE VI

212 Nothing in this compact shall be construed to authorize or permit any member state to curtail or
213 diminish its forest fire fighting forces, equipment, services or facilities, and it shall be the duty and
214 responsibility of each member state to maintain adequate forest fire fighting forces and equipment to
215 meet demands for forest fire protection within its borders in the same manner and to the same extent as
216 if this compact were not operative.

217 Nothing in this compact shall be construed to limit or restrict the powers of any state ratifying
218 the same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the
219 enactment or enforcement of state laws, rules or regulations intended to aid in such prevention, control
220 and extinguishment in such state.

221 Nothing in this compact shall be construed to affect any existing or future cooperative
222 relationship or arrangement between the United States Forest Service and a member state or states.

223 ARTICLE VII

224 The compact administrators may request the United States Forest Service to act as the primary
225 research and coordinating agency of the Middle Atlantic Interstate Forest Fire Protection Compact in
226 cooperation with the appropriate agencies in each state, and the United States Forest Service may accept
227 the initial responsibility in preparing and presenting to the compact administrators its recommendations
228 with respect to the regional fire plan. Representatives of the United States Forest Service may attend
229 meetings of the compact administrators.

230 ARTICLE VIII

231 The provisions of Articles IV and V of this compact which relate to mutual aid in combating,
232 controlling or preventing forest fires shall be operative as between any state party to this compact and
233 any other state which is party to a regional forest fire protection compact in another region, provided that
234 the legislature of such other state shall have given its assent to such mutual aid provisions of this
235 compact.

236 ARTICLE IX

237 This compact shall continue in force and remain binding on each state ratifying it until the
238 legislature or the governor of such state takes action to withdraw therefrom. Such action shall not be

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Meacham, Scott

239 effective until six months after notice thereof has been sent by the chief executive of the state desiring to
240 withdraw to the chief executives of all states then parties to the compact.

241 § 2. The right to alter, amend, or repeal this Act is expressly reserved.

242 #

Virginia Code Commission Legislation - 2016 Session of the General Assembly

SUBJECT	DESCRIPTION	STATUS	PATRON	CATEGORY
Title 23 recodification	Recodifies Title 23 (Educational Institutions) to Title 23.1 (Institutions of Higher Education; Other Educational and Cultural Institutions)	PENDING Final approval expected 11/16/2015 (see agenda item #6)		Recodification
Former City of Bedford	Updates Code references to the former City of Bedford to reflect town status	PENDING For consideration 11/16/2015 (see agenda item #5)		Clean-up
Southeastern Interstate Forest Fire Protection Compact and Middle Atlantic Interstate Forest Fire Protection Compact	Codifies two forest fire protection compacts from the 1956 and 1966 Acts of Assembly that currently are incorporated by reference in Title 10.1 of the Code in furtherance of the provisions of § 30-154.1 and the Code Commission policy that all compacts be codified. Both compacts are in effect.	PENDING Final approval expected 11/16/2015 (See agenda item #8)		Compacts
Obsolete tax statutes	Repeals obsolete tax-related statutes.	APPROVED 7/30/2015 (bill attached)		Obsolete
Housing; removal of obsolete provisions; correction of citation	Removes obsolete language regarding staggered terms for members of the Manufactured Housing Board and corrects a citation to the Housing Revitalization Zone Act (§ 36-157 et seq.).	APPROVED 9/16/2014 (bill attached)		Obsolete
Administrative Process Act; ex parte communications	Prohibits ex parte communications to and from hearing officers with exceptions for ministerial matters. Allows a hearing officer to make prohibited communications a part of the record.	PENDING For consideration 11/16/2015 (see agenda item #3)		ALAC
Administrative Process Act; reconsideration of decision	Allows a party to file a petition for reconsideration of an agency's final decision within 15 days and allows an agency to reconsider a final decision within 30 days for good cause.	PENDING For consideration 11/16/2015 (see agenda item #3)		ALAC

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Rosenberg, David A.

SUMMARY

Obsolete tax statutes. Repeals obsolete tax-related statutes. This bill is a recommendation of the Code Commission.

SENATE BILL NO. _____ HOUSE BILL NO. _____

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

Be it enacted by the General Assembly of Virginia:

8
 9 **1. That §§ 3.2-3106, 3.2-4203, 36-139, 45.1-361.5, 45.1-361.38, 58.1-439.12:04, 58.1-439.17, 58.1-**
 10 **603.1, 58.1-604.01, 58.1-3706, 58.1-3713.3, and 58.1-3823 of the Code of Virginia are amended**
 11 **and reenacted as follows:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

76 8. Determining present and future housing requirements of the Commonwealth on an annual
77 basis and revising the Consolidated Plan, as necessary to coordinate the elements of housing

78 production to ensure the availability of housing where and when needed.

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

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

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

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

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

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

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

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

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

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

103 19. Preparing agreements and documents for loans and grants to be made from the Virginia

104 Housing Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans
105 and grants are to be made from such fund; directing the Virginia Housing Development Authority and
106 the Department as to the closing and disbursing of such loans and grants and as to the servicing and
107 collection of such loans; directing the Department as to the regulation and monitoring of the
108 ownership, occupancy and operation of the housing developments and residential housing financed or
109 assisted by such loans and grants; and providing direction and guidance to the Virginia Housing
110 Development Authority as to the investment of moneys in such fund.

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

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

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

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

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

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

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

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

132 **§ 45.1-361.5. Exclusivity of regulation and enforcement.**

133 No county, city, town or other political subdivision of the Commonwealth shall impose any
134 condition, or require any other local license, permit, fee or bond to perform any gas, oil, or
135 geophysical operations which varies from or is in addition to the requirements of this chapter.
136 However, no provision of this chapter shall be construed to limit or supersede the jurisdiction and
137 requirements of other state agencies, local land-use ordinances, regulations of general purpose, or §§
138 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, 58.1-3713.3, 58.1-3741, 58.1-3742, and 58.1-3743.

139 **§ 45.1-361.38. Report of permitted activities and production required; contents.**

140 A. Each holder of a permit for gas or oil wells or gathering pipelines shall file monthly and
141 annual reports of his activities as prescribed by the Director. These reports shall be for the purpose of
142 obtaining information regarding the production and sale of gas and oil resources, as well as
143 information concerning the ownership and control of permitted activities. Filing of these reports by a
144 permittee shall be a condition of such permit. Every annual report filed by a permittee shall contain a
145 certification that such permittee has paid all severance taxes levied under the provisions of §§ 58.1-
146 3712, ~~58.1-3712.1~~, 58.1-3713, and 58.1-3741.

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

150 **§ 58.1-439.12:04. Tax credit for participating landlords.**

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

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

155 "Eligible housing area" means a census tract in the Richmond Metropolitan Statistical area in

156 which less than 10 percent of the residents live below the poverty level, as defined by the United
157 States government and determined by the most recent United States census.

158 "Housing authority" means a housing authority created under Article 1 (§ 36-1 et seq.) of
159 Chapter 1 of Title 36 of this Code or other government agency that is authorized by the United States
160 government under the United States Housing Act of 1937 (42 U.S.C. § 1437 et seq.) to administer a
161 housing choice voucher program, or the authorized agent of such a housing authority that is authorized
162 to act upon that authority's behalf. The term shall also include the Virginia Housing Development
163 Authority.

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

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

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

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

182 regard to such parcel of real property, with the limited number being equal to 25 percent of the total
183 dwelling units on such parcel of real property in the taxable year.

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

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

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

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

208 corporation (S corporation) shall be allocated to the individual partners, members, or shareholders,
 209 respectively, in proportion to their ownership or interest in such business entities.

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

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

215 Article 13.1.

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

217 Localities.

218 **§ 58.1-439.17. Grants in lieu of or in addition to tax credits.**

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

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

232 ~~A.~~ In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and
 233 imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§

234 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more
235 as shown by the most recent United States Census, has not less than 1.2 million motor vehicles
236 registered therein, and has a total transit ridership of not less than 15 million riders per year across all
237 transit systems within the Planning District or (ii) as shown by the most recent United States Census
238 meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership
239 criteria set forth in clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax
240 is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately
241 following the calendar year in which all of the criteria have been met. Such tax shall not be levied
242 upon food purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to
243 the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county and city and shall be
244 subject to all the provisions of this chapter and the rules and regulations published with respect
245 thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such
246 tax shall be administered and collected by the Tax Commissioner in the same manner and subject to
247 the same penalties as provided for the state sales tax under § 58.1-603.

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

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

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

259 ~~A.~~In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and

260 imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§
261 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million
262 or more, as shown by the most recent United States Census, has not less than 1.2 million motor
263 vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year
264 across all transit systems within the Planning District or (ii) as shown by the most recent United States
265 Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and
266 ridership criteria set forth in clause (i), a retail use tax at the rate of 0.70 percent. In any case in which
267 the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1
268 immediately following the calendar year in which all of the criteria have been met. Such tax shall not
269 be levied upon food purchased for human consumption as defined in § 58.1-611.1. Such tax shall be
270 added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and city and shall
271 be subject to all the provisions of this chapter and the rules and regulations published with respect
272 thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section. Such
273 tax shall be administered and collected by the Tax Commissioner in the same manner and subject to
274 the same penalties as provided for the state use tax under § 58.1-604.

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

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

284 **§ 58.1-3706. Limitation on rate of license taxes.**

285 A. Except as specifically provided in this section and except for the fee authorized in § 58.1-

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

293 1. For contracting, and persons constructing for their own account for sale, sixteen cents per
294 \$100 of gross receipts;

295 2. For retail sales, twenty cents per \$100 of gross receipts;

296 3. For financial, real estate and professional services, fifty-eight cents per \$100 of gross
297 receipts; and

298 4. For repair, personal and business services, and all other businesses and occupations not
299 specifically listed or excepted in this section, thirty-six cents per \$100 of gross receipts.

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

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

312 following conditions:

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

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

318 3. A locality shall lower rates on categories which are above the maximums prescribed in
319 subsection A for any tax year after 1982 if it receives more revenue in tax year 1981, or any tax year
320 thereafter, than the revenue base for such year. The revenue base for tax year 1981 shall be the amount
321 of revenue received from all categories in tax year 1980, plus one-third of the amount, if any, by
322 which such revenue received in tax year 1981 exceeds the revenue received for tax year 1980. The
323 revenue base for each tax year after 1981 shall be the revenue base of the preceding tax year plus one-
324 third of the increase in the revenues of the subsequent tax year over the revenue base of the preceding
325 tax year. If in any tax year the amount of revenues received from all categories exceeds the revenue
326 base for such year, the rates shall be adjusted as follows: The revenues of those categories with rates at
327 or below the maximum shall be subtracted from the revenue base for such year. The resulting amount
328 shall be allocated to the category or categories with rates above the maximum in a manner determined
329 by the locality, and divided by the gross receipts of such category for the tax year. The resulting rate
330 or rates shall be applicable to such category or categories for the second tax year following the year
331 whose revenue was used to make the calculation.

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

334 D. 1. Any person, firm, or corporation designated as the principal or prime contractor receiving
335 identifiable federal appropriations for research and development services as defined in § 31.205-18 (a)
336 of the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii)
337 computer software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and

338 physical sciences shall be subject to a license tax rate not to exceed three cents per \$100 of such
339 federal funds received in payment of such contracts upon documentation provided by such person,
340 firm or corporation to the local commissioner of revenue or finance officer confirming the
341 applicability of this subsection.

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

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

358 E. In any case in which the Department of Mines, Minerals and Energy determines that the
359 weekly U.S. Retail Gasoline price (regular grade) for PADD 1C (Petroleum Administration for
360 Defense District -- Lower Atlantic Region) has increased by 20% or greater in any one-week period
361 over the immediately preceding one-week period and does not fall below the increased rate for at least
362 28 consecutive days immediately following the week of such increase, then, notwithstanding any tax
363 rate on retailers imposed by the local ordinance, the gross receipts taxes on fuel sales of a gas retailer

364 made in the following license year shall not exceed 110% of the gross receipts taxes on fuel sales
365 made by such retailer in the license year of such increase. For license years beginning on or after
366 January 1, 2006, every gas retailer shall maintain separate records for fuel sales and nonfuel sales and
367 shall make such records available upon request by the local tax official.

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

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

374 **§ 58.1-3713.3. Validation of local coal and gas severance tax ordinances and local coal**
375 **and gas road improvement tax ordinances.**

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

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

386 C. 1. Any locality that imposed the tax under § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-
387 3713.4 for the 2008, 2009, 2010, or 2011 license year for coal, gas, or oil severed from the earth prior
388 to July 1, 2013, shall (if it has not already done so by the effective date of this subsection) amend its
389 local ordinance with regard to such taxes to adopt or include the uniform ordinance provisions of §

390 58.1-3703.1, with the exception of subdivisions A 1 and A 3 of such section, in the local ordinance
391 with an effective date retroactive to the 2008 license year. As of the effective date of this subsection,
392 each such locality shall allow all persons assessed with such taxes for the 2008 license year or any
393 license year thereafter to exercise all rights and remedies under § 58.1-3703.1, provided that
394 subdivisions A 1 and A 3 of such section shall be inapplicable for purposes of the imposition,
395 collection, or appeal of such taxes. Such rights and remedies shall include, but shall not be limited to,
396 the appeal procedures set forth under subdivisions A 5, A 6, and A 7 of § 58.1-3703.1. In addition,
397 each such locality, upon the provisions of this subsection becoming effective, shall within 60 days
398 thereof provide written notice to all persons upon whom the locality imposed one or more of the taxes
399 under § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for license year 2008, 2009, 2010, or 2011
400 for coal, gas, or oil severed from the earth prior to July 1, 2013, informing the person that the locality
401 has adopted or will adopt the uniform ordinance provisions of § 58.1-3703.1 with regard to such taxes,
402 excluding subdivisions A 1 and A 3 of such section, retroactive to the 2008 license year and for each
403 license year thereafter.

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

415 3. Each locality amending its ordinance pursuant to subdivision 1 or 2 shall amend its

416 ordinance in accordance with the respective subdivision within 90 days of the effective date of this
417 subsection.

418 4. Each local ordinance amended as provided under this subsection shall be deemed valid and
419 properly enacted for purposes of any tax imposed pursuant to § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or
420 58.1-3713.4 for license year 2008, 2009, 2010, 2011, or 2012 for coal, gas, or oil severed from the
421 earth prior to July 1, 2013. Further, each such ordinance shall be deemed to have met the requirement
422 of subsection A of § 58.1-3703.1 to include in the local ordinance provisions substantially similar to
423 those set forth under such subsection.

424 5. a. Notwithstanding any other provision of law, any person assessed with a license tax under
425 § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for license year 2008, 2009, 2010, 2011, 2012,
426 or 2013 for coal, gas, or oil severed from the earth prior to July 1, 2013, shall be allowed to file an
427 administrative appeal of the same under § 58.1-3703.1 to the commissioner of the revenue or other
428 local assessing official only during the period beginning July 1, 2013, and ending July 1, 2014. Such
429 person shall be allowed to file the administrative appeal regardless of whether an appealable event, as
430 defined in § 58.1-3703.1, occurs on or after the effective date of this subsection. Such appeal to the
431 commissioner of the revenue or other local assessing official may be further appealed to the Tax
432 Commissioner pursuant to subdivision A 6 of § 58.1-3703.1 and to the appropriate circuit court
433 pursuant to subdivision A 7 of § 58.1-3703.1, in accordance with the procedures and time frames for
434 the appeal as provided under the respective subdivision.

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

439 b. Notwithstanding any other provision of law, any person assessed with a license tax under §
440 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for license year 2008, 2009, 2010, 2011, 2012, or
441 2013 for coal, gas, or oil severed from the earth prior to July 1, 2013, who elects not to file an appeal

442 of the same pursuant to § 58.1-3703.1 may apply for relief of the same pursuant to § 58.1-3980 or
443 58.1-3984 only during the period beginning July 1, 2013, and ending July 1, 2014. If such person
444 elects not to file an appeal of such license tax pursuant to § 58.1-3703.1 but applies for relief of the
445 same pursuant to § 58.1-3980 or 58.1-3984, then the period for collecting any such license tax shall
446 expire as provided in § 58.1-3940, two years after a final determination pursuant to § 58.1-3981, or
447 two years after the final decision in a court application pursuant to § 58.1-3984, whichever is later.

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

454 c. Notwithstanding the provisions of § 58.1-3940, the period for collecting any license tax
455 imposed under § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for license years 2008 and 2009
456 for coal, gas, or oil severed from the earth prior to July 1, 2013, shall expire on January 1, 2016,
457 unless a longer period is provided under law.

458 d. Notwithstanding any other provision of law, collection activity shall be suspended on the
459 assessment of additional license tax for license year 2008, 2009, 2010, or 2011 for coal, gas, or oil
460 severed from the earth prior to July 1, 2013, pursuant to § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-
461 3713.4. In addition, collection activity shall be suspended on the assessment of additional license tax
462 for license year 2012 or 2013 for such taxes on coal, gas, or oil severed from the earth prior to July 1,
463 2013, provided that, in filing severance tax returns for the severance of coal, gases, or oil from the
464 earth in the locality in license year 2012 and 2013, the person filing the return includes with the return
465 a good faith payment of the tax due or a good faith report of the tax due. The good faith payment or
466 report of tax due shall be in accordance with the methodology used by that person as of January 1,
467 2010, to report the person's gross receipts to the locality for purposes of such taxes unless such person

468 and the locality have entered into a contract or agreement on an alternate methodology to report the
469 person's gross receipts. As used in this subsection, "additional license tax" means all amounts of
470 license tax, penalty, and interest that are in addition to the amount of license tax paid by a person or
471 reported by a person as due in filing severance tax returns for the severance of coal, gases, or oil from
472 the earth in the locality. Collection activity shall not be required to be suspended if collection of any
473 tax, interest, or penalty is jeopardized by delay as defined in § 58.1-3703.1. However, nothing herein
474 shall be construed or interpreted as to require the suspension of collection activity for any amount of
475 unpaid license tax (and any interest and penalty related thereto) reported by a person as due in filing a
476 severance tax return for the severance of coal, gas, or oil from the earth.

477 Collection activity on additional license tax for license year 2008, 2009, 2010, or 2011 for
478 coal, gas, or oil severed from the earth prior to July 1, 2013, may commence on July 1, 2013, unless
479 other law requires the suspension of collection activity. Collection activity on additional license tax
480 for license year 2012 or 2013 for coal, gas, or oil severed from the earth prior to July 1, 2013, if
481 suspended pursuant to this subdivision, may commence on or after July 1, 2013, unless other law
482 requires the suspension of collection activity.

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

487 **§ 58.1-3823. Additional transient occupancy tax for certain counties.**

488 A. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through
489 ~~58.1-3822~~ 58.1-3821, Hanover County, Chesterfield County and Henrico County may impose:

490 1. An additional transient occupancy tax not to exceed four percent of the amount of the charge
491 for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms
492 or spaces rented and continuously occupied by the same individual or same group of individuals for
493 30 or more days. The revenues collected from the additional tax shall be designated and spent for

494 promoting tourism, travel or business that generates tourism or travel in the Richmond metropolitan
495 area; and

496 2. An additional transient occupancy tax not to exceed two percent of the amount of the charge
497 for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms
498 or spaces rented and continuously occupied by the same individual or same group of individuals for
499 30 or more days. The revenues collected from the additional tax shall be designated and spent for
500 expanding the Richmond Centre, a convention and exhibition facility in the City of Richmond.

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

508 B. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through
509 ~~58.1-3822~~ 58.1-3821, any county with the county manager plan of government may impose an
510 additional transient occupancy tax not to exceed two percent of the amount of the charge for the
511 occupancy of any room or space occupied, provided the county's governing body approves the
512 construction of a county conference center. The tax imposed hereunder shall not apply to rooms or
513 spaces rented and continuously occupied by the same individual or same group of individuals for 30
514 or more days. The revenues collected from the additional tax shall be designated and spent for the
515 design, construction, debt payment, and operation of such conference center.

516 C. 1. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through
517 ~~58.1-3822~~ 58.1-3821, the Counties of James City and York may impose an additional transient
518 occupancy tax not to exceed \$2 per room per night for the occupancy of any overnight guest room.
519 The revenues collected from the additional tax shall be designated and expended solely for advertising

520 the Historic Triangle area, which includes all of the City of Williamsburg and the Counties of James
521 City and York, as an overnight tourism destination by the members of the Williamsburg Area
522 Destination Marketing Committee of the Greater Williamsburg Chamber and Tourism Alliance. The
523 tax imposed by this subsection shall not apply to travel campground sites or to rooms or spaces rented
524 and continuously occupied by the same individual or same group of individuals for 30 or more days.

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

531 a. Further, one member of the Committee shall be selected by the Board of Directors of the
532 Williamsburg Hotel and Motel Association; one member of the Committee shall be from The Colonial
533 Williamsburg Foundation and shall be selected by the Foundation; one member of the Committee
534 shall be an employee of Busch Gardens Europe/Water Country USA and shall be selected by Busch
535 Gardens Europe/Water Country USA; one member of the Committee shall be from the Jamestown-
536 Yorktown Foundation and shall be selected by the Foundation; one member of the Committee shall be
537 selected by the Executive Committee of the Greater Williamsburg Chamber and Tourism Alliance;
538 and one member of the Committee shall be the President and Chief Executive Officer of the Virginia
539 Tourism Authority who shall serve ex officio. Each of these six members of the Committee shall have
540 one vote apiece. The President of the Greater Williamsburg Chamber and Tourism Alliance shall
541 serve ex officio with nonvoting privileges unless chosen by the Executive Committee of the Greater
542 Williamsburg Chamber and Tourism Alliance to serve as its voting representative. The Executive
543 Director of the Williamsburg Hotel and Motel Association shall serve ex officio with nonvoting
544 privileges unless chosen by the Board of Directors of the Williamsburg Hotel and Motel Association
545 to serve as its voting representative.

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

548 If at any time a person who has been selected to the Committee by other than a local governing
549 body becomes or is (a) a member of the local governing body of the City of Williamsburg, the County
550 of James City, or the County of York, or (b) an employee of one of such local governments, the
551 person shall be ineligible to serve as a member of the Committee while a member of the local
552 governing body or an employee of one of such local governments. In such case, the body that selected
553 the person to serve as a member of the Commission shall promptly select another person to serve as a
554 member of the Committee.

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

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

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

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

571 **2. That Chapter 1.4 (§ 36-55.63) of Title 36, §§ 58.1-339.5, 58.1-339.9, 58.1-434, 58.1-435, 58.1-**

572 439.1, 58.1-439.11, 58.1-439.13, 58.1-439.14, 58.1-439.15, 58.1-439.15:01, 58.1-439.16, and 58.1-
573 639, Article 3 (§ 58.1-1840.1) of Chapter 18 and Article 10 (§ 58.1-2290.1) of Chapter 22 of Title
574 58.1, and §§ 58.1-3605.1, 58.1-3712.1, 58.1-3822, and 58.1-3825.1 of the Code of Virginia are
575 repealed.

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

579

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16100116S

Wade, Amigo

SUMMARY

Housing; removal of obsolete provisions; correction of citation. Removes obsolete language regarding staggered terms for members of the Manufactured Housing Board and corrects a citation to the Housing Revitalization Zone Act (§ 36-157 et seq. of the Code of Virginia). This bill is a recommendation of the Virginia Code Commission.

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 36-55.64 and 36-85.17 of the Code of Virginia, relating to housing;
2 removal of obsolete provisions; citation correction.

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

4 **1. That §§ 36-55.64 and 36-85.17 of the Code of Virginia are amended and reenacted as follows:**

5 **§ 36-55.64. Creation of local housing rehabilitation zones.**

6 A. Any city, county, or town may establish, by ordinance, one or more housing rehabilitation
7 zones for the purpose of providing incentives and regulatory flexibility in such zone.

8 B. The incentives provided in a housing rehabilitation zone may include, but not be limited to
9 (i) reduction of permit fees, (ii) reduction of user fees, and (iii) waiver of tax liens to facilitate the sale
10 of property that will be substantially renovated, rehabilitated or replaced.

11 C. Incentives established pursuant to this section may extend for a period of up to 10 years
12 from the date of initial establishment of the housing rehabilitation zone; however, the extent and
13 duration of any incentive shall conform to the requirements of applicable federal and state law.

14 D. The regulatory flexibility provided in a housing rehabilitation zone may include, but not be
15 limited to (i) special zoning for the district, (ii) the use of a special permit process, (iii) exemption
16 from certain specified ordinances, excluding ordinances or provisions of ordinances adopted pursuant
17 to the requirements of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), the Erosion and
18 Sediment Control Law (§ 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act (§
19 62.1-44.15:24 et seq.), and (iv) any other incentives adopted by ordinance, which shall be binding
20 upon the locality for a period of up to 10 years.

21 E. The governing body may establish a service district for the provision of additional public
22 services pursuant to Chapter 24 (§ 15.2-2400 et seq.) of Title 15.2.

23 F. Each locality establishing a housing rehabilitation zone pursuant to this section may also
24 apply for the designation of a housing revitalization zone pursuant to Chapter 11 (~~§ 36-159~~ 36-157 et
25 seq.) of Title 36. Nothing in this chapter shall preclude such dual designation.

26 G. Any housing rehabilitation zone established pursuant to this chapter shall be deemed to
27 meet the requirements for designation of housing revitalization eligible to be financed as an
28 economically mixed project pursuant to § 36-55.30:2.

29 H. This section shall not authorize any local government powers that are not expressly granted
30 herein.

31 **§ 36-85.17. Manufactured Housing Board created; membership.**

32 A. There is hereby created the Virginia Manufactured Housing Board within the Department
33 of Housing and Community Development. The Board shall be composed of nine members, eight of
34 whom shall be nonlegislative citizen members appointed by the Governor subject to confirmation by
35 the General Assembly and one of whom shall be the Director, who shall serve ex officio. The
36 appointed members shall include two manufactured home manufacturers, two manufactured home
37 dealers, ~~the Director~~, and four members representing the public who have knowledge of the industry.

38 B. The Board shall elect from its members a chairman and a vice-chairman for terms of two
39 years. The members of the Board shall ~~initially be appointed for four-year terms. Upon expiration of~~
40 ~~the initial terms, one manufacturer, one dealer and two members representing the public shall be~~
41 ~~appointed for two-year terms while one manufacturer, one dealer and two members representing the~~
42 ~~public shall be appointed for four-year terms. All appointments thereafter shall be~~ serve ~~for four-year~~
43 terms of four years. In the event of any vacancy, the Governor shall appoint a replacement to serve the
44 unexpired term. The ex officio member shall serve a term coincident with his term of office. Meetings
45 shall be held at the call of the chairman or whenever two members so request.

46 C. No member of the Board shall participate in any proceeding before the Board involving that
47 member's own business.

48 #