

1 CHAPTER ~~4.9:1~~ 3.

2 THE VIRGINIA HIGHER EDUCATION OPPORTUNITY ACT OF 2011.

3 **Drafting note: Technical changes.**

4 § ~~23-38.87:11~~ 23.1-3xx. Definitions.

5 ~~For purposes of~~ As used in this chapter, unless the context ~~clearly~~ requires ~~otherwise a~~
6 different meaning:

7 "College degree" means an undergraduate degree from an accredited two-year or four-
8 year public or private institution of higher education.

9 "Cost of education" means the operating funds necessary during a fiscal year to provide
10 educational and general services, other than research and public service, to students attending an
11 institution in that fiscal year.

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

13 "Educational and general fees" means fees over and above tuition charged for certain
14 educational and general services.

15 "Educational and general services" means services associated with instruction, academic
16 support, student services, institutional support, research, public service, ~~and or~~ operation and
17 maintenance of physical plant, with adjustments based on particular state policies related to
18 specific institutional conditions, ~~but~~. "Educational and general services" does not include
19 services associated with programs and administrative services that are required to be self-
20 supporting or are otherwise supported by funds other than general funds, such as food services,
21 university-owned or university-leased dormitories or other living facilities, athletic programs,
22 ~~and or~~ other self-supporting programs.

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

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

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

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

36 "Public institution of higher education" does not include each comprehensive community
37 college.

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

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

41 "Virginia student" means a student who is eligible for in-state tuition pursuant to § ~~23-~~
42 ~~7.4~~ 23.1-5xx.

43 **Drafting note: The definition of "Council" is stricken here because it is included in**
44 **proposed § 23.1-100, the definitions section that applies title wide. The title-wide definition**
45 **of "public institution of higher education" from proposed § 23.1-100 is added so that**
46 **comprehensive community colleges can be expressly excluded from that definition for the**
47 **purposes of this proposed chapter. Technical changes are made.**

48 § ~~23-38.87-10~~ 23.1-3xx. Short title; ~~purpose objective; purposes~~.

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

51 B. The objective of this chapter is to fuel strong economic growth in the Commonwealth
52 and prepare Virginians for the top job opportunities in the knowledge-driven economy of the

53 21st century by establishing a long-term commitment, policy, and framework for sustained
54 investment and innovation that will (i) enable the Commonwealth to build upon the strengths of
55 its excellent higher education system and achieve national and international leadership in
56 college degree attainment and personal income, and ~~that will~~ (ii) ensure that these educational
57 and economic opportunities are accessible and affordable for all capable and committed
58 Virginia students in the Commonwealth.

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

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

66 2. To take optimal advantage of the demonstrated correlation between higher education
67 and economic growth by investing in higher education in a manner that will generate economic
68 growth, job creation, personal income growth, and revenues generated for state and local
69 government in Virginia the Commonwealth;

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

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

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

90 6. To support the national effort to enhance the security and economic competitiveness of
91 the United States ~~of America~~, and ~~to~~ secure a leading economic position for the Commonwealth
92 ~~of Virginia~~, through increased research and instruction in ~~science, technology, engineering,~~
93 mathematics, STEM and related fields, ~~which that~~ require qualified faculty, appropriate research
94 facilities and equipment, public-private and intergovernmental collaboration, and sustained state
95 support;

96 7. To preserve and enhance the ~~Virginia higher education system's~~ excellence and cost-
97 efficiency of the Commonwealth's higher education system through reform-based investment
98 that promotes innovative instructional models and pathways to degree attainment, including
99 optimal use of physical facilities and instructional resources throughout the year, technology-
100 enhanced instruction, sharing of instructional resources between ~~and among~~ colleges,
101 universities, and other degree-granting entities in the Commonwealth, increased online learning
102 opportunities for nontraditional students, improved rate and pace of degree completion,
103 expanded availability of dual enrollment and advanced placement options and early college
104 commitment programs, expanded comprehensive community college transfer options leading to
105 bachelor's degree completion, and enhanced college readiness before matriculation, ~~among other~~
106 reforms;

107 8. To realize the potential for enhanced benefits from the Restructured Higher Education
108 Financial and Administrative Operations Act of 2005 (§ ~~23-38.88~~ 23.1-10xx et seq.); through a
109 sustained commitment to the principles of autonomy, accountability, affordable access, and
110 mutual trust and obligation underlying the restructuring initiative;

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

120 10. To recognize that the unique mission and contributions of each institution of higher
121 education ~~in the Commonwealth~~ is consistent with the desire to build upon the strengths of the
122 Commonwealth's excellent system of higher education, ~~to~~ afford these unique missions and
123 contributions appropriate safeguards, and ~~to~~ allow these attributes to inform the development
124 and implementation of funding policies, performance criteria, economic opportunity metrics,
125 and recommendations in the furtherance of ~~this chapter's objectives~~ the objective of this chapter
126 set forth in subsection A.

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

129 § ~~23-38.87:12~~ 23.1-3xx. Higher Public institutions of higher education; funding ~~policy~~.

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

133 1. Basic operations and instruction, as provided in § ~~23-38.87:13~~ 23.1-3xx [next
134 section];

135 2. Each Virginia undergraduate student actually enrolled at the institution, as provided in
136 § ~~23-38.87:14~~ 23.1-3xx;

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

138 4. Support for targeted financial incentives that encourage and reward progress toward
139 the policy objectives specified in this chapter, as provided in § ~~23-38.87:16~~ 23.1-3xx.

140 **Drafting note: Technical changes.**

141 § ~~23-38.87:13~~ 23.1-3xx. Calculation of state general fund share of an institution's basic
142 operations and instruction funding need; cost of education.

143 A. Following consultation with each public institution of higher education and the
144 Higher Education Advisory Committee described in § ~~23-38.87:20~~ 23.1-3xx, the Council shall
145 calculate ~~each institution's~~ the basic operations and instruction funding need of each public
146 institution of higher education as provided in subsection B for each year of the next biennium
147 and ~~shall~~ make ~~that~~ such calculation available to the Governor, the General Assembly, and all
148 public institutions of higher education. ~~Each~~ The Governor shall take into account each
149 institution's basic operations and instruction funding need; and the Commonwealth's funding
150 split policy established in the general appropriation act by which 67 percent of an institution's
151 cost of education for Virginia students is funded from the state general fund and 33 percent from
152 funds other than the state general fund, ~~shall be taken into account by the Governor~~ during the
153 preparation of his proposed biennial budget bill ~~recommending the appropriation act~~ for the next
154 biennium, and ~~by~~ the General Assembly shall take such items into account in enacting ~~that the~~
155 general appropriation act for the next biennium. Between ~~these~~ such biennial recalculations, ~~an~~
156 institution's appropriated the General Assembly may increase or decrease the appropriation of
157 basic operations and instruction funding ~~may be increased or decreased for to a public~~
158 institution of higher education to correspond with (i) an increase or decrease in Virginia
159 undergraduate student enrollment at the institution as provided in § ~~23-38.87:14~~ 23.1-3xx, (ii)

160 the institution's meeting or not meeting targeted financial incentives listed in § ~~23-38.87:16~~
161 23.1-3xx, and (iii) or for any other purpose deemed appropriate by the General Assembly.

162 B. ~~An institution's~~ The basic operations and instruction funding need of each public
163 institution of higher education for each fiscal year of the biennium shall ~~be~~ consist of the sum of
164 (i) the institution's cost of education for the total enrollment ~~of students who actually attended~~
165 that institution in actual attendance during the fiscal year that ended on June 30 of each odd-
166 numbered year, which shall be determined using a cost-based funding policy that consists of (a)
167 a set of formulas for calculating (1) educational cost based on faculty-student ratios by
168 discipline and level, and (2) the educational and general programs of instruction, academic
169 support, student services, institutional support, and operation and maintenance of physical plant,
170 with and (b) adjustments ~~to the funding policy~~ based on particular state policies or specific
171 institutional missions or conditions; (ii) the amount required to reach the Commonwealth's
172 faculty salary goal of the 60th percentile of the most recently reported average faculty salaries
173 paid by that institution's peer institutions, as established in the general appropriation act; and
174 (iii) such other funding for educational and general services as the General Assembly may
175 appropriate.

176 C. State general funds shall be allocated and appropriated to public institutions of higher
177 education in a fair and equitable manner such that, to the extent practicable, the percentage of
178 the cost of education for Virginia students enrolled at an institution to be funded from state
179 general funds is the same for each institution. To the extent that the percentages differ among
180 institutions, that fact shall be taken into account as the Governor deems appropriate in his
181 proposed biennial budget bill and by the General Assembly as it deems appropriate in the
182 appropriation act.

183 **Drafting note: Technical changes.**

184 § ~~23-38.87:14~~ 23.1-3xx. Per student enrollment-based funding at public institutions of
185 higher education.

186 A. ~~In order to~~ To incentivize Virginia undergraduate student enrollment growth at the
187 Commonwealth's public institutions of higher education in furtherance of the increased degree
188 conferral ~~objectives purpose~~ of this chapter, the Governor shall recommend and the General
189 Assembly shall determine and appropriate to ~~the such~~ institutions a per student amount that ~~shall~~
190 ~~follow~~ follows each Virginia undergraduate student to the public institution of higher education
191 in which the student enrolls. Recommendations regarding ~~this such~~ Virginia undergraduate
192 student enrollment growth incentive shall be developed and reviewed as provided in subdivision
193 B 1 of § ~~23-38.87:20~~ 23.1-3xx.

194 B. The Governor shall consider and may recommend ~~as he deems appropriate~~ and the
195 General Assembly shall consider and may provide ~~as it deems appropriate~~ additional general
196 fund appropriations to address the unfunded enrollment growth that occurred between the 2005-
197 2006 fiscal year and ~~the enactment of this chapter~~ July 1, 2011.

198 C. ~~In order to~~ To assist the General Assembly in determining the per student amount
199 provided for in subsection A and its relation to the per student amount provided to nonprofit
200 private ~~nonprofit~~ institutions of higher education pursuant to the Tuition Assistance Grant Act (§
201 ~~23-38.11~~ 23.1-6xx et seq.), each nonprofit private ~~nonprofit~~ institution of higher education
202 eligible to participate in the Tuition Assistance Grant Program shall submit to the Council its
203 Virginia student enrollment projections for that fiscal year and its actual Virginia student
204 enrollment for the prior fiscal year in a manner determined by the Council. The student
205 admissions policies for the private institutions and their specific programs shall remain the sole
206 responsibility of the governing boards of ~~the such~~ individual institutions.

207 **Drafting note: Technical changes.**

208 ~~§ 23-38.87:15. Need-based financial aid.~~

209 ~~Each institution shall include in its six-year plan required by § 23-38.87:17 an~~
210 ~~institutional student financial aid commitment that, in conjunction with general funds~~
211 ~~appropriated for that purpose, provides assistance to students from both low-income and middle-~~
212 ~~income families. Each institution's six-year plan required by § 23-38.87:17 shall take into~~

213 ~~account the information and recommendations resulting from the review of federal and state~~
214 ~~financial aid programs and institutional practices conducted pursuant to subdivisions B 2 and C~~
215 ~~1 of § 23-38.87:20. The definitions of "low income family" and "middle income family" shall~~
216 ~~be developed and reviewed pursuant to subdivision B 2 of § 23-38.87:20.~~

217 **Drafting note: The first and second sentences of existing § 23-38.87:15 are**
218 **incorporated into proposed § 23.1-3xx (23-38.87:17). The third sentence is incorporated**
219 **into proposed § 23.1-3xx (23-38.87:20).**

220 ~~§ 23-38.87:16 23.1-3xx. Targeted Public institutions of higher education; targeted~~
221 economic and innovation incentives.

222 A. The Governor shall consider and may recommend and the General Assembly shall
223 consider and may fund targeted economic and innovation incentives to achieve the objective and
224 purposes of this chapter. Such incentives may include, ~~but are not limited to~~ incentives based on
225 the economic opportunity metrics developed pursuant to subdivision B 4 of § 23.1-3xx [23-
226 38.87:20] or incentives for:

227 1. Increased enrollment of Virginia students, in addition to the per student funding
228 provided by ~~§ 23-38.87:14 23.1-3xx;~~

229 2. Increased degree completion for Virginia residents who have partial credit completion
230 for a degree;

231 3. Increased degree completion in a timely or expedited manner;

232 4. Improved retention and graduation rates;

233 5. Increased degree production in ~~the areas of science, technology, engineering, and~~
234 mathematics and STEM or other high-need areas such as the health care-related professions;

235 6. Increased research, including regional and public-private collaboration;

236 7. Optimal year-round utilization of resources and other efficiency reforms designed to
237 reduce total institutional cost;

238 8. Technology-enhanced instruction, including course redesign, online instruction, and
239 resource sharing among institutions; or

240 9. Enhanced comprehensive community college transfer programs and grants and other
241 enhanced degree path programs; ~~and~~

242 ~~10. Other incentives based on the economic opportunity metrics developed pursuant to~~
243 ~~subdivision B 4 of § 23-38.87:20.~~

244 Maintenance-B. The Governor and the General Assembly shall consider maintenance of
245 effort initiatives ~~shall also be considered~~ for individual institutions with unique missions and
246 demonstrable performance in specific incentive areas identified pursuant to subsection A.

247 B.-C. The criteria for measuring whether the ~~incentives~~ incentive areas in subsection A
248 have been met, and the benefits or consequences for meeting or not meeting such ~~incentives~~
249 incentive areas, shall be developed and reviewed as provided in subdivisions B 3 and ~~B~~ 4 of §
250 ~~23-38.87:20~~ 23.1-3xx.

251 **Drafting note: The reference to "but not limited to" is removed pursuant to § 1-**
252 **218. Technical changes are made.**

253 ~~§ 23-38.87:17~~ 23.1-3xx. Institutional Public institutions of higher education; six-year
254 plans.

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

262 B. The Secretary of Finance, the Secretary of Education, the Director of the Department
263 of Planning and Budget, ~~Executive the~~ Director of the Council, the Staff Director of the House
264 Committee on Appropriations, and the Staff Director of the Senate Committee on Finance, or
265 their designees, shall review each institution's plan or amendments and provide comments to the

266 institution on ~~that~~ such plan or amendments by September 1 of the relevant year. Each
267 institution shall respond to any such comments by October 1 of that year.

268 C. Each plan shall be structured in accordance with, and be consistent with, the objective
269 and purposes of this chapter set forth in § ~~23-38.87:10~~ 23.1-3xx and the criteria developed
270 pursuant to § ~~23-38.87:20~~, 23.1-3xx and shall be in a form and manner prescribed by the
271 Council, in consultation with the Secretary of Finance, the Secretary of Education, the Director
272 of the Department of Planning and Budget, ~~Executive~~ the Director of the Council, the Staff
273 Director of the House Committee on Appropriations, and the Staff Director of the Senate
274 Committee on Finance, or their designees.

275 D. Each six-year plan shall (i) address the institution's academic, financial, and
276 enrollment plans, ~~to include~~ including the number of Virginia and out-of-state students, for the
277 six-year period; (ii) indicate the planned use of any projected increase in general fund, tuition, or
278 other nongeneral fund revenues; (iii) be based upon any assumptions provided by the Council,
279 following consultation with the Department of Planning and Budget and the staffs of the House
280 Committee on Appropriations and the Senate Committee on Finance, for funding related to state
281 general fund support pursuant to §§ 23.1-3xx, 23.1-3xx, 23.1-3xx, and 23.1-3xx [23-38.87:13,
282 23-38.87:14, 23-38.87:15, and 23-38.87:16]; (iv) be aligned with the institution's six-year
283 enrollment projections; and shall (v) include:

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

286 2. ~~The plan also shall include the~~ institution's anticipated annual tuition and educational
287 and general fee charges required by (i) degree level and (ii) domiciliary status, as provided in §
288 ~~23-38.87:18, and shall indicate the planned use of any projected increase in general fund,~~
289 ~~tuition, or other nongeneral fund revenues. The plan shall be based upon any assumptions~~
290 ~~provided by the Council, following consultation with the Department of Planning and Budget~~
291 ~~and the staffs of the House Committee on Appropriations and the Senate Committee on Finance,~~
292 ~~for funding related to state general fund support pursuant to §§ 23-38.87:13, 23-38.87:14, 23-~~

293 ~~38.87:15, and 23-38.87:16, and shall be aligned with the institution's six-year enrollment~~
294 ~~projections 23.1-3xx;~~

295 ~~2-3.~~ Plans for providing financial aid to help mitigate the impact of tuition and fee
296 increases on low-income and middle-income students and their families as described in § ~~23-~~
297 ~~38.87:15~~ 23.1-3xx, including the projected mix of grants and loans;

298 ~~3-4.~~ Degree conferral targets for Virginia undergraduate students;

299 ~~4-5.~~ Plans for optimal year-round use of the institution's facilities and instructional
300 resources;

301 ~~5-6.~~ Plans for the development of an instructional ~~resource-sharing~~ resource-sharing
302 program with other institutions of higher education ~~in the Commonwealth;~~

303 ~~6-7.~~ Plans with regard to any other incentives set forth in § ~~23-38.87:16~~ 23.1-3xx or ~~to~~
304 any other matters the institution deems appropriate; ~~and~~

305 ~~7-8.~~ The identification of (i) new programs or initiatives including quality improvements
306 and (ii) institution-specific funding based on particular state policies or institution-specific
307 programs, or both, as provided in subsection C of § ~~23-38.87:18~~ 23.1-3xx; ~~and~~

308 9. An institutional student financial aid commitment that, in conjunction with general
309 funds appropriated for that purpose, provides assistance to students from both low-income and
310 middle-income families and takes into account the information and recommendations resulting
311 from the review of federal and state financial aid programs and institutional practices conducted
312 pursuant to subdivisions B 2 and C 1 of § 23.1-3xx [23-38.87:20].

313 E. In developing such plans, each public institution of higher education shall ~~give~~
314 ~~consideration to~~ consider potential future impacts of tuition increases on the Virginia College
315 Savings Plan and ABLÉ Savings Trust Accounts (§ ~~23-38.75~~ 23.1-7xx et seq.) and shall discuss
316 such potential impacts with the Virginia College Savings Plan. The chief executive officer of the
317 Virginia College Savings Plan shall provide to each institution the Plan's assumptions
318 underlying the contract pricing of the program.

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

321 § ~~23-38.87:18~~ 23.1-3xx. Tuition Public institutions of higher education; tuition and fees.

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

328 B. Except to the extent included in the institution's six-year plan as provided in
329 subsection C, if the total of an institution's tuition and educational and general fees for ~~a~~ any
330 fiscal year for Virginia students exceeds the difference for ~~that~~ such fiscal year between (i) the
331 institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B
332 of § ~~23-38.87:13~~, 23.1-3xx and (ii) the sum of the tuition and educational and general fees for
333 non-Virginia students, the state general funds appropriated for its basic operations and
334 instruction pursuant to subsection A of § ~~23-38.87:13~~ 23.1-3xx, and its per student funding
335 provided pursuant to § ~~23-38.87:14~~ 23.1-3xx, the institution shall ~~forego~~ forgo new state
336 funding at a level above the general funds received by the institution during the 2011-2012
337 fiscal year, at the discretion of the General Assembly, and shall be obligated to provide
338 increased financial aid to maintain affordability for students from low-income and middle-
339 income families. This limitation shall not apply to any portion of tuition and educational and
340 general fees for Virginia students allocated to student financial aid, ~~to~~ an institution's share of
341 state-mandated salary or fringe benefit increases, ~~to~~ increases ~~with in~~ funds other than state
342 general funds for the improvement of faculty salary competitiveness above the level included in
343 the calculation in clause (i) of subsection B of § ~~23-38.87:13~~ 23.1-3xx, ~~to~~ the institution's ~~share~~
344 of progress towards achieving any ~~of the targeted~~ financial ~~incentives described in~~ incentive
345 pursuant to § ~~23-38.87:16~~ 23.1-3xx, ~~to~~ unavoidable cost increases such as operation and

346 maintenance for new facilities and utility rate increases, or ~~to~~ other items directly attributable to
347 an institution's unique mission and contributions.

348 C. Nothing in subsection B shall prohibit an institution from including in its six-year
349 plan required by § ~~23-38.87:17~~ 23.1-3xx (i) new programs or initiatives including quality
350 improvements or (ii) institution-specific funding based on particular state policies or institution-
351 specific programs, or both, that will cause the total of the institution's tuition and educational
352 and general fees for ~~a~~ any fiscal year for Virginia students to exceed the difference for ~~that~~ such
353 fiscal year between (a) the institution's cost of education for all students, as calculated pursuant
354 to clause (i) of subsection B of § ~~23-38.87:13~~ 23.1-3xx, and (b) the sum of the tuition and
355 educational and general fees for the institution's non-Virginia students, the state general funds
356 appropriated for its basic operations and instruction pursuant to subsection A of § ~~23-38.87:13~~
357 23.1-3xx, and its per student funding provided pursuant to § ~~23-38.87:14~~ 23.1-3xx.

358 **Drafting note: Technical changes. The phrase "from time to time" is removed from**
359 **subsection A as superfluous per Code Commission policy. The word "forego" is corrected**
360 **to "forgo" in subsection B.**

361 § ~~23-38.87:19~~ 23.1-3xx. ~~Creation of~~ STEM public-private partnership established; duties
362 and responsibilities.

363 ~~In order to~~ To (i) increase the number of students completing degrees in the high-
364 demand, high-impact STEM fields ~~of science, technology, engineering, and mathematics~~
365 ~~(STEM)~~, and other high-demand, anticipated-shortage fields such as the health care-related
366 professions; and ~~to~~ (ii) help develop and guide the implementation of a comprehensive plan for
367 higher degree attainment in these fields, the Secretaries of Education and Finance, in
368 cooperation with the House Committees on Appropriations and Education and the Senate
369 Committees on Finance and on Education and Health, shall ~~cause to be formed~~ form a public-
370 private partnership comprised of private-sector leaders, distinguished representatives from the
371 scientific community ~~(, including retired military personnel, government scientists, and~~
372 ~~researchers)~~, educational experts, relevant state and local government officials, and ~~others~~ such

373 [other individuals](#) as they deem appropriate. The partnership shall advise on, and may collaborate
374 with public and private entities to develop and implement strategies to address, such priority
375 issues as (i) determining the need for additional high-demand degree enrollment, capacity, and
376 resources at the Commonwealth's public and private institutions of higher education; (ii)
377 incentivizing greater coordination, innovation, and private collaboration in kindergarten through
378 secondary school STEM and other high-demand degree initiatives; (iii) determining and refining
379 best practices in STEM instruction and leveraging those best practices to promote STEM
380 education in both the Commonwealth's ~~higher education~~ [institutions of higher education](#) and its
381 elementary and secondary schools; (iv) enhancing teacher education and professional
382 development in STEM disciplines; (v) strengthening mathematics readiness in secondary
383 schools through earlier diagnosis and remediation of deficiencies; (vi) providing financial
384 incentives to increase STEM enrollment and degree production at the Commonwealth's ~~public
385 and private colleges and universities~~ [institutions of higher education](#); (vii) providing assistance
386 to the Commonwealth's ~~public and private colleges and universities~~ [institutions of higher
387 education](#) in the acquisition and improvement of STEM-related facilities and equipment; (viii)
388 providing STEM incentives in early ~~college and university~~ [pathway programs at institutions of
389 higher education](#) and in the [comprehensive](#) community college transfer grant program; (ix)
390 assessing degree programs using such economic opportunity metrics as marketplace demand,
391 earning potential, [and](#) employer satisfaction, and other indicators of the historical and projected
392 economic value and impact of degrees to provide useful information on degrees to students as
393 they make career choices and to state policy makers and university decision makers as they
394 decide how to allocate scarce resources; (x) aligning state higher education efforts with
395 marketplace demands; and (xi) determining such other issues as the partnership deems relevant
396 to increasing the number of students completing ~~college and university~~ degrees in STEM and
397 other high-demand fields [at institutions of higher education](#).

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

400 § ~~23-38.87:20~~ 23.1-3xx. ~~Creation of~~ Higher Education Advisory Committee established;
401 duties ~~and responsibilities~~.

402 A. The Secretary of Education, in consultation with the ~~Chairs~~ Chairmen of the House
403 Committee on Appropriations and the Senate Committee on Finance, the Secretary of Finance,
404 and the public institutions of higher education ~~in the Commonwealth~~, shall convene a Higher
405 Education Advisory Committee (Advisory Committee) to provide advice and make
406 recommendations on the matters set forth in subsections B, C, and D. The Advisory Committee
407 shall consist of ~~10~~ at least 11 members as follows: ~~a one~~ representative of the Office of the
408 Secretary of Education, ~~to be~~ appointed by the Secretary of Education, ~~and~~ who shall serve as
409 chair of the Advisory Committee; ~~a one~~ representative of the Office of the Secretary of Finance,
410 ~~to be~~ appointed by the Secretary of Finance; ~~a one~~ representative of the Council, ~~to be~~ appointed
411 by the Chairman of the Council; the staff directors of the House Appropriations Committee and
412 the Senate Finance Committee, or their designees; and the presidents or their designees of five
413 public institutions of higher education, including which shall include two doctoral institutions,
414 two comprehensive institutions, and one from the Virginia Community College System. ~~The~~
415 appointed by the presidents of ~~all of~~ the public institutions of higher education ~~shall select the~~
416 ~~institutions to be represented on the Advisory Committee, subject to the parameters set forth in~~
417 ~~this section. The Governor shall also appoint, and~~ a representative from a nonprofit private,
418 nonprofit institution of higher education; ~~however, such representative appointed by the~~
419 Governor who shall not provide advice or make recommendations concerning policies that
420 solely impact public institutions of higher education. Both the Governor and the Advisory
421 Committee may designate other ~~persons~~ individuals to serve on the Advisory Committee,
422 including ~~but not limited to~~ representatives of academic and instructional faculty or fiscal
423 officers ~~from state of public~~ institutions of higher education.

424 B. Consistent with the ~~objectives~~ objective and purposes of this chapter identified in §
425 ~~23-38.87:10~~ 23.1-3xx, the Advisory Committee, ~~in consultation with and with assistance from~~
426 ~~the staff of the Council and such other assistance it may need~~, shall develop and subsequently

427 review at least once every five years, in consultation with the staff of the Council and the
428 respective ~~Chairs~~ Chairmen of the House Committees on Appropriations and Education and the
429 Senate Committees on Finance and on Education and Health, or their designees, representatives
430 of public institutions of higher education ~~in the Commonwealth~~, and such other state officials as
431 may be designated by the Governor, and with assistance from the staff of the Council and such
432 other assistance as it may require:

433 1. The methodology established pursuant to subsection A of § ~~23-38.87:14~~ 23.1-3xx for
434 determining how a significant increment of state funding shall follow the student to the two-year
435 or four-year public institution of higher education in which the student enrolls, how the amount
436 of such per student funding for four-year public institutions of higher education will be made to
437 correspond as nearly as practical to the per student allocation envisioned under the then-existing
438 appropriation for the Tuition Assistance Grant Act (§ ~~23-38.11~~ 23.1-xxx et seq.) for students
439 attending nonprofit private ~~nonprofit higher education~~ institutions ~~in the Commonwealth of~~
440 higher education, how and as of what date ~~an institution's~~ the student enrollment at each public
441 institution of higher education shall be calculated, and how an increase or decrease in Virginia
442 undergraduate student enrollment above or below the enrollment level used to calculate the
443 institution's funding ~~under pursuant to~~ § ~~23-38.87:13~~ 23.1-3xx shall be reflected in the
444 institution's appropriation pursuant to subsection A of § ~~23-38.87:14~~ 23.1-3xx, and the standards
445 and process for determining whether an increase or decrease in Virginia undergraduate student
446 enrollment qualifies for funding ~~under pursuant~~ § ~~23-38.87:14~~ 23.1-3xx;

447 2. Criteria for determining which families qualify as "low-income" and "middle-income"
448 for purposes of § ~~23-38.87:15~~ 23.1-3xx (23-38.87:17) and how they relate to federal, state, and
449 institutional policies governing the provision of financial assistance to students of such families;

450 3. Objective performance criteria for measuring the financial incentives set forth in § ~~23-~~
451 ~~38.87:16,~~ 23.1-3xx and the benefits ~~or consequences for~~ of meeting or consequences of not
452 meeting the incentives included in an institution's six-year plan pursuant to § ~~23-38.87:17~~ 23.1-
453 3xx;

454 4. Economic opportunity metrics, such as marketplace demand, earning potential, and
455 employer satisfaction, and other indicators of the historical and projected economic value of
456 degrees that can be used to assess degree programs in order to provide useful information on the
457 economic impact of degrees to students as they make career choices and ~~to~~ state policy makers
458 and university decision makers as they decide how to allocate scarce resources;

459 5. The additional authority that should be granted to all public institutions of higher
460 education under the Restructured Higher Education Financial and Administrative Operations
461 Act (§ ~~23-38.88~~ 23.1-10xx et seq.), state goals and objectives each public institution of higher
462 education should be expected to achieve, objective criteria for measuring educational-related
463 performance with regard to those goals and objectives, and the benefits ~~or consequences for~~ of
464 meeting or consequences of not meeting those goals and objectives, including those set forth in
465 § ~~2.2-5005~~ 23.1-10xx; and

466 6. The role of nonpublic institutions of higher education in addressing the goals set forth
467 in this chapter and ~~make~~ recommendations regarding such matters.

468 The Advisory Committee shall submit its recommendations to the Council, which shall
469 review the recommendations and report its recommendations to the Governor and the ~~Chairs~~
470 Chairmen of the House Committees on Appropriations and Education and the Senate
471 Committees on Finance and on Education and Health.

472 C. Consistent with the objective and purposes of this chapter identified in § ~~23-38.87:10~~
473 23.1-3xx, the Advisory Committee, ~~in consultation with and with assistance from the staff of the~~
474 ~~Council and such other assistance as it may need~~, shall review at least every five years, in
475 consultation with the staff of the Council, the respective ~~Chairs~~ Chairmen of the House
476 Committees on Appropriations and Education and the Senate Committees on Finance and on
477 Education and Health, or their designees, representatives of public institutions of higher
478 education in the Commonwealth, and such other state officials as may be designated by the
479 Governor, and with assistance from the staff of the Council and such other assistance as it may
480 require:

481 1. Federal and state financial aid programs and institutional practices to ensure that the
482 appropriate level of financial assistance is being provided to both low-income and middle-
483 income families, as required by § ~~23-38.87:15~~ 23.1-3xx (23-38.87:17), including loan
484 forgiveness programs targeted by purpose in furtherance of the objective of this chapter; and

485 2. The Restructured Higher Education Financial and Administrative Operations Act (§
486 23-38.88 23.1-10xx et seq.) to identify additional ways to reduce costs and enhance efficiency
487 by increasing managerial autonomy with accountability at the institutional level.

488 The Advisory Committee shall submit its recommendations to the Council, which shall
489 review the recommendations and report its recommendations to the Governor and the ~~Chairs~~
490 Chairmen of the House Committees on Appropriations and Education and the Senate
491 Committees on Finance and on Education and Health.

492 D. The Advisory Committee shall periodically assess, based upon the institutions' six-
493 year plans and other relevant factors, the degree to which the Commonwealth's system of higher
494 education is meeting the statewide objectives of economic impact, reform, affordability, and
495 access reflected in this chapter, as well as the strategic impact of new general fund investments
496 on achieving those objectives. The Advisory Committee shall submit its assessment and
497 recommendations to the Council, which shall review the assessment and recommendations and
498 report its recommendations to the Governor and the ~~Chairs~~ Chairmen of the House Committees
499 on Appropriations and Education and the Senate Committees on Finance and on Education and
500 Health.

501 E. In addition to providing advice and making recommendations on the matters set forth
502 in subsections B, C and D, the Advisory Committee shall perform such other duties and
503 undertake such other responsibilities as requested by the Governor or the General Assembly.

504 **Drafting note: Technical changes are made: the reference to "but not limited to" is**
505 **stricken pursuant to § 1-218, which states: "'Includes' means includes, but not limited to,"**
506 **and "persons" in subsection A is replaced with "individuals" pursuant to § 1-230, which is**
507 **the Code-wide definition of "person."**

508 | § ~~23-38.87-21~~ 23.1-3xx. ~~Certification~~ Assessment and certification of institutions by the
509 | Council.

510 | ~~Upon the completion of the development of the objective criteria for measuring goals~~
511 | ~~and objectives described in subdivision B 5 of § 23-38.87:20, and each year thereafter, the~~ The
512 | Council shall annually assess the degree to which each institution has satisfied any goals or
513 | criteria developed by the Higher Education Advisory Committee pursuant to § ~~23-38.87:20,~~
514 | 23.1-3xx and ~~shall, by~~ no later than October 1 of each fiscal year, provide a certified written
515 | report of the results of such annual assessment to the Governor and the ~~Chairs~~ Chairmen of the
516 | House Committees on Appropriations and Education and the Senate Committees on Finance
517 | and on Education and Health. In order to assist the Council in its assessment, each public
518 | institution of higher education, and each nonprofit private ~~nonprofit~~ institution of higher
519 | education eligible for and seeking to qualify for state general funds, shall furnish periodic
520 | reports, including copies of institutional financial aid audit reports and audited financial
521 | statements, and such other pertinent information, including student-level data, as may be
522 | required by the Council. ~~The reports shall include, but not be limited to, copies of institutional~~
523 | ~~financial aid audit reports and audited financial statements.~~

524 | **Drafting note: The reference to "but not limited to" is removed pursuant to § 1-**
525 | **218, which states: "'Includes' means includes, but not limited to." Technical changes are**
526 | **made.**

527 | ~~§ 23-9.2:3.03.~~

528 | **Drafting note: Repealed by Acts 2011, cc. 828 and 869, cl. 5.**

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