

ORGANIZATION OUTLINE

Proposed Title 23.1. Educational Institutions.

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GENERAL PROVISIONS.**

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	Article 7	Virginia Commission for the Arts; Virginia Arts Foundation

MOVED TO OTHER TITLES OF THE CODE OF VIRGINIA

Title 22.1	Chapter 18.1	The Miller School of Albemarle (moved from Chapter 7 (§ 23-51 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)

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 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:

- § 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 this full name.

- § 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.

- § 1-254. Town. "Town" means any existing town or an incorporated community within one or more counties which became a town before noon, July 1, 1971, as provided by law or which has within defined boundaries a population of 1,000 or more and which has become a town as provided by law.

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 with appropriate references to a section, article, chapter, or title.
- Phrases such as "heretofore or hereafter" are removed because they mean "before now or after now."
- "Percentum" and "per annum" are replaced with "percent" and "per year," respectively.
- When grammatically feasible, "will" or "must" is changed to "shall."
- The outdated reference found in conjunction with a court to a "judge thereof in vacation" is deleted.
- When grammatically feasible, "shall be guilty" is changed to "is guilty."
- "This Commonwealth" is replaced with "the Commonwealth."
- "Virginia" is replaced with "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, etc., 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 section, article, chapter, etc., to provide the reader better clarity and 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." In certain contractual situations, specifically regarding the PPTA, lists are amended to include "or both" or "or any combination thereof" so as not to interfere with existing agreements.
- "Federal, state, or local" and similar series list entities in order from largest to smallest.

The following changes are made throughout proposed Title 23.1 and apply more specifically to the subject matter found in this title:

- "Proprietary" is changed to "for-profit."
- "Governing body" is changed to "governing board" or "board of visitors," as the context requires.
- Definitions found in § 23.1-1xx.
- Variations are changed to the following: "tuition, fees, and other necessary charges."
- Course work changed to coursework.
- "private nonprofit (or for-profit) private institution of higher education" changed to "nonprofit (or for-profit) private institution of higher education."

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TITLE-~~23~~ 23.1.

EDUCATIONAL INSTITUTIONS.

SUBTITLE I.

GENERAL PROVISIONS.

CHAPTER 1.

DEFINITIONS AND GENERAL PROVISIONS.

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

Article 1.

Definitions.

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

§ 23.1-100. Definitions.

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

"Comprehensive community college" means a two-year institution of higher education governed by the Board that offers instruction in one or more of the following fields:

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

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

3. Career and technical education leading directly to employment;

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

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

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

27 "Educational institution" includes each public institution of higher education and each
28 entity established pursuant to Subtitle V (§ 23.1-3000 et seq.).

29 "Four-year public institution of higher education" means an institution of higher
30 education in the Commonwealth established by statute that grants bachelor's degrees. "Four-year
31 public institution of higher education" includes Christopher Newport University, George Mason
32 University, James Madison University, Longwood University, the University of Mary
33 Washington, Norfolk State University, Old Dominion University, Radford University, the
34 University of Virginia, Virginia Commonwealth University, Virginia Military Institute, Virginia
35 Polytechnic Institute and State University, Virginia State University, and The College of
36 William and Mary in Virginia.

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

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

41 "Private institution of higher education" means a degree-granting institution of higher
42 education in the Commonwealth that is established by any entity or individual other than the
43 General Assembly and whose primary purpose is to provide collegiate or graduate education
44 and not to provide religious training or theological education. "Private institution of higher
45 education" includes nonprofit private institutions of higher education and for-profit private
46 institutions of higher education.

47 "Public institution of higher education" includes each two-year and four-year public
48 institution of higher education and the System.

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

50 "System" means the Virginia Community College System.

51 "Two-year public institution of higher education" means an institution of higher
52 education in the Commonwealth established by statute or by the Board that grants associate

53 [degrees. "Two-year public institution of higher education" includes each comprehensive](#)
54 [community college and Richard Bland College.](#)

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

58 [Article 2.](#)

59 [General Provisions.](#)

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

63 ~~§ 23-9.10:3 23.1-101. Authorization for Commonwealth or any political subdivision~~
64 ~~thereof to contract to furnish or to obtain educational or other related services to or from~~
65 [Contracts with](#) certain nonprofit [private](#) institutions of higher education.

66 A. For the purposes of this section:

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

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

72 ~~3. "Services", "services" includes but is not limited to a program or course of study~~
73 ~~offered, or approved for offer, to be offered by a [public institution of higher education or](#)~~
74 ~~[nonprofit private college or by a public college institution of higher education](#); use of~~
75 ~~professional personnel; use of any real or personal property owned, controlled, or leased for~~
76 ~~educational or [educationally](#) related purposes by ~~such private and public colleges~~ [a public](#)~~
77 ~~[institution of higher education or nonprofit private institution of higher education](#); a study,~~
78 ~~research, or investigation or ~~the like~~ [similar activity](#) by employees or students, or both, of ~~such~~~~
79 ~~[colleges a public institution of higher education or nonprofit private institution of higher](#)~~

80 education; or any other activity (i) dealing with scientific, technological, humanistic, or other
81 educational or related subjects; or (ii) providing public service or student service activities.

82 B. The Commonwealth ~~and or~~ any of its political subdivisions may contract to obtain
83 from or furnish to nonprofit private institutions of higher education educational or related
84 services ~~from or to private colleges~~.

85 ~~1. C.~~ No contract for services between nonprofit private colleges on the one hand
86 institutions of higher education and public ~~colleges~~ institutions of higher education or
87 educational agencies of the Commonwealth, including ~~but not limited to~~ the ~~State~~ Board of
88 Education, ~~on the other~~, shall be valid unless approved by the ~~State~~ Council ~~of Higher~~
89 ~~Education~~.

90 ~~2. D.~~ Except as provided in ~~paragraph B 1 subsection C~~, contracts for services between
91 nonprofit private colleges on the one hand institutions of higher education and the
92 Commonwealth or any of its political subdivisions ~~on the other~~ may be entered into in any
93 ~~circumstances where~~ circumstance in which the Commonwealth or its political subdivisions
94 would, by virtue of law, have authority to contract with private contractors for educational or
95 related services and ~~with~~ public institutions of higher education ~~in Virginia~~. ~~C. When contracts~~
96 ~~covered by paragraph B 2 of this section are made by private colleges, such colleges~~ Nonprofit
97 private institutions of higher education shall report ~~the such~~ contracts to the ~~State~~ Council ~~of~~
98 ~~Higher Education for information~~.

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

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

104 ~~F. G.~~ Unless an ~~appropriations~~ appropriation act specifically provides otherwise, all
105 appropriations shall be construed to authorize contracts with nonprofit private colleges

106 institutions of higher education for the provision of educational or related services ~~which that~~
107 may be the subject of or included in the appropriation.

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

111 ~~G. The provisions of this section shall be severable, and if any of its provisions shall be~~
112 ~~held unconstitutional by a court of competent jurisdiction, the decision of such court shall not~~
113 ~~affect or impair any of the remaining provisions.~~

114 **Drafting note: Technical changes are made, including the incorporation of title-**
115 **wide definitions. Subsection G was stricken per c. 709 of the 2015 Acts of Assembly.**

116 #

1 CHAPTER ~~1.1~~ 2.

2 STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA.

3 **Drafting note: Existing chapter 1.1 is reorganized as proposed Chapter 2 and**
4 **technical changes are made throughout for the sake of consistency and clarity.**

5 Article 1.

6 Membership and Organization.

7 **Drafting note: Proposed Article 1 includes provisions related to the establishment,**
8 **membership, and organization of the Council.**

9 § ~~23-9.3~~ 23.1-2xx. State Council of Higher Education for Virginia ~~created~~ established;
10 purpose; membership; terms; officers.

11 A. ~~There is hereby created a~~ The State Council of Higher Education for Virginia,
12 ~~hereinafter sometimes referred to as the Council. The purpose of the Council shall be, through~~
13 ~~the exercise of the powers and performance of the duties set forth in this chapter, is established~~
14 to advocate for and promote the development and operation of an educationally and
15 economically sound, vigorous, progressive, and coordinated system of higher education in the
16 Commonwealth ~~of Virginia~~ and ~~to~~ lead state-level strategic planning ~~and~~, policy development,
17 and implementation based on research and analysis and in accordance with § ~~23-38.87-10~~ 23.1-
18 3xx and subsection B of § ~~23-38.88~~ 23.1-10xx. The Council shall ~~also~~ seek to facilitate
19 collaboration among institutions of higher education that will enhance quality and create
20 operational efficiencies and ~~shall~~ work with institutions of higher education and their governing
21 boards on board development.

22 B. The Council shall be composed of ~~persons~~ individuals selected from the
23 Commonwealth at large without regard to political affiliation but with due consideration of
24 geographical representation. ~~Appointees~~ Members shall have demonstrated experience,
25 knowledge, and understanding of higher education and workforce needs. ~~Appointees~~ Members
26 shall be selected for their ability and all appointments shall be of such nature as to aid the work
27 of the Council and ~~to~~ inspire the highest degree of cooperation and confidence. No officer,

28 employee, trustee, or member of the governing board of any institution of higher education,
29 employee of the Commonwealth, member of the General Assembly, or member of the ~~State~~
30 Board of Education shall be eligible for appointment to the Council except as specified in this
31 section. All members of the Council shall be deemed members at large charged with the
32 responsibility of serving the best interests of the whole Commonwealth. No member shall act as
33 the representative of any particular region or of any particular institution of higher education.

34 C. The Council shall consist of 13 members: 12 nonlegislative citizen members
35 appointed by the Governor ~~and subject to confirmation by the General Assembly at its next~~
36 ~~regular session~~ and one ex officio member. At least one ~~appointee~~ nonlegislative citizen
37 member shall have served as a president or chief executive of a public institution of higher
38 education ~~in the Commonwealth~~. At least one nonlegislative citizen member shall be a ~~sitting~~
39 ~~Virginia school superintendent, either at the state or local level~~ division superintendent or the
40 Superintendent of Public Instruction. The President of the Virginia Economic Development
41 Partnership Authority shall serve ex officio with voting privileges.

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

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

46 E. ~~The Council shall elect a chairman and a vice chairman from its own membership and~~
47 Members shall serve for terms of four years. Vacancies occurring other than by expiration of a
48 term shall be filled for the unexpired term. No member shall serve for more than two
49 consecutive terms; however, a member appointed to serve an unexpired term shall be eligible to
50 serve two consecutive four-year terms. No member who has served two consecutive four-year
51 terms shall be eligible to serve on the same board until at least two years have passed since the
52 end of his second consecutive four-year term. All appointments shall be subject to confirmation
53 by the General Assembly. Members shall continue to hold office until their successors have

54 been appointed and confirmed. Ex officio members shall serve a term coincident with their term
55 of office.

56 F. The Council shall elect a chairman and a vice-chairman from its membership.

57 The Council shall appoint a secretary and such other officers as it deems necessary ~~or~~
58 ~~advisable~~ and ~~shall~~ prescribe their duties and ~~term~~ terms of office.

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

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

65 **Drafting note: Proposed subsection E contains provisions on term length, term**
66 **limits, vacancies, and confirmation that conform to provisions contained in proposed §**
67 **23.1-13xx. Technical changes are made.**

68 § ~~23-9.3-1~~ 23.1-2xx. Student advisory committee.

69 A. The ~~State~~ Council ~~of Higher Education~~ shall appoint a student advisory committee
70 ~~comprised~~ consisting of students enrolled in public or accredited private institutions of higher
71 education ~~in the Commonwealth and students enrolled in private and accredited institutions of~~
72 ~~higher education in the Commonwealth,~~ whose primary purpose is to provide collegiate or
73 graduate education and not to provide religious training. Appointments shall be made in a
74 manner to ensure broad student representation from among such institutions.

75 ~~All appointments shall be made~~ B. Members shall serve for ~~a term~~ terms of one year
76 ~~each, except that appointments to fill vacancies.~~ Vacancies occurring other than by expiration of
77 a term shall be filled for the unexpired term. Members ~~of the student advisory committee~~ may
78 be reappointed to serve subsequent or consecutive terms.

79 C. ~~The State~~ Council shall ensure that at least one member of the student advisory
 80 committee is reappointed each year. The student advisory committee shall elect a chairman from
 81 among its members.

82 D. The student advisory committee shall meet at least twice annually and ~~shall~~ advise the
 83 ~~State Council of Higher Education~~ regarding such matters as may come before ~~the advisory~~
 84 ~~committee it~~.

85 **Drafting note: Technical changes.**

86 § ~~23-9.4~~ 23.1-2xx. Employment of director and other personnel.

87 The Council shall ~~employ~~ appoint and ~~appoint~~ employ a director who shall be the chief
 88 executive officer of the Council, and employ such other personnel as may be required to assist it
 89 in the exercise ~~and performance~~ of its powers and duties.

90 **Drafting note: Technical changes.**

91 Article 2.

92 Powers and Duties.

93 **Drafting note: Existing powers and duties of the Council are reorganized in**
 94 **proposed Article 2. ~~Technical changes are made.~~**

95 § ~~23-9.5. Coordinating council for state-supported institutions of higher education.~~

96 ~~The Council shall constitute a coordinating council for the College of William and Mary~~
 97 ~~in Virginia, George Mason University, Longwood University, James Madison University, the~~
 98 ~~University of Mary Washington, Norfolk State University, Old Dominion University, Radford~~
 99 ~~University, the University of Virginia, Virginia Commonwealth University, Virginia Military~~
 100 ~~Institute, Virginia Polytechnic Institute and State University, Virginia State University,~~
 101 ~~Christopher Newport University and the Virginia Community College System, branches,~~
 102 ~~divisions or colleges of any of the foregoing, and such other state-supported institutions of~~
 103 ~~higher education as may in the future be established.~~

104 **Drafting note: The provisions of existing § 23-9.5 establishing the Council as a**
105 **coordinating council for public institutions of higher education are stricken here and**
106 **incorporated into proposed subdivision 24 of § 23.1-2xx (next section).**

107 ~~§ 23-9.6.~~

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

109 ~~§ 23-9.6:1~~ 23.1-2xx. Duties of Council ~~generally~~.

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

112 1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection B
113 of ~~§ 23-38.88~~ 23.1-10xx or (ii) once adopted, reflects the goals and objectives developed
114 pursuant to subdivision B 5 of ~~§ 23-38.87:20~~ 23.1-3xx for higher education in the
115 Commonwealth, identifies a coordinated approach to such state and regional goals, and
116 emphasizes the future needs for higher education in ~~Virginia~~ the Commonwealth at both the
117 undergraduate and the graduate levels, ~~as well as~~ and the mission, programs, facilities, and
118 location of each of the existing institutions of higher education, each public institution's six-year
119 plan, and such other matters as the Council deems appropriate. The Council shall revise such
120 ~~plans~~ plan at least once every six years and shall submit such recommendations as are necessary
121 for the implementation of the plan to the Governor and the General Assembly.

122 2. Review and approve or disapprove any proposed change in the statement of mission
123 of any ~~presently existing~~ public institution of higher education and ~~to~~ define the mission of all
124 newly created public institutions of higher education ~~created after the effective date of this~~
125 provision. The Council shall, ~~within the time prescribed in subdivision 1, make a~~ report such
126 approvals, disapprovals, and definitions to the Governor and the General Assembly ~~with respect~~
127 ~~to its actions hereunder~~ at least once every six years. No such actions shall become effective
128 until 30 days after adjournment of the session of the General Assembly next following the filing
129 of such a report. Nothing ~~contained~~ in this ~~provision~~ subdivision shall be construed to authorize
130 the Council to modify any mission statement adopted by the General Assembly, ~~nor to~~ or

131 empower the Council to affect, either directly or indirectly, the selection of faculty or the
132 standards and criteria for admission of any public institution of higher education, whether
133 related to academic standards, residence, or other criteria; ~~it being the intention of this section~~
134 ~~that faculty.~~ Faculty selection and student admission policies shall remain a function of the
135 individual public institutions of higher education.

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

143 4. Review and approve or disapprove all enrollment projections proposed by each public
144 institution of higher education. The Council's projections shall be ~~in numerical terms~~ organized
145 numerically by level of enrollment and shall be used solely for budgetary and fiscal planning
146 purposes ~~only~~. The Council shall develop estimates of the number of degrees to be awarded by
147 each public institution of higher education and include those estimates in its reports of
148 enrollment projections. The student admissions policies for ~~the such~~ institutions and their
149 specific programs shall remain the sole responsibility of the individual boards of visitors;
150 ~~however, but~~ all four-year public institutions of higher education shall adopt dual admissions
151 policies with ~~the comprehensive~~ community colleges; as required by § ~~23-9.2:3.02~~ 23.1-9xx.

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

155 6. Review and require the discontinuance of any undergraduate or graduate academic
156 program that is presently offered by any public institution of higher education when the Council
157 determines that such academic program is (i) nonproductive in terms of the number of degrees

158 granted, the number of students served by the program, the program's effectiveness, and
159 budgetary considerations; or (ii) supported by state funds and ~~is~~ unnecessarily duplicative of
160 academic programs offered at other public institutions of higher education ~~in the~~
161 ~~Commonwealth~~. The Council shall make a report to the Governor and the General Assembly
162 with respect to the discontinuance of any such academic program. No such discontinuance shall
163 become effective until 30 days after the adjournment of the session of the General Assembly
164 next following the filing of such report.

165 7. Review and approve or disapprove the ~~creation and~~ establishment of any department,
166 school, college, branch, division, or extension of any public institution of higher education that
167 such institution proposes to ~~create and~~ establish. ~~This duty and responsibility shall be applicable~~
168 ~~to the proposed creation and establishment of departments, schools, colleges, branches,~~
169 ~~divisions and extensions~~, whether located on or off the main campus of ~~the such~~ institution ~~in~~
170 ~~question. If The Council shall approve~~ any organizational change ~~is determined by the Council~~
171 ~~that it determines (i)~~ to be ~~proposed~~ solely for the purpose of internal management and ~~the (ii)~~
172 ~~does not affect the~~ institution's curricular offerings ~~remain constant, the Council shall approve~~
173 ~~the proposed change~~. Nothing in this ~~provision subdivision~~ shall be construed to authorize the
174 Council to disapprove the ~~creation and~~ establishment of any department, school, college,
175 branch, division, or extension of any institution ~~that has been created and~~ established by the
176 General Assembly.

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

180 9. Develop a uniform, comprehensive data information system designed to gather all
181 information necessary to the performance of the Council's duties. The system shall include
182 information on admissions, ~~enrollments~~ enrollment, self-identified students with documented
183 disabilities, personnel, programs, financing, space inventory, facilities, and such other areas as
184 the Council deems appropriate. When consistent with the Government Data Collection and

185 Dissemination Practices Act ([§ 2.2-3800 et seq.](#)), the Virginia Unemployment Compensation
186 Act ([§ 60.2-100 et seq.](#)), and applicable federal law, the Council, acting solely or in partnership
187 with the Virginia Department of Education or the Virginia Employment Commission, may
188 contract with private entities to create de-identified student records [in which all personally](#)
189 [identifiable information has been removed](#) for the purpose of assessing the performance of
190 institutions and specific programs relative to the workforce needs of the Commonwealth. ~~For~~
191 ~~the purposes of this section, "de-identified student records" means records in which all~~
192 ~~personally identifiable information has been removed.~~

193 10. ~~Develop in~~ In cooperation with public institutions of higher education, develop
194 guidelines for the assessment of student achievement. ~~An~~ Each such institution shall use an
195 approved program that complies with the guidelines of the Council and is consistent with the
196 institution's mission and educational objectives in the development of such assessment. The
197 Council shall report ~~the institutions' assessments~~ each institution's assessment of student
198 achievement in the biennial revisions to the ~~state's master~~ Commonwealth's statewide strategic
199 plan for higher education.

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

203 12. Review biennially and approve or disapprove all changes in the inventory of
204 educational and general space that any public institution of higher education may propose; and
205 ~~to make a~~ report such approvals and disapprovals to the Governor and the General Assembly
206 ~~with respect thereto~~. No such change shall ~~be made~~ become effective until 30 days after the
207 adjournment of the session of the General Assembly next following the filing of such report.

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

212 14. Provide advisory services to ~~private, each~~ accredited ~~and~~ nonprofit ~~institutions~~
213 private institution of higher education, whose primary purpose is to provide collegiate or
214 graduate education and not to provide religious training or theological education, on academic,
215 administrative, financial, and space utilization matters. The Council may also review and advise
216 on joint activities, including contracts for services between ~~such~~ public and such private
217 institutions of higher education or between such private institutions of higher education and any
218 agency or political subdivision of the Commonwealth ~~or political subdivision thereof~~.

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

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

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

238 18. Require the development and submission of articulation, dual admissions, and
239 guaranteed admissions agreements between two-year and four-year public institutions of higher
240 education ~~in Virginia~~.

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

244 20. ~~Develop~~ In consultation with each public institution of higher education, develop a
245 uniform certificate of general studies program, ~~in consultation with the Virginia Community~~
246 ~~College System and Virginia public institutions of higher education,~~ to be offered at each
247 comprehensive community college ~~in Virginia~~. Such program shall ensure that a community
248 college student who completes the one-year certificate program ~~shall be able to~~ may transfer all
249 credits earned in academic subject coursework to a four-year public institution of higher
250 education ~~in the Commonwealth~~ upon acceptance to ~~the~~ such four-year institution.

251 ~~§ 23-9.8. Cooperation with State Board of Education.~~

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

260 ~~§ 23-9.8:1. State Council of Higher Education to advise the Brown v. Board of~~
261 ~~Education Scholarship Awards Committee.~~

262 ~~Consistent with its statutory responsibilities for higher education in the Commonwealth,~~
263 ~~the Council shall advise~~ 22. Advise and provide technical assistance to the Brown v. Board of
264 Education Scholarship ~~Awards~~ Committee in the implementation and administration of the

265 Brown v. Board of Education Scholarship Program, pursuant to Chapter 34.1 (§ 30-231.01 et
266 seq.) of Title 30.

267 ~~§ 23-9.13. Cooperating with and utilizing facilities of existing state departments, etc.~~

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

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

272 ~~§ 23-9.10:1. Coordinating agency for post-secondary educational programs for health~~
273 ~~professions and occupations.~~

274 ~~The State Council of Higher Education is hereby designated~~ 25. Serve as the planning
275 and coordinating agency for all post-secondary educational programs for all health professions
276 and occupations. ~~The Council shall~~ and make recommendations, including those relating to
277 financing, ~~whereby for providing~~ adequate and coordinated educational programs ~~may be~~
278 ~~provided~~ to produce an appropriate supply of properly trained personnel. The Council ~~is~~
279 ~~authorized to~~ may conduct such studies as it deems appropriate in furtherance of the
280 requirements of this subdivision. All state departments and agencies shall cooperate with the
281 Council in the execution of its responsibilities under this ~~section~~ subdivision.

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

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

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

290 **Drafting note: In subdivision 15, "rules and regulations" is changed to read**
291 **"regulations" per recommendation of the Code Commission. Subdivisions 21 through 26**

292 incorporate the provisions of existing §§ 23-9.8, 23-9.8:1, 23-9.13, 23-9.5, and 23-9.10:1 and
293 the second sentence of existing § 23-261, respectively. Technical changes are made,
294 including the incorporation of title-wide definitions and the replacement of references to
295 "state" or "Virginia" with "Commonwealth" per Code Commission policy. The name of
296 the Brown v. Board of Education Scholarship Committee in proposed subdivision 22 is
297 corrected based on amendments made in 2010.

298 § ~~23-9.2:3-04~~ 23.1-2xx. (Expires June 30, 2017) Post-graduation employment rates.
299 ~~By August 1, 2013, and each year thereafter, the State Council of Higher Education for~~
300 ~~Virginia~~ The Council shall annually publish data on its website on the proportion of graduates
301 ~~with employment at who are employed (i)~~ 18 months and ~~(ii)~~ five years after the date of
302 graduation for each public institution ~~and each of higher education or nonprofit~~ private ~~nonprofit~~
303 institution of higher education eligible to participate in the Tuition Assistance Grant Program (§
304 23-6xx et seq.) [existing Chapter 4.1 of Title 23]. The data shall include the program and the
305 program level, as recognized by the ~~State Council of Higher Education~~, for each degree awarded
306 by each institution ~~and shall, at a minimum, include:~~ the percentage of graduates known to be
307 employed in the Commonwealth, the average salary, and the average higher education-related
308 debt for the graduates on which the data is based; rates of enrollment in remedial coursework for
309 each institution; individual student credit accumulation for each institution; rates of
310 postsecondary degree completion; and any other information that the Council determines is
311 necessary to address adequate preparation for success in postsecondary education and alignment
312 between secondary and postsecondary education. The Council shall disseminate to each public
313 high school and each institution of higher education in the Commonwealth for which the
314 Council has student-level data a link on its website to the published data. The Council shall
315 provide a notification template that each public high school may use to annually notify students
316 and their parents about the availability of such data. The published data shall be consistent with
317 the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) and the
318 federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g).

319 **Drafting note: An obsolete reference to an August 1, 2013, deadline is stricken and**
 320 **technical changes are made.**

321

~~CHAPTER 20.~~

322

~~RESPONSIBILITY FOR FEDERAL PROGRAMS.~~

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

326 ~~§ 23-261. 23.1-2xx. Council responsible for federal programs Authority to carry out~~
 327 ~~federal requirements.~~

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

333 **Drafting note: The second sentence of existing § 23-261 is stricken and**
 334 **incorporated instead as proposed subdivision 26 of § 23.1-2xx (duties). Technical changes**
 335 **are made, including the replacement of "shall have full authority" with "may."**

336 §§ 23-262, 23-263.

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

338 § 23-264.

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

340 ~~§ 23-9.6:1.01. 23.1-2xx. Assessments of institutional the performance of public~~
 341 ~~institutions of higher education.~~

342 A. 1. The ~~State~~ Council shall develop and revise ~~from time to time as appropriate~~, in
 343 consultation with the respective ~~chairmen~~ Chairmen of the House Committees on Education and
 344 Appropriations and the Senate Committees on Finance and Education and Health or their
 345 designees, representatives of public institutions of higher education, and such other state

346 officials as may be designated by the Governor, objective measures of educational-related
347 performance and institutional performance benchmarks for such objective measures for each
348 public institution of higher education. At a minimum, the ~~State~~ Council shall develop objective
349 measures and institutional performance benchmarks for the goals and objectives set forth in
350 subdivisions B 1 through ~~B~~ 10 of § ~~23-38.88~~ 23.1-10xx.

351 ~~The State Council shall develop the initial objective measures and performance~~
352 ~~benchmarks for consideration by the Governor and the General Assembly no later than October~~
353 ~~1, 2005.~~

354 2. The Governor shall develop and revise ~~from time to time~~ as appropriate objective
355 measures of financial and administrative management performance and related institutional
356 performance benchmarks for the goals and objectives set forth in subdivision B 11 of § ~~23-38.88~~
357 23.1-10xx. ~~The Governor shall develop the initial measures and performance benchmarks and~~
358 ~~report his recommendations to the General Assembly prior to November 15, 2005.~~

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

364 C. The ~~State~~ Council shall annually assess the degree to which each ~~individual~~ public
365 institution of higher education has met the financial and administrative management and
366 educational-related performance benchmarks set forth in the current general appropriation act ~~in~~
367 effect. Such annual assessment shall be based upon the objective measures and institutional
368 performance benchmarks included in the annual current general appropriation act ~~in effect~~. The
369 ~~State~~ Council shall request assistance from the Secretaries of Finance and Administration, who
370 shall provide such assistance, for ~~purposes~~ the purpose of assessing whether ~~or not~~ public
371 institutions of higher education have met the financial and administrative management
372 performance benchmarks.

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

378 ~~Those institutions~~ Each public institution of higher education that ~~are~~ is certified by the
379 ~~State~~ Council as having met the financial and administrative management and educational-
380 related performance benchmarks in effect for the fiscal year as set forth in the general
381 appropriation act shall be entitled to the financial benefits set forth in § 2.2-5005. Such benefits
382 shall first be provided as determined under such section.

383 D. ~~Notwithstanding any other provision of this section, no institution shall be required to~~
384 ~~submit documentation that it has met the financial and administrative management and~~
385 ~~educational related performance benchmarks set forth in the general appropriations act for the~~
386 ~~fiscal years 2011-2012 and 2012-2013. If an institution is certified by the State Council as~~
387 ~~having met the financial and administrative management and educational related performance~~
388 ~~benchmarks for the fiscal year 2010-2011, then such institution shall be entitled to the financial~~
389 ~~benefits set forth in subdivision B-14 of § 2.2-1124, subsection C of § 2.2-1132, subdivisions 4~~
390 ~~and 5 of § 2.2-1149, subsection C of § 2.2-1150, subdivision C-2 of § 2.2-1153, § 2.2-1609,~~
391 ~~subdivision A-4 of § 2.2-2007, subsection E of § 2.2-2901, § 2.2-5005, subdivisions 1 and 3 of §~~
392 ~~23-38.90, and subsection C of § 36-98.1 for the fiscal years 2011-2012 and 2012-2013.~~

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

396 § ~~23-9.6:2~~ 23.1-2xx. Tuition relief, refunds, and reinstatement for certain students in the
397 uniformed services.

398 A. The Council shall issue and ~~from time to time~~ revise guidelines for tuition relief,
399 refunds, and reinstatement for students whose service in the uniformed services has required

400 their sudden withdrawal or prolonged absence from their enrollment in a public institution of
401 higher education and shall provide for the required reenrollment of such students by the relevant
402 institution. These guidelines shall be excluded from the provisions of the Administrative Process
403 Act pursuant to § 2.2-4002.

404 B. The Council shall appoint an advisory committee of at least 10 representatives of the
405 public institutions of higher education to assist in the development and subsequent revision of
406 ~~these such~~ guidelines. The Council shall consult with the Office of the Attorney General and
407 ~~shall~~ provide opportunity for public comment prior to issuing ~~any~~ such guidelines or revisions.

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

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

415 § 23-9.7.

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

417 § 23-9.9 23.1-2xx. Preparation of budget Budget requests; submission of budget requests
418 to Council; coordinating requests; submission of and recommendations to Governor and General
419 Assembly.

420 A. The Council ~~of Higher Education~~ shall develop policies, formulae, and guidelines for
421 the fair and equitable distribution and use of public funds among the public institutions of higher
422 education, taking into account enrollment projections and recognizing differences ~~as well as and~~
423 similarities in institutional missions. Such policies, formulae, and guidelines ~~as are developed by~~
424 the Council shall include provisions for operating expenses and capital outlay programs and
425 shall be utilized by all public institutions of higher education in preparing requests for
426 appropriations. The Council shall consult with the Department of Planning and Budget in the

427 development of such policies, formulae, and guidelines to ~~insure~~ ensure that they are consistent
428 with the requirements of the Department of Planning and Budget.

429 B. Not less than ~~thirty~~ 30 days prior to submitting its biennial budget request to the
430 Governor, the governing board of each public institution of higher education shall transmit to
431 the Council such selected budgetary information relating to its budget request for maintenance
432 and operation and for capital outlay as the Council shall reasonably require. The Council shall
433 analyze such information in light of the Council's plans, policies, formulae, and guidelines and
434 shall submit to the Governor recommendations for approval or modification of each institution's
435 request together with a rationale for each such recommendation. The Council shall make
436 available to the General Assembly its analyses and recommendations concerning institutional
437 budget requests.

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

442 ~~§ 23-9.9:1. Funds for graduate marine science consortium.~~

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

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

451 ~~§ 23-9.9:01~~ 23.1-2xx. Reports of expenditures of state funds.

452 The governing ~~body~~ board of each public institution of higher education shall provide
453 the ~~State Council of Higher Education~~ annual data indicating the apportionment and amounts of

454 expenditures that the relevant institution expends by category, including academic costs,
455 administration, research, and public service, as defined by the Council. The Council shall
456 compile and submit a report of such data annually to the Governor and the General Assembly.

457 **Drafting note: Technical changes are made.**

458 ~~§ 23-9.10.~~

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

460 ~~§ 23-9.10:2 23.1-2xx.~~ Advisory services to accredited nonprofit private~~nonprofit~~
461 ~~colleges and universities~~ institutions of higher education; ~~Private College Advisory Committee~~
462 ~~continued as~~ Private College Advisory Board.

463 ~~(a) A.~~ The Council shall provide advisory services to, ~~and with respect to, the~~ accredited
464 nonprofit private, ~~accredited, nonprofit colleges and universities within the Commonwealth~~
465 institutions of higher education on academic and administrative matters. The Council may ~~also~~
466 review and advise on joint activities, including contracts for services, between private and
467 public ~~colleges and universities~~ institutions of higher education and between private ~~colleges~~
468 ~~and universities~~ institutions of higher education and any agency or political subdivision of the
469 Commonwealth ~~or political subdivision thereof~~. The Council may collect and analyze such data
470 as may be pertinent to such activities.

471 ~~(b) The Private College Advisory Committee established and maintained by the Council~~
472 ~~is continued and shall hereafter be known as the Private College Advisory Board.~~ B. The
473 Council shall seek the advice of the Private College Advisory Board, and the Advisory Board
474 shall assist the Council in the performance of its duties as required by subsection ~~(a) herein~~ A.
475 The Private College Advisory Board shall be composed of ~~college and university~~
476 representatives a broad representation of accredited nonprofit private institutions of higher
477 education and such other members as the Council may select.

478 ~~(c) The Private College Advisory Board shall be broadly representative of the private~~
479 ~~sector of nonprofit higher education in the Commonwealth.~~ C. The Private College Advisory
480 Board shall meet at least ~~twice~~ once each year ~~and shall advise the Council and the private~~

481 ~~accredited nonprofit colleges and universities in the Commonwealth with respect to such~~
 482 ~~matters as may come before it.~~

483 D. The Council may employ such qualified personnel as may be required to assist the
 484 Private College Advisory Board in the performance of its duties.

485 **Drafting note: The first sentence of existing subsection (b) is stricken as obsolete.**
 486 **Technical changes are made. Meeting frequency in proposed subsection C is changed to**
 487 **once annually to reflect the current practice of the Private College Advisory Board.**

488 ~~§ 23-9.10:4.~~

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

490 ~~§§ 23-9.11, 23-9.12.~~

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

492 ~~§ 23-9.13:1.~~

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

494 ~~§ 23-9.14:3~~ 23.1-2xx. Distance learning reciprocity agreements; participation; Distance
 495 Learning Reciprocity Advisory Council.

496 A. The ~~State~~ Council ~~of Higher Education~~ may enter into interstate reciprocity
 497 agreements that authorize accredited degree-granting institutions of higher education located in
 498 the Commonwealth to offer postsecondary distance education. The ~~State~~ Council shall
 499 administer such agreements and shall approve or disapprove participation in such agreements by
 500 accredited degree-granting institutions of higher education located in the Commonwealth.
 501 Participation in the agreements ~~shall be~~ is voluntary.

502 B. The ~~State~~ Council shall establish the Distance Learning Reciprocity Advisory
 503 Council, which shall include representatives from each ~~participating~~ institution that offers
 504 postsecondary distance education pursuant to an interstate reciprocity agreement as set forth in
 505 subsection A. The Advisory Council shall advise the ~~State~~ Council on the development of
 506 policies governing the terms of participation by eligible institutions, including the establishment

507 of fees to be paid by participating institutions to cover direct and indirect administrative costs
508 incurred by the ~~State~~ Council.

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

513 **Drafting note: Technical changes.**

514 § ~~23-9.14~~ 23.1-2xx. Effect upon powers of governing boards of public institutions of
515 higher education; endowment funds.

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

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

523 **Drafting note: Technical changes are made.**

524 ~~CHAPTER 21.1.~~
525 ~~REGULATION OF CERTAIN PRIVATE AND OUT-OF-STATE INSTITUTIONS OF~~
526 ~~HIGHER EDUCATION.~~

527 Article 3.
528 Regulation of Certain Private and Out-of-State Institutions of Higher Education.

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

531 § ~~23-276.1~~ 23.1-2xx. Definitions.

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

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

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

541 "Certificate" ~~or "diploma"~~ means an award that is given for successful completion of a
542 curriculum ~~comprised of~~ consisting of courses that may also be taken for degree credit ~~and shall~~
543 ~~apply only to those awards given for coursework offered~~ by institutions of higher education ~~and~~
544 or academic-vocational ~~noncollege~~ non-college degree schools. "Certificate" includes a
545 diploma.

546 "College" means any institution of higher education that offers ~~associate~~ associate-level
547 ~~or baccalaureate level~~ baccalaureate-level degree programs.

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

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

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

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

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

562 "For-profit" means privately owned and managed.

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

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

573 "Institution of higher education" or "institution" means any person ~~or entity~~, other than a
574 ~~Virginia state-supported public~~ public institution of higher education ~~named in § 23-9.5~~ or any ~~public~~
575 ~~institution of higher education established in statute as an authority and declared a governmental~~
576 ~~instrumentality~~ other entity authorized to issue bonds pursuant to § ~~23-14~~ 23.1-11xx, that has
577 received approval from the Council to (i) use the term "college" or "university," or words of like
578 meaning, in its name or in any manner in connection with its academic affairs or business; (ii)
579 enroll students; or (iii) offer approved courses for degree credit or programs of study leading to
580 a degree or ~~to~~ offer degrees either at a site ~~in Virginia~~ or via telecommunications equipment
581 located ~~within Virginia~~ in the Commonwealth.

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

585 ~~"Nonecollege~~ "Non-college degree school" means any postsecondary school that offers
586 courses or programs of study that do not lead to ~~an associate or higher level~~ a degree. ~~Such~~

587 ~~schools may be~~ "Non-college degree school" includes academic-vocational ~~or non-college~~
588 degree schools and vocational non-college degree schools.

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

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

595 "Postsecondary school" ~~or "school"~~ means any ~~entity~~ institution of higher education or
596 non-college degree school offering formal instructional programs with a curriculum designed
597 primarily for students who have completed the requirements for a high school diploma or its
598 equivalent. ~~Such schools include~~ "Postsecondary school" includes programs of academic,
599 vocational, and continuing professional education, ~~and exclude~~ except course or programs of
600 continuing professional education set forth in subdivision B 4 of § 23.1-2xx (exemptions).
601 "Postsecondary school" does not include avocational and adult basic education programs. ~~For~~
602 ~~the purposes of this chapter, a "postsecondary school" shall be classified as either an institution~~
603 ~~of higher education as defined in this section or a noncollege degree school, as defined in this~~
604 section.

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

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

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

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

614 presence or absence of administrative capability at such location. ~~A site may be~~ "Site" includes a
615 branch of ~~such a~~ postsecondary school, ~~and shall not be required to possess administrative~~
616 ~~capability.~~

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

621 "University" means any institution ~~offering of higher education that offers~~ programs
622 leading to degrees or degree credit beyond the baccalaureate level.

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

628 **Drafting note: Technical changes are made to the article-wide definitions section.**
629 **"Proprietary" is replaced with "for-profit"; the term "proprietary" only occurred three**
630 **times in a single section in existing Chapter 21.1 and "for-profit" has the same meaning**
631 **and is used frequently throughout existing Title 23. The definition of "in-state institution"**
632 **is deleted; the term "in-state institution" is not used in this proposed article.**

633 § ~~23-276.1-1~~ 23.1-2xx. Certified mail; subsequent mail or notices may be sent by regular
634 mail.

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

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

640 § ~~23-276.3~~ 23.1-2xx. Authority of the ~~State~~ Council ~~of Higher Education~~; regulations;
641 standards for postsecondary schools; delegation of authority to director.

642 A. The ~~State~~ Council ~~of Higher Education for Virginia~~ shall adopt, pursuant to the
643 Administrative Process Act (§ 2.2-4000 et seq.), such regulations as may be necessary to
644 implement the provisions of this ~~chapter~~. ~~The Council's regulations shall include, but need not~~
645 ~~be limited to~~ article, including (i) procedures by which a postsecondary school may apply for
646 Council approval to confer degrees in ~~Virginia~~ the Commonwealth; (ii) measures designed to
647 ensure that all postsecondary schools that are subject to the provisions of this ~~chapter~~ article
648 meet the minimal ~~academic~~ standards established pursuant to subsection B; (iii) protections for
649 students pursuing postsecondary education opportunities in postsecondary schools subject to the
650 provisions of this ~~chapter~~ article; and (iv) information to assist persons who rely on
651 postsecondary degrees, ~~diplomas, and or~~ certificates ~~in judging to judge~~ the competence of
652 individuals in receipt of such degrees or certificates.

653 B. The Council shall establish minimal standards ~~established by the Council shall~~
654 ~~include, but need not be limited to, for postsecondary schools that include standards for~~ faculty
655 preparation and experience, educational programs, physical plants, additional locations,
656 finances, guaranty instruments, advertising and publications, maintenance of student records,
657 personnel qualifications, student services, the method for collecting and refunding tuition and
658 fees, library resources and services, organization and administration, changes of ownership or
659 control, procedures for student admission and graduation, agent or solicitor requirements,
660 consistency of a postsecondary school's stated purpose with the proposed offerings, reporting
661 requirements, and any other relevant standards or requirements promulgated by ~~action of the~~
662 ~~Council~~ or an accrediting agency recognized by the ~~United States~~ U.S. Department of
663 Education.

664 C. The Council shall prescribe the manner, conditions, and language to be used by a
665 postsecondary school, ~~person,~~ or agent ~~thereof in disclosing of such school to disclose~~ or

666 ~~advertising advertise~~ that the postsecondary school has received certification from the Council
 667 to offer postsecondary programs in ~~Virginia the Commonwealth~~.

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

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

673 **Drafting note: Technical changes.**

674 § ~~23-276.13~~ 23.1-2xx. ~~Establishment of the~~ Career College Advisory Board established.

675 A. The Council shall establish and seek the advice of the Career College Advisory
 676 Board, which shall assist the Council in the performance of its duties and provide advisory
 677 services in academic and administrative matters related to private ~~proprietary for-profit~~
 678 institutions of higher education ~~and or~~ academic-vocational ~~noncollege non-college~~ degree
 679 schools. The Career College Advisory Board shall be composed of college and university
 680 representatives and such other members as the Council may select and shall be broadly
 681 representative of ~~the~~ private ~~proprietary sector of~~ for-profit institutions of higher education and
 682 academic-vocational ~~noncollege non-college~~ degree schools.

683 B. The Career College Advisory Board shall meet at least twice each year and ~~shall~~
 684 advise the Council ~~and the,~~ private ~~proprietary accredited~~ for-profit institutions of higher
 685 education, and academic-vocational ~~noncollege non-college~~ degree schools ~~in the~~
 686 Commonwealth regarding such matters as may come before ~~it~~ the Career College Advisory
 687 Board. The Council may employ such qualified personnel as may be required to assist the
 688 Career College Advisory Board in the performance of its duties.

689 **Drafting note: Technical changes.**

690 § ~~23-276.14~~ 23.1-2xx. ~~Certificates generally~~ Certification required.

691 A. No person shall open, operate, or conduct any postsecondary school in ~~this the~~
 692 Commonwealth without ~~a certificate~~ certification to operate such postsecondary school issued

693 by the Council. The Council shall ~~issue a certificate to~~ certify those postsecondary schools in
694 compliance with ~~the~~ Council regulations issued pursuant to this ~~chapter~~ article.

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

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

700 § ~~23-276.15~~ 23.1-2xx. List of postsecondary schools holding valid ~~certificates~~
701 certification.

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

705 Upon confirmation of any notification or discovery of any postsecondary school
706 operating without its certification or approval, the Council shall notify in writing the relevant
707 local Commissioner of the Revenue or other official serving such equivalent functions of the
708 postsecondary school's violation of such certification or approval requirement; and shall
709 recommend revocation of the postsecondary school's business license.

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

712 § ~~23-276.4~~ 23.1-2xx. Council certification ~~required for the conferring of certain degrees~~
713 ~~and other awards or the offering of certain programs;~~ requirements and prohibitions.

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

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

719 2. Enroll students;

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

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

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

728 C. All ~~out-of-state academic-vocational noncollege degree schools operating in good~~
729 ~~standing in the Commonwealth prior to July 1, 2006, that have not obtained accreditation by an~~
730 ~~accrediting agency recognized by the United States Department of Education shall secure~~
731 ~~accreditation candidacy status by July 1, 2009, and shall secure full accreditation by an~~
732 ~~accrediting body recognized by the United States Department of Education by July 1, 2012.~~
733 Further, on and after July 1, 2006, all out-of-state academic-vocational ~~noncollege~~ non-college
734 degree schools; subject to the provisions of this ~~chapter,~~ article shall disclose their accreditation
735 status in all written materials advertising or describing ~~the~~ such school that are distributed to
736 prospective or enrolled students or the general public.

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

747 degrees ~~is revoked~~, the institution must seek recertification ~~and must do so~~ annually until it
748 meets the criteria of this subsection.

749 ~~D. E.~~ In addition to such other requirements as are established in this ~~chapter article~~ or
750 the regulations of the Council, any postsecondary school formed, chartered, or established
751 outside of the Commonwealth shall provide verification that:

752 1. The ~~institution~~ postsecondary school is fully accredited by an accrediting agency
753 recognized by the ~~United States~~ U.S. Department of Education;

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

756 3. All credits earned at any ~~Virginia~~ site are transferable to an institution's main out-of-
757 state campus; and

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

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

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

767 § ~~23-276.5~~ 23.1-2xx. Approval procedures.

768 A. Prior to Council approval for a postsecondary school to use the term "college" or
769 "university" or abbreviations or words of similar meaning in its name or in any manner in
770 connection with its academic affairs or business, ~~to~~ offer courses or programs for degree credit,
771 enroll students in any courses or programs, or confer or award degrees, each postsecondary
772 school shall be evaluated by the Council in accordance with the regulations adopted pursuant to
773 ~~this chapter~~ § 23.1-2xx [existing § 23-276.3].

774 B. Upon finding that the applicant has fully complied with [the regulations adopted](#)
775 [pursuant to § 23.1-2xx \[existing § 23-276.3\]](#), the Council shall approve the application.

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

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

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

783 § ~~23-276.6~~ [23.1-2xx](#). Refusal, suspension, ~~and or~~ revocation of approval or certification.

784 A. The Council may refuse to grant a certification, may revoke or suspend a prior
785 approval or certification, ~~as the case may be~~, including any approval or authorization issued
786 prior to July 1, 1980, ~~and or~~ may add conditions to any approval or certification, ~~as the case may~~
787 ~~be~~, on such grounds as may be provided in its regulations or ~~any of if~~ the ~~following grounds~~
788 [postsecondary school](#):

789 1. ~~The school submits~~ [Submits](#) or has submitted any false or misleading information to
790 the Council in connection with its approval;

791 2. ~~The school or any of its locations fails~~ [Fails](#) to meet or to maintain compliance with
792 the Council's regulations [at any of its locations](#);

793 3. ~~The school publicly~~ [Publicly](#) makes or causes to be made any false or misleading
794 representation that it has complied with any requirement of this ~~chapter article~~ or the Council's
795 regulations;

796 4. ~~The school violates~~ [Violates](#) any provision of this ~~chapter article~~ or the Council's
797 regulations; or

798 5. ~~The school fails~~ [Fails](#) or refuses to furnish the Council with any requested information
799 or records required by this ~~chapter article~~ or the Council's regulations.

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

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

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

818 E. In accordance with Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of Title 2.2, any
819 postsecondary school aggrieved by (i) a decision of the Council to deny an application ~~or,~~
820 suspend or revoke a prior approval or certification, ~~as the case may be,~~ or add conditions to an
821 approval or certification, ~~or aggrieved by (ii)~~ any order to comply with this article or the
822 Council's regulations ~~or this chapter~~ may appeal such decision. The Council shall make a final
823 administrative decision on such appeal in accordance with the Administrative Process Act (§
824 2.2-4000 et seq.).

825 F. In order to regain approval, a postsecondary school that has had its approval or
826 certification, ~~as the case may be~~ revoked or suspended by the Council shall file a new

827 application for certification and ~~shall~~ provide clear and convincing evidence that the conditions
828 resulting in the suspension or revocation have been remedied and ~~that~~ the postsecondary school
829 is in compliance with this ~~chapter article~~ and the Council's regulations.

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

832 § ~~23-276.7~~ 23.1-2xx. Emergency actions.

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

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

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

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

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

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

851 § ~~23-276.8~~ 23.1-2xx. Preservation of students' records ~~required~~.

852 A. In the event of school closure or revocation of its approval or certification, the
853 postsecondary school shall (i) make arrangements for the transfer of the academic and financial

854 records of all students to the Council within 30 days of the closure or (ii) with the approval of
855 the Council, ensure preservation of the academic and financial records of all students by
856 entering an agreement with another postsecondary school. An out-of-state postsecondary school
857 that is public or corporately held may retain records at the postsecondary school's location
858 outside of the Commonwealth but shall provide the Council with the contact information needed
859 for each student to obtain copies of his academic and financial records.

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

864 **Drafting note: Technical changes.**

865 § ~~23-276.9~~ 23.1-2xx. Fees.

866 The Council may, ~~as it deems necessary to comply with the provisions of this chapter~~
867 ~~and its regulations~~, establish nonrefundable fees for services and methods for collecting such
868 fees. ~~All fees shall be nonrefundable.~~

869 **Drafting note: Technical changes.**

870 § ~~23-276.10~~ 23.1-2xx. Prohibited acts.

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

876 This subsection shall not apply to any person or other entity that (i) used the term
877 "college" or "university" openly and conspicuously in its title within the Commonwealth prior to
878 July 1, 1970; (ii) was granted authority to operate in ~~Virginia~~ the Commonwealth by the Council
879 between July 1, 1970, and July 1, 2002, and maintains valid authority to so operate in ~~Virginia~~
880 the Commonwealth on or after July 1, 2002; (iii) was exempted from the provisions of former

881 Chapter 21 (§ 23-265 et seq.) of ~~this title~~ Title 23, as such law was in effect prior to July 1,
882 2002; or (iv) was authorized by the Council to use a name while its request for approval to
883 enroll students is pending before the Council.

884 B. No person or other entity shall sell, barter, or exchange for any consideration, or
885 attempt to sell, barter, or exchange for any consideration, any degree credit, degree, ~~diploma~~, or
886 certificate.

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

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

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

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

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

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

903 ~~G. Unless exempted from the provisions of this chapter or granted approval by the~~
904 ~~Council in accordance with this chapter and relevant regulations, no person or other entity shall~~
905 ~~represent~~ 5. Represent that credits earned at or granted by any institution of higher education or
906 academic-vocational ~~noncollege~~ non-college degree school may be applied for credit toward a

907 degree unless such person is exempted from the provisions of this article or granted certification
908 or approval by the Council in accordance with this article and the Council's regulations.

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

911 § ~~23-276.2~~ 23.1-2xx. Exemptions.

912 A. The provisions of this ~~chapter article~~ shall not apply to ~~the public state supported~~
913 ~~institutions named in § 23-9.5 or~~ any public institution of higher education ~~established in statute~~
914 ~~as an authority and declared a governmental instrumentality pursuant to § 23-14 as that term is~~
915 defined in § 23.1-100 or any entity authorized to issue bonds pursuant to § 23.1-11xx.

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

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

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

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

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

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

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

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

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

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

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

954 Each postsecondary school seeking such an exemption or continuation of such an
955 exemption shall file such information as may be required by the Council. If the Council does not
956 grant a postsecondary school an exemption, the postsecondary school shall be notified in writing
957 with the reasons for the exemption denial. The affected postsecondary school shall have the
958 right to appeal the Council's decision pursuant to Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of
959 Title 2.2. The Council shall, in each instance, determine the applicability of the exemption as
960 provided in this section.

961 D. Notwithstanding the exemptions provided in this section, exempted postsecondary
 962 schools shall be subject to the provisions of subsection B of § ~~23-276.6~~ 23.1-2xx and a
 963 postsecondary school may seek Council approval for an otherwise exempt activity or program.

964 **Drafting note: Technical changes. The phrase "but not limited to" is stricken after**
 965 **"including" in subdivision B 5 pursuant to § 1-218, which states: "'Includes' means**
 966 **includes, but not limited to."**

967 § ~~23-276.11~~ 23.1-2xx. Virginia law to apply to contracts.

968 The laws of ~~Virginia~~ the Commonwealth shall govern any agreement, contract, or
 969 instrument of indebtedness executed between a postsecondary school and any person enrolling
 970 in any course or program offered or to be offered by such school in ~~Virginia and the~~
 971 Commonwealth or any person employed or offered employment by such school in ~~Virginia the~~
 972 Commonwealth.

973 **Drafting note: Technical changes. "Virginia" is changed to "Commonwealth" per**
 974 **Code Commission policy.**

975 § ~~23-276.12~~ 23.1-2xx. Violations; ~~criminal penalty; injunction proceeding; civil penalty~~
 976 penalties; remedies.

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

981 B. ~~The Council may also institute a proceeding in equity to enjoin any violation of this~~
 982 ~~chapter or its implementing regulations. Further, if~~ If no criminal prosecution is instituted
 983 against such postsecondary school pursuant to subsection A, the Council ~~shall have the authority~~
 984 to may recover a civil penalty of at least \$200 but not more than \$1,000 per ~~violation, with each~~
 985 unlawful act constituting a separate violation offense set forth in subsection A. In no event shall
 986 the civil penalties against any one person, corporation, or other entity exceed \$25,000 per year.

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

992 **Drafting note: Technical changes, including changing "attorney's fees" to**
 993 **"attorney fees" in subsection C per Code style.**

994 ~~§ 23-8.1.~~

995 **Drafting note: Repealed by Acts 1980, c. 658.**

996 ~~§ 23-8.2.~~

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

998 ~~§ 23-8.3, 23-9.~~

999 **Drafting note: Repealed by Acts 1980, c. 658.**

1000 ~~CHAPTER 21.~~

1001 ~~REGULATION OF CONFERRING DEGREES, ETC.~~

1002 ~~§§ 23-265 through 23-276.~~

1003 **Drafting note: Repealed by Acts 2002, c. 178, cl. 2.**

1004 #

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~~ 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~~ 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.**

529 | #

1 ~~§ 3.2-503. Duties of Extension Division of Virginia Polytechnic Institute and State~~
2 ~~University.~~

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

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

10 **Drafting note: The provisions of existing § 3.2-503 are stricken and incorporated**
11 **into proposed subsections B and C of § 23.1-26xx (see page 15).**

12 CHAPTER ~~11~~ 26.

13 VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY.

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

20 Article 1.

21 General Provisions.

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

25 ~~§ ~~23-114~~ 23.1-26xx. Board of visitors a corporation and under control of General~~
26 ~~Assembly~~ Corporate name: name of the University.

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

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

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

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

41 § ~~23-115~~ 23.1-26xx. ~~Appointment of visitors generally; number and eligibility~~
42 Membership.

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

50 ~~As soon as practicable after April 9, 1945, the Governor shall appoint four members to~~
51 ~~fill the unexpired portions of the terms which began on July 1, 1944, and shall appoint three~~
52 ~~additional members for new terms of two years and two for new terms of four years, each term~~
53 ~~beginning July 1, 1945. He shall, in addition, appoint the President of the State Board of~~

~~54 Agriculture and Consumer Services as an ex officio member for a term of four years to begin
55 July 1, 1945; provided that, if the tenure in office as President of such ex officio member expires
56 within that time, the Governor shall appoint such member's successor to fill the unexpired term.
57 Such President shall remain eligible for appointment as an ex officio member so long as he
58 continues in office as President. All appointments for full terms, as well as to fill vacancies,
59 shall be made by the Governor subject to confirmation by the Senate.~~

~~60 B. The alumni association of the University may submit to the Governor a list of three
61 nominees for each vacancy on the board, whether it occurs by expired term or otherwise. The
62 Governor may appoint a member from the list of nominees.~~

63 Drafting note: Existing provisions relating to the membership of the board of
64 visitors are logically combined in this proposed section, existing provisions relating to the
65 terms and removal of members of the board are stricken and incorporated into proposed §
66 23.1-13xx, and technical changes are made to conform the language to that of each other
67 four-year public institution of higher education. Obsolete language is stricken.

~~68 § 23-116. Appointment of visitors from nominees of alumni association.~~

~~69 (a) The Governor may appoint visitors from a list of qualified persons submitted to him
70 by the alumni association of the University on or before the first day of April of any year in
71 which the terms of any visitors will expire.~~

~~72 (b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall
73 certify this fact to the association and nominations may be submitted of qualified persons and
74 the Governor may fill the vacancy, if his discretion so dictates, from among the eligible
75 nominees of the association, whether or not alumni or alumnae.~~

~~76 (c) Every list shall contain at least three names for each vacancy to be filled.~~

~~77 (d) The Governor is not to be limited in his appointments to the persons so nominated.~~

~~78 (e) At no time shall less than six of the appointive visitors be alumni or alumnae of the
79 University.~~

80 **Drafting note: The provisions of existing § 23-116 are stricken and incorporated**
81 **into proposed § 23.1-26xx (existing § 23-115).**

82 § 23-117. Eligibility to serve for more than two successive terms.

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

89 **Drafting note: The provisions of existing § 23-117 are stricken and incorporated**
90 **into proposed § 23.1-13xx.**

91 § 23-118, 23.1-26xx. Officers and committees of the board; officers of the University
92 Meetings; officers; committees.

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

97 B. A majority of the board shall constitute a quorum. A majority of each committee shall
98 constitute a quorum.

99 C. The board of visitors shall appoint from their own body its membership a rector, who
100 shall to preside at their its meetings; and, in his absence, a president pro tempore to preside at its
101 meetings in the absence of the rector. The board may appoint a vice-president of the University
102 and, by appropriate regulations, prescribe his authority, duties, and compensation, if any, and he
103 shall hold office at the pleasure of the board.

104 D. The board shall appoint a secretary.

105 E. The board shall also appoint from its membership an executive committee of not less
106 than at least three nor but not more than six, which, during the interim between board meetings,

107 ~~members that~~ shall be empowered ~~during the interim between board meetings~~ to exercise ~~all or~~
108 ~~such part of the such~~ powers of the board as the board may ~~by resolution~~ prescribe ~~by~~
109 ~~resolution.~~

110 F. The board may ~~likewise~~ appoint special committees and prescribe their duties and
111 powers.

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

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

121 ~~§ 23-119. Quorum of board and of committees.~~

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

124 **Drafting note: The provisions of existing § 23-119 are stricken and incorporated**
125 **into proposed § 23.1-26xx (existing § 23-118).**

126 ~~§ 23-120. When office of visitor deemed vacant.~~

127 ~~If any visitor fail to perform the duties of his office for one year without good cause~~
128 ~~shown to the board, the board shall, at the next meeting after the end of such year, cause the fact~~
129 ~~of such failure to be recorded in the minutes of their proceedings, and certify the same to the~~
130 ~~Governor, and the office of such visitor shall thereupon be vacant. If so many of such visitors~~
131 ~~fail to perform their duties that a quorum thereof do not attend for a year, upon a certificate~~
132 ~~thereof being made to the Governor by the rector or any member of the board, or by the~~
133 ~~president, the offices of all the visitors failing to attend shall be vacant.~~

134 **Drafting note: The provisions of existing § 23-120 are stricken and incorporated**
135 **into proposed § 23.1-13xx.**

136 **Note to work group: Repealed in 2015 (HB 1791).**

137 ~~§ 23-121. Meetings of board.~~

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

143 **Drafting note: The provisions of existing § 23-121 are stricken and incorporated**
144 **into proposed § 23.1-26xx (existing § 23-118).**

145 ~~§ 23-122. Powers and duties of board generally; expenses.~~

146 ~~The board shall be charged with the care and preservation and improvement of the~~
147 ~~property belonging to the University, and with the protection and safety of students and other~~
148 ~~persons residing on the property, and in pursuance thereof shall be empowered to change roads~~
149 ~~or driveways on the property or entrances thereto, or to close temporarily or permanently the~~
150 ~~roads, driveways and entrances; to prohibit entrance to the property of undesirable and~~
151 ~~disorderly persons, or to eject such persons from the property, and to prosecute under the laws~~
152 ~~of the state trespassers and persons committing offenses on the property.~~

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

157 **Drafting note: The provisions of existing § 23-122 are stricken and incorporated**
158 **into proposed § 23.1-13xx.**

159 ~~§ 23-122.1. Investment of endowment funds, endowment income, and gifts; standard of~~
160 ~~care; liability; exemption from the Virginia Public Procurement Act.~~

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

165 ~~B. No member of the board of visitors shall be personally liable for losses suffered by an~~
166 ~~endowment fund, endowment income, gifts, all other nongeneral fund reserves and balances, or~~
167 ~~local funds of or held by the University, arising from investments made pursuant to the~~
168 ~~provisions of subsection A.~~

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

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

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

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

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

197 ~~E. The authority as provided in this section as it relates to nongeneral fund reserves and~~
198 ~~balances of or held by the University is predicated upon an approved management agreement~~
199 ~~between the University and the Commonwealth of Virginia.~~

200 **Drafting note: The provisions of existing § 23-122.1 are stricken and incorporated**
201 **into proposed § 23.1-10xx.**

202 ~~§ 23-123.~~

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

204 ~~§ 23-124. Appointment of professors; removal of professors and officers.~~

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

208 **Drafting note: The provisions of existing § 23-124 are stricken and incorporated**
209 **into proposed § 23.1-26xx (existing § 23-126).**

210 ~~§ 23-125. Prescribing duties of professors and course of instruction.~~

211 ~~The board shall prescribe the duties of each professor and the course and mode of~~
212 ~~instruction.~~

213 **Drafting note: The provisions of existing § 23-125 are stricken and incorporated**
214 **into proposed § 23.1-26xx (existing § 23-126).**

215 ~~§ 23-126 23.1-26xx. Appointment of president; employment of agents or servants~~
216 ~~Employees.~~

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

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

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

229 D. The board may remove any officer of the University with the assent of two-thirds of
230 its members, subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.).

231 E. The board shall employ as many professors as it deems proper, prescribe their duties,
232 and set their salaries. The board may remove any professor with the assent of two-thirds of its
233 members.

234 **Drafting note: Provisions related to specific employees and officers of the**
235 **University contained in existing §§ 23-124, 23-125, 23-127, and 23-128 are consolidated in**
236 **this proposed § 23.1-26xx.**

237 ~~§ 23-127. Bond of treasurer.~~

238 ~~The board shall require the treasurer, or the officer in whose hands the funds of the~~
239 ~~University may be placed, to give bond in the sum of \$50,000, payable to the Commonwealth,~~

240 ~~with condition for the faithful discharge of the duties of his office, which bond being approved~~
241 ~~by the board and entered at large on its journal, shall be transmitted to the Comptroller, and~~
242 ~~remain filed in his office.~~

243 **Drafting note: The provisions of existing § 23-127 are stricken and incorporated**
244 **into proposed § 23.1-26xx (existing § 23-126).**

245 ~~§ 23-128. Professors' salaries; fees of students.~~

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

249 **Drafting note: The provisions of the first sentence of existing § 23-128 are stricken**
250 **and incorporated into proposed § 23.1-26xx (existing § 23-126). The provisions of the**
251 **second sentence of existing § 23-128 are stricken and incorporated into proposed § 23.1-**
252 **13xx.**

253 ~~§ 23-129.~~

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

255 ~~§ 23-130~~ 23.1-26xx. Curriculum.

256 The curriculum of the ~~Virginia Polytechnic Institute and State~~ University shall ~~embrace~~
257 ~~such branches of learning as relate to~~ include agriculture ~~and the mechanic arts, without~~
258 ~~excluding other scientific and studies,~~ engineering, and ~~including~~ military
259 tactics.

260 **Drafting note: Technical changes.**

261 ~~§ 23-131. School of mines continued.~~

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

265 **Drafting note: The provisions of existing § 23-131 are stricken as obsolete.**

266 ~~§ 23-132.~~

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

268 § ~~23-155.05~~ 23.1-26xx. Purchase of electric power and energy; ~~duration of contracts;~~
269 ~~source of payments.~~

270 A. For purposes of this section:

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

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

285 B. ~~Virginia Polytechnic Institute and State~~ The University may contract with any other
286 party to buy power and energy ~~required for to meet~~ its present or future requirements. ~~Such~~
287 ~~contracts~~ Any such contract may provide that (i) the source of such power and energy is limited
288 to a specified project ~~or may include provision for;~~ (ii) replacement power and energy. ~~Any such~~
289 ~~contract may provide that shall be provided;~~ or (iii) the University shall be obligated to make
290 payments required by the contract whether ~~or not a~~ the project is completed, operable, or
291 operating and notwithstanding the suspension, interruption, interference, reduction, or
292 curtailment of the output of a project or the amount of power and energy contracted for, ~~and that~~
293 ~~such;~~ (iv) payments ~~under required by~~ the contract (a) shall not be subject to any reduction,

294 whether by offset or otherwise, ~~and (b)~~ shall not be conditioned upon the performance or
295 nonperformance ~~by of~~ any other party. ~~Such contracts, with respect to any project, may also~~
296 ~~provide, in the event of default by the University or any other party to any such contract for such~~
297 ~~project in the performance of its obligations thereunder, for the University or other party to any~~
298 ~~such contract for such project to succeed to the rights and interests and assume the obligations~~
299 ~~of the defaulting party, pro rata or otherwise as may be agreed upon in such contracts. Such~~
300 ~~contracts may provide that the other party is not obligated to provide power and energy in the~~
301 ~~event that the project specified to be the source of power and energy to be purchased and sold~~
302 ~~under such contracts is inoperable or in the case of the suspension, interference, reduction or~~
303 ~~curtailment of the output of such project or in events of force majeure.~~

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

310 ~~Any such contract shall provide that payments by the University under any such~~
311 ~~contract, (c) shall be made solely from, and may be secured by a pledge of and lien upon, the~~
312 ~~revenues derived by the University from the ownership and operation of the electric system of~~
313 ~~the University, (d) may be secured by a pledge of and such payments lien upon the electric~~
314 ~~system of the University, and (e) shall constitute an operating expense of such the electric~~
315 ~~system of the University; (v) in the event of default by the University or any other party to the~~
316 ~~contract in the performance of its obligations for any project, the University or any other party~~
317 ~~to the contract for such project shall succeed to the rights and interests and assume the~~
318 ~~obligations of the defaulting party, either pro rata or as may be otherwise agreed upon in the~~
319 ~~contract; or (vi) no other party shall be obligated to provide power and energy in the event that~~

320 (a) the project is inoperable, (b) the output of the project is subject to suspension, interference,
321 reduction or curtailment, or (c) a force majeure occurs.

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

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

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

335 F. The University shall ~~be obligated to~~ fix, charge, and collect rents, rates, fees, and
336 charges for electric power and energy and other services, facilities, and commodities sold,
337 furnished, or supplied through its electric system sufficient to provide revenues adequate to
338 meet its obligations under any such contract and to pay any and all other amounts payable from
339 or constituting a charge and lien upon such revenues, including amounts sufficient to pay the
340 principal of and interest on bonds of the University ~~heretofore or hereafter~~ issued for purposes
341 related to its electric system. Any pledge made by the University pursuant to this ~~paragraph~~
342 subsection shall be governed by the laws of the Commonwealth.

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

346 Article ~~1.1~~ 2.

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

349 **Drafting note: Article 2 logically combines provisions on the closely related**
 350 **Virginia Cooperative Extension and Agricultural Experiment Station Division and**
 351 **Hampton Roads Agricultural Research and Extension Center. Technical changes are**
 352 **made.**

353 § ~~23-132.1~~ [23.1-26xx](#). Virginia Cooperative Extension and Agricultural Experiment
 354 Station Division established; Cooperative Extension Service recognized.

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

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

366 **Drafting note: Technical changes.**

367 § ~~23-132.2~~ [23.1-26xx](#). Administration of the Division.

368 The board ~~of visitors of the~~ ~~Virginia Polytechnic Institute and State University~~ shall
 369 provide for the administration of ~~such~~ the Division through the regular administrative and fiscal
 370 officers of the ~~Virginia Polytechnic Institute and State~~ University and shall make appointments
 371 to the administrative and research staff on recommendation of the president of the ~~Virginia~~
 372 ~~Polytechnic Institute and State~~ University.

373 **Drafting note: Technical changes.**

374 § ~~23-132.3~~ 23.1-26xx. Duties of the Division; ~~how work to be performed and the~~
375 Service.

376 A. The ~~Virginia Cooperative Extension Division and the~~ Service shall provide the people
377 of the Commonwealth with information and knowledge on ~~subjects related to~~ agriculture,
378 including horticulture and silviculture, agribusiness, home economics, community resource
379 development, 4-H Clubs, and related subjects ~~relating thereto~~, through instruction and the
380 dissemination of useful and practical information through demonstrations, conferences, courses,
381 workshops, publications, meetings, and mass media. The necessary printing and distribution of
382 information in connection with ~~the foregoing and~~ this work shall be ~~carried on~~ performed in
383 such manner as may be mutually agreed upon by ~~Virginia Polytechnic Institute and State~~
384 University for the work of the Division, the Virginia State University for the work of the Service
385 Program, (i) the Governor or his ~~designated representative~~ designee, the ~~United States~~ U.S.
386 Secretary of Agriculture, the ~~United States~~ U.S. Secretary of Commerce, ~~and~~ other participating
387 bodies, and the University for the work of the Division and (ii) the Governor or his designee, the
388 U.S. Secretary of Agriculture, the U.S. Secretary of Commerce, other participating bodies, and
389 Virginia State University for the work of the Service.

390 B. ~~The Cooperative Extension Service Program shall also conduct educational programs~~
391 ~~and disseminate useful and practical information to the people of the Commonwealth~~ Personnel
392 of the Division shall inform local governing bodies of the Commonwealth whenever agricultural
393 conditions are present in such localities that would warrant the declaration of a disaster pursuant
394 to 42 U.S.C. § 5141.

395 C. Personnel of the Division shall provide farmers and local governing bodies with such
396 assistance and information as is available concerning federal and state disaster relief programs.

397 D. The Agricultural Experiment Station shall conduct research and investigations and
398 establish, publish, and distribute results in such forms as will tend to increase the economy,
399 efficiency, and safety of the various enterprises and activities of interest to the Commonwealth

400 and the nation, and promote the conservation and economic utilization of its natural and human
401 resources.

402 **Drafting note: Subsections B and C logically incorporate the provisions of existing**
403 **§ 3.2-503. Technical changes are made.**

404 ~~§ 23-132.4 23.1-26xx. Selection of personnel; rules and regulations; work may be~~
405 ~~conducted with both adults and youth~~ Personnel; local units.

406 ~~It shall be the duty of the Virginia Polytechnic Institute and State A. The~~ University and
407 ~~of the~~ Virginia State University, in cooperation with the departments and agencies of the federal
408 government, ~~to shall~~ exercise great care in the selection of personnel to carry out and supervise
409 the work ~~and to supervise the work to see that it is properly done throughout the Commonwealth~~
410 of the Division and the Service. The work shall be conducted under such ~~rules and~~ regulations
411 as may be adopted by the ~~Virginia Polytechnic Institute and State~~ University for the work of the
412 Division and ~~by the~~ Virginia State University, in cooperation with the U.S. Department of
413 Agriculture, for the work of the Service ~~in cooperative relation to the United States Department~~
414 of Agriculture Program.

415 B. ~~The Virginia Polytechnic Institute and State University through the~~ Division and the
416 ~~Virginia State University through the~~ Service are authorized to ~~conduct~~ work with both adults
417 and youth through local units to be known as "departments of extension and continuing
418 education."

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

421 ~~§ 23-132.5 23.1-26xx. Sources from which moneys may be received; disposition of~~
422 ~~receipts~~ Division; funding sources.

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

427 **Drafting note: Technical changes.**

428 ~~§ 23-132.6 23.1-26xx. Appropriations~~ The Division and the Service; appropriations by
429 the General Assembly.

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

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

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

445 ~~§ 23-132.7. For what purposes funds may be used.~~

446 ~~The funds appropriated by the General Assembly as provided in § 23-132.6 shall be used~~
447 ~~by the Virginia Polytechnic Institute and State University and by the Virginia State University~~
448 ~~for the purpose of conducting cooperative extension services in the Commonwealth of Virginia~~
449 ~~and in cooperation with the several counties, cities, and other participating bodies therein so far~~
450 ~~as said funds will permit. "Cooperative extension service" is the function traditionally associated~~
451 ~~with the term "extension," which is the joint federal, state, and local program designed to aid~~
452 ~~transfer of information and research capabilities of land grant universities to citizens.~~
453 ~~Traditionally, the cooperative extension services focus on agriculture, including horticulture and~~

454 ~~silviculture, agribusiness, home economics, community resource development, and 4-H Clubs.~~
455 ~~These funds may be used for defraying all necessary expenses, including the payment of salaries~~
456 ~~and travel expenses, buying of equipment and supplies, and for other authorized expenses in~~
457 ~~connection with carrying out the work.~~

458 **Drafting note: With the exception of explanatory statements, the provisions of**
459 **existing § 23.1-132.7 are stricken and incorporated into proposed § 23.1-26xx. Explanatory**
460 **statements are stricken.**

461 ~~§ 23-132.8 23.1-26xx. Appropriations~~ The Division; appropriations by local governing
462 bodies.

463 ~~The~~ Any local governing ~~bodies of the several counties and cities~~ body of the
464 Commonwealth ~~are hereby authorized and empowered to~~ may appropriate ~~out of the county or~~
465 ~~city funds for the support of such,~~ to be supplemented by funds appropriated by the General
466 Assembly to the University for the Division and such other funds as the University may
467 allocate, to support the activities of the Division ~~such sums as said governing bodies may deem~~
468 ~~proper; the sums so appropriated are to be used in cooperation with the Virginia Polytechnic~~
469 ~~Institute and State University for paying such portions of the expenses of the Division and in~~
470 such manner as may be agreed upon by the ~~Virginia Polytechnic Institute and State~~ University
471 and the local governing body. ~~Funds appropriated by the governing bodies of the county or city~~
472 ~~are to be supplemented by a sum or sums to be paid out of funds appropriated by the General~~
473 ~~Assembly to the Virginia Polytechnic Institute and State University for the Division and such~~
474 ~~funds as may be allotted from funds under its control.~~

475 **Drafting note: Technical changes.**

476 ~~§ 23-132.9 23.1-26xx. Soil~~ Agricultural Experiment Station; soil survey.

477 For the purpose of continuing a survey of the soils of the Commonwealth ~~which that~~ was
478 begun by the ~~United States~~ U.S. Department of Agriculture, ~~there is hereby authorized and~~
479 ~~directed to be made under the direction and supervision of such agricultural experiment station,~~
480 the Agricultural Experiment Station, in cooperation with the U.S. Department of Agriculture,

481 shall conduct a comprehensive soil survey of the Commonwealth of such a character and along
482 such lines as to obtain an inventory of the soil resources of the Commonwealth and to determine
483 their adaptability to various crops, forestry, and livestock enterprises ~~in order~~ to promote the
484 utilization of the lands of the Commonwealth in the most practical and economical way. ~~It is~~
485 ~~contemplated that the experiment station will make this survey in cooperation with the United~~
486 ~~States Department of Agriculture.~~

487 **Drafting note: Technical changes.**

488 § ~~23-132.10~~ 23.1-26xx. Agricultural Experiment Station; agricultural survey.

489 ~~There is authorized to be made under the direction and supervision of such agricultural~~
490 ~~experiment station.~~ The Agricultural Experiment Station, in cooperation with similar agencies of
491 the federal government, may conduct a thorough and comprehensive agricultural survey of the
492 Commonwealth according to the most approved methods in practice, ~~or which may be devised,~~
493 ~~for the purpose of gathering to gather~~ facts and information ~~in regard to~~ on existing agricultural
494 conditions in ~~Virginia,~~ the Commonwealth and data upon which to base a study of agricultural
495 economics and a constructive program for the development of agriculture and agricultural
496 resources, ~~which survey shall include matters pertaining to.~~ The survey shall examine (i) soils
497 and soil fertility and management; (ii) soil erosion and drainage problems affecting soil fertility
498 and productivity; (iii) the adaptation of various soil types, elevations, and seasonable conditions
499 to crops produced or ~~which that~~ may suitably be produced; (iv) farm layout and selection ~~and;~~
500 (v) arrangement of fields for the use of labor-saving machinery, ~~and;~~ (vi) economy and
501 convenience in cultivation and farm operations; (vii) methods of cultivation, production, and
502 handling of crops, ~~and;~~ (viii) general farm management; (ix) the various crops produced on
503 farms, ~~and~~ their yield and gross value compared with the cost of production and courses of low
504 yield; (x) farm labor, ~~and~~ its distribution and efficiency; (xi) labor incomes of the various
505 classes of farm labor; (xii) the relation of various farm products to public needs and local and
506 general supply and demand; (xiii) farm incomes and income sources; (xiv) capital investment
507 and return; (xv) distribution of capital investment; (xvi) the character and extent of idle lands

508 and their suitability for cultivation or other agricultural purposes in the various localities and
 509 what, if any, profitable use may be made of them through the introduction of livestock or crops
 510 adapted to such soils, by individuals or on a community plan, with notations of elevation,
 511 topography, temperatures, and seasonal conditions ~~as~~ affecting ~~fruit~~ production of fruit, cotton
 512 ~~or, and~~ other crops; and (xvii) any other information or studies ~~which that~~ may seem advisable
 513 in determining methods for the betterment of agricultural conditions and the development of the
 514 agricultural resources of the Commonwealth.

515 ~~It is contemplated that in making the foregoing survey that the agricultural experiment~~
 516 ~~station will, and is hereby authorized to, work in conjunction with and cooperate with similar~~
 517 ~~agencies of the federal government whenever a suitable and satisfactory arrangement can be~~
 518 ~~made for such cooperation.~~

519 **Drafting note: Technical changes.**

520 ~~Article 6.~~

521 ~~Virginia Truck and Ornaments Research Station.~~

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

525 ~~§ 23-155.01 23.1-26xx. Established Hampton Roads Agricultural Research and~~
 526 ~~Extension Center established.~~

527 ~~The Virginia Truck and Ornaments Hampton Roads Agricultural Research Station is~~
 528 ~~hereby abolished as a permanent state institution and is reestablished and Extension Center is~~
 529 ~~established~~ as a component of the Virginia Agricultural Experiment Station ~~which is, by the~~
 530 ~~provisions of § 23-132.1, part of the Research Division at the Virginia Polytechnic Institute and~~
 531 ~~State University.~~

532 **Drafting note: Existing § 23-155.01 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is**
 533 **logically relocated as proposed § 23.1-26xx. Technical changes are made, including**
 534 **updating the name of the Hampton Roads Agricultural Research and Extension Center.**

535 § ~~23-155.02~~ 23.1-26xx. ~~Function~~ Hampton Roads Agricultural Research and Extension
536 Center; function.

537 The ~~Virginia Truck and Ornamentals~~ Hampton Roads Agricultural Research ~~Station, at~~
538 ~~times hereafter referred to as the "Station,"~~ and Extension Center shall conduct basic and
539 applied research in the fields of horticulture, plant breeding and variety testing, entomology,
540 nematology, plant pathology, plant physiology, and soil science which may bear directly on the
541 interests of commercial growers of vegetable and ornamental crops in the Tidewater ~~Virginia~~
542 region of the Commonwealth. The ~~station~~ Hampton Roads Agricultural Research and Extension
543 Center shall coordinate its research with related work of the Virginia Agricultural Experiment
544 Station to avoid unnecessary duplication of effort. The ~~information acquired~~ Hampton Roads
545 Agricultural Research and Extension Center shall disseminate the results of its research
546 conducted pursuant to this section ~~shall be disseminated~~. The Norfolk and Eastern Shore
547 branches of the ~~station will~~ Hampton Roads Agricultural Research and Extension Center shall
548 be retained as active research stations.

549 **Drafting note: Existing § 23-155.02 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is**
550 **logically relocated as proposed § 23.1-26xx. Technical changes are made.**

551 § ~~23-155.03~~. ~~Board of Directors.~~

552 ~~A Board of Directors shall serve as an advisory body representing local agricultural~~
553 ~~interests. The Board will consist of five members, all appointed by the Dean of the College of~~
554 ~~Agriculture and Life Sciences. Three of the appointive members shall be selected from the~~
555 ~~membership of the Association of Virginia Potato and Vegetable Growers, Incorporated. Two of~~
556 ~~the appointive members shall be selected from the membership of the Virginia Nurseryman's~~
557 ~~Association, Incorporated. The term of office of the appointive members shall be four years.~~
558 ~~The members of the Board shall name one of its members chairman and three members of the~~
559 ~~Board shall constitute a quorum for the transaction of business. The Board shall hold at least one~~
560 ~~meeting annually at either the Norfolk or Eastern Shore branch research stations and such other~~

561 ~~meetings as may be necessary at times and places as the chairman or any three members may~~
562 ~~designate.~~

563 **Drafting note: Existing § 23-155.03 is stricken as obsolete.**

564 ~~§ 23-155.04 23.1-26xx. Executive Director Hampton Roads Agricultural Research and~~
565 ~~Extension Center; executive director.~~

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

571 **Drafting note: Existing § 23-155.04 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is**
572 **logically relocated as proposed § 23.1-26xx. Technical changes are made.**

573 ~~§ 23-132.11 23.1-26xx. Reports The Division and the Service; reports.~~

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

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

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

582 **Drafting note: Technical changes.**

583 ~~§ 23-132.12 23.1-26xx. Construction of acts relating to the Virginia Cooperative~~
584 ~~Extension Service and Agricultural Experiment Station Division of Virginia Polytechnic~~
585 ~~Institute and State University.~~

586 All acts ~~and parts of acts~~ relating to the ~~Virginia Cooperative Extension Service and~~
587 ~~Agricultural Experiment Station~~ Division ~~of the Virginia Polytechnic Institute and State~~

588 ~~University~~ shall be construed as relating to the Division as established by this article, and no
589 such act ~~or part of an act~~ shall be construed as limiting the provisions of this article.

590 **Drafting note: Technical changes.**

591 ~~Article 2.~~

592 ~~Research Division.~~

593 ~~§§ 23-133 through 23-135.7.~~

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

595 ~~Article 2.01 3.~~

596 Virginia Center for Coal and Energy Research.

597 **Drafting note: Technical changes.**

598 ~~§ 23-135.7:1 23.1-26xx. Created Virginia Center for Coal and Energy Research~~
599 ~~established.~~

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

603 ~~§ 23-135.7:2. Function.~~

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

609 **Drafting note: Existing §§ 23-135.7:1 and 23-135.7:2 are logically combined in**
610 **proposed § 23.1-26xx. Technical changes are made.**

611 ~~§ 23-135.7:3 23.1-26xx.~~ Control and supervision.

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

614 **Drafting note: Technical changes.**

615 § ~~23-135.7:4~~ 23.1-26xx. ~~Appointment of executive~~ Executive director.

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

618 § ~~23-135.7:5~~. ~~Powers and duties of executive director.~~

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

- 621 1. Exercise all powers and perform all duties imposed upon him by law; ~~and~~
- 622 2. Carry out the specific duties imposed upon him by the board ~~of visitors of Virginia~~
623 Polytechnic Institute and State University; and
- 624 3. Employ such personnel and contract for such services as may be required to carry out
625 the purposes of this article.

626 **Drafting note: Existing §§ 23-135.7:4 and 23-135.7:5 are logically combined in this**
627 **proposed § 23.1-26xx. Technical changes are made.**

628 § ~~23-135.7:6~~ 23.1-26xx. Powers and duties of the Center.

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

- 631 1. ~~To develop~~ Develop a degree program in energy production and conservation research
632 at the master's level in conjunction with the State Council ~~on Higher Education~~;
- 633 2. ~~To develop~~ Develop and provide programs of continuing education and in-service
634 training for persons who work in the ~~field~~ fields of coal or other energy research, development,
635 or production;
- 636 3. ~~To operate in conjunction~~ Collaborate with other departments of Virginia Polytechnic
637 Institute and State the University, including ~~but not limited to~~ the Department of Mining and
638 Minerals Engineering;
- 639 4. ~~To conduct~~ Conduct research in the fields of coal, coal utilization, migrating natural
640 gases such as methane and propane, and other ~~energy-related~~ energy-related work;

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

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

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

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

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

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

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

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

659 **Drafting note: Technical changes.**

660 § ~~23-135.7:7~~ 23.1-26xx. ~~Advisory Committee continued as~~ Virginia Coal Research and
661 Development Advisory Board.

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

666 ~~1. The Advisory Board shall be authorized to advise on those matters set forth in § 23-~~
667 ~~135.7:2.~~

668 ~~2-~~Representatives to the Advisory Board shall be appointed by the ~~Board of Visitors of~~
669 ~~Virginia Polytechnic Institute and State University board.~~

670 ~~3-~~The ~~Board of Visitors of Virginia Polytechnic Institute and State University board~~
671 shall ~~also~~ appoint such other individuals as ~~they deem it deems~~ necessary to the work of the
672 Advisory Board.

673 ~~4. Representatives~~ Members shall include representatives from the Department of
674 Conservation and ~~Historic Resources Recreation;~~ the Department of Small Business and
675 Supplier Diversity;~~;~~ the Department of Mines, Minerals and Energy;~~;~~ the Department of Labor
676 and Industry;~~;~~ the Virginia Port Authority, ~~the institutions;~~ and each public institution of higher
677 education, excluding ~~Virginia Polytechnic Institute and State the~~ University, ~~and the~~
678 ~~Community College System shall serve as the Advisory Board.~~

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

681 Article ~~2.02~~ 4.

682 Virginia Water Resources Research Center.

683 **Drafting note: Technical changes.**

684 ~~§ 23-135.7:8. 23.1-26xx. Established Virginia Water Resources Research Center~~
685 ~~established.~~

686 The Virginia Water Resources Research Center, ~~which came into existence as the result~~
687 ~~of the Water Resources Research Act of 1964 (P.L. 88-379), (the Water Center)~~ is hereby
688 established ~~as the Virginia Water Resources Research Center, hereinafter referred to as the~~
689 ~~Water Center, to be located at Virginia Polytechnic Institute and State University, for the~~
690 ~~purposes of developing, implementing and coordinating to develop, implement, and coordinate~~
691 water and related land research programs in the Commonwealth and ~~transferring transfer~~ the
692 results of research and new technology to potential users. The Water Center shall be located at
693 the University.

694 **Drafting note: Technical changes.**

695 § ~~23-135.7:10~~ 23.1-26xx. Control and supervision.

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

698 **Drafting note: Technical changes.**

699 § ~~23-135.7:9~~ 23.1-26xx. Functions, powers, and duties ~~of the Water Center~~.

700 A. The Water Center shall: (i) consult with the General Assembly; federal, state, and
701 local agencies; water user groups; private industry; and other potential users of research; (ii)
702 establish and administer agreements with other ~~universities of institutions of higher education in~~
703 the Commonwealth ~~for the to~~ conduct ~~of~~ research projects; (iii) ~~[Repealed.] (iv)~~ disseminate
704 new information and facilitate the transfer and application of new technology; ~~(v) (iv)~~ be a
705 liaison between ~~Virginia the Commonwealth~~ and the federal research funding agencies ~~as an~~
706 and advocate for ~~Virginia's the Commonwealth's~~ water research needs; ~~(vi) and (v)~~ encourage
707 the development of academic programs in water resources management in conjunction with the
708 State Council on Higher Education.

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

713 **Drafting note: Technical changes.**

714 § ~~23-135.7:11~~ 23.1-26xx. ~~Appointment of an executive~~ Executive director.

715 A. The principal administrative officer of the Water Center shall be an executive
716 director, who shall be appointed by the ~~President~~ president of ~~Virginia Polytechnic Institute and~~
717 State the University ~~with, subject to~~ the approval of the ~~Board of Visitors, and who~~ board. The
718 executive director shall be under the supervision of the ~~President~~ president of ~~Virginia~~
719 Polytechnic Institute and State the University.

720 § ~~23-135.7:12~~. ~~Powers and duties of the Executive Director~~.

721 B. The ~~Executive Director~~ executive director shall exercise all powers imposed upon
722 him by law, carry out the specific duties imposed upon him by the ~~President~~ president of
723 ~~Virginia Polytechnic Institute and State~~ the University, and develop appropriate policies and
724 procedures, with the advice of the Virginia Water Resources Research Center Statewide
725 Advisory Board, for (i) identifying priority research problems; (ii) collaborating with the
726 General Assembly; federal, state, and local governmental agencies; and water user groups in the
727 formulation of its research programs; (iii) selecting projects to be funded; and (iv) disseminating
728 information and transferring technology designed to help resolve water and related land
729 problems of the Commonwealth. He shall employ such personnel and secure such services as
730 may be required to carry out the purposes of this article and expend appropriated funds and
731 accept moneys for cost-sharing on projects funded with federal and private funds.

732 **Drafting note: Existing §§ 23-135.7:11 and 23-135.7:12 are combined in proposed §**
733 **23.1-26xx. Technical changes are made.**

734 § ~~23-135.7:13~~ 23.1-26xx. ~~Statewide Advisory Committee continued as~~ Virginia Water
735 Resources Research Center Statewide Advisory Board.

736 The ~~Virginia Water Resources Research Center Statewide Advisory Committee is~~
737 ~~continued and shall hereafter be known as the~~ Virginia Water Resources Research Center
738 Statewide Advisory Board. ~~The~~ (the Statewide Advisory Board) shall serve in an advisory
739 capacity to the ~~Executive Director~~ executive director of the Water Center. Representatives of the
740 Statewide Advisory Board shall be appointed by the Governor, subject to confirmation by the
741 General Assembly, and shall include balanced representation from industries; federal, state, and
742 local agencies; water user groups; and concerned citizens. The Statewide Advisory Board shall
743 (i) recommend policy guidelines for implementing the functions of the Water Center ~~and,~~ (ii)
744 evaluate the programs of the Water Center; ~~and~~ (ii) ~~(iii)~~ ~~advise and counsel with~~ the ~~Executive~~
745 Director executive director of the Water Center and make recommendations to assist him in
746 carrying out the purposes of this article.

747 **Drafting note: Technical changes.**

748 Article ~~2.03~~ 5.

749 Virginia Center for Housing Research.

750 **Drafting note: Technical changes.**

751 § ~~23-135.7:14~~ 23.1-26xx. Virginia Center for Housing Research established.

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

755 **Drafting note: Technical changes.**

756 § ~~23-135.7:15~~ 23.1-26xx. Functions, powers, and duties ~~of the Housing Center~~.

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

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

767 **Drafting note: Technical changes.**

768 § ~~23-135.7:16~~ 23.1-26xx. Control and supervision.

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

771 **Drafting note: Technical changes.**

772 § ~~23-135.7:17~~ 23.1-26xx. ~~Appointment of a~~ Director.

773 ~~A.~~ The president of the ~~Virginia Polytechnic Institute and State~~ University,
774 with the approval of the ~~Board of Visitors~~ board, shall appoint a director to serve as the

775 principal administrative officer of the Housing Center. The ~~Director~~ director shall be under the
 776 supervision of the ~~President~~ president of the ~~Virginia Polytechnic Institute and State~~ University
 777 or his designee.

778 ~~§ 23-135.7:18. Powers and duties of the Director.~~

779 B. The ~~Director~~ director shall exercise all powers imposed upon him by law, carry out
 780 the specific duties imposed on him by the ~~President~~ president of ~~Virginia Polytechnic Institute~~
 781 ~~and State~~ the University, and develop appropriate policies and procedures, with the advice of the
 782 ~~Research Advisory~~ Board of Housing and Community Development, for (i) identifying priority
 783 research problems; (ii) cooperating with the General Assembly; federal, state, and local
 784 agencies; nonprofit organizations; and private industry in formulating its research programs; (iii)
 785 selecting research projects to be funded; and (iv) disseminating information and transferring
 786 technology related to housing and housing problems within the Commonwealth. The ~~Director~~
 787 director shall employ such personnel and secure such services as may be required to carry out
 788 the purposes of this article, expend appropriated funds, and accept moneys from federal or
 789 private sources for cost-sharing on projects.

790 **Drafting note: Existing §§ 23-135.7:17 and 23-135.7:18 are combined as proposed §**
 791 **23.1-26xx. Technical changes are made.**

792 ~~§ 23-135.7:19.~~

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

794 ~~§ 23-135.7:20 23.1-26xx. Board of Housing and Community Development to serve as~~
 795 ~~advisory~~ Advisory board.

796 The Board of Housing and Community Development ~~established in § 36-135~~ shall ~~serve~~
 797 ~~in an advisory capacity to advise~~ the ~~Director~~ director of the Housing Center ~~for Housing~~
 798 ~~Research. The Board of Housing and Community Development shall be~~ and is authorized to
 799 advise the director on all matters set forth in ~~§ 23-135.7:15~~ 23.1-26xx.

800 **Drafting note: Technical changes.**

801 ~~Article 2.1.~~

802 ~~Roanoke Technical Institute.~~

803 **Drafting note: Existing Article 2.1 (§ 23-135.8 et seq.) of Chapter 11 is stricken as**
804 **obsolete.**

805 ~~§ 23-135.8. Establishment and accreditation.~~

806 ~~There is hereby established within the Virginia Polytechnic Institute and State University~~
807 ~~a division to be known as the "Roanoke Technical Institute," hereinafter referred to as the~~
808 ~~Institute. Such Institute shall be in all respects subject to the judgment, control and supervision~~
809 ~~of the governing board of the Virginia Polytechnic Institute and State University in cooperation~~
810 ~~with the State Board of Education, which said Institute shall offer courses appropriate to~~
811 ~~establish accreditation practices in its field.~~

812 **Drafting note: Existing § 23-135.8 is stricken as obsolete.**

813 ~~§ 23-135.9. Purpose.~~

814 ~~The purpose of the Institute shall be to train technicians in the industrial, scientific,~~
815 ~~electrical and the mechanical arts and sciences in order to increase the economic efficiency and~~
816 ~~safety of the manufacturing, engineering, and industrial enterprises of the Commonwealth and~~
817 ~~to promote the economic utilization of its natural and human resources.~~

818 **Drafting note: Existing § 23-135.9 is stricken as obsolete.**

819 ~~§ 23-135.10. Administration.~~

820 ~~The board of visitors of the Virginia Polytechnic Institute and State University in~~
821 ~~cooperation with the State Board of Education shall provide for the administration of such~~
822 ~~Institute through such persons as they determine proper and shall make such appointments to the~~
823 ~~administrative and technical staff of the Institute as in their judgment appear best.~~

824 **Drafting note: Existing § 23-135.10 is stricken as obsolete.**

825 ~~§ 23-135.11. Contribution by City of Roanoke; gifts and donations.~~

826 ~~The City of Roanoke shall provide a suitable site without cost to the Commonwealth and~~
827 ~~assume an appropriate share of the cost of operation. For such purpose the city may accept and~~

828 ~~expend gifts and donations from private individuals, firms, corporations and organizations,~~
829 ~~which shall be considered for the purpose of this section as a contribution on the part of the city.~~

830 **Drafting note: Existing § 23-135.11 is stricken as obsolete.**

831 ~~Article 2.2.~~

832 ~~Clifton Forge Covington Branch.~~

833 **Drafting note: Existing Article 2.2 (§ 23-135.12 et seq.) of Chapter 11 is stricken as**
834 **obsolete.**

835 ~~§ 23-135.12. Establishment.~~

836 ~~There is hereby established within the Virginia Polytechnic Institute and State University~~
837 ~~a division to be known as the "Clifton Forge Covington Branch of the Virginia Polytechnic~~
838 ~~Institute and State University," hereinafter referred to as the division. Such division shall be in~~
839 ~~all respects subject to the judgment, control and supervision of the governing board of the~~
840 ~~Virginia Polytechnic Institute and State University.~~

841 **Drafting note: Existing § 23-135.12 is stricken as obsolete.**

842 ~~§ 23-135.13. Administration.~~

843 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall have~~
844 ~~the same powers as to determining the fields of instruction to be offered; as to fixing tuition,~~
845 ~~fees and other charges; as to the appointment and removal of administrative officers, professors,~~
846 ~~agents and servants, and the making of rules and regulations as are now vested in said board~~
847 ~~with respect to Virginia Polytechnic Institute and State University. The board of visitors shall~~
848 ~~have the power of granting appropriate diplomas or certificates of successful completion of the~~
849 ~~two-year curriculum of such division.~~

850 **Drafting note: Existing § 23-135.13 is stricken as obsolete.**

851 ~~§ 23-135.14. Courses of instruction.~~

852 ~~The curriculum offered by the division shall be limited to courses of instruction which~~
853 ~~are offered by the Virginia Polytechnic Institute and State University to resident students during~~
854 ~~their first two years of enrollment and to such other terminal courses of no more than two years'~~

855 ~~duration as may be authorized by the board of visitors to meet the post-high school educational~~
856 ~~needs of the community.~~

857 **Drafting note: Existing § 23-135.14 is stricken as obsolete.**

858 ~~§ 23-135.15. Expenditure of appropriations.~~

859 ~~Appropriations, directly or indirectly, from the Commonwealth to the division shall be~~
860 ~~expended as directed by the board of visitors of the Virginia Polytechnic Institute and State~~
861 ~~University.~~

862 **Drafting note: Existing § 23-135.15 is stricken as obsolete.**

863 ~~§ 23-135.16. Care and preservation of property; acquisition of site; gifts and donations.~~

864 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall be~~
865 ~~charged with the care and preservation of all property, real and personal, belonging to the~~
866 ~~division. To this end, the board is authorized to acquire, by gift or purchase, a suitable site for~~
867 ~~the division, and may accept and expend gifts and donations of any kind from individuals, firms,~~
868 ~~corporations and organizations.~~

869 **Drafting note: Existing § 23-135.16 is stricken as obsolete.**

870 ~~Article 2.3.~~

871 ~~Wytheville Branch.~~

872 **Drafting note: Existing Article 2.3 (§ 23-135.17 et seq.) of Chapter 11 of Title 23 is**
873 **stricken as obsolete.**

874 ~~§ 23-135.17. Establishment.~~

875 ~~There is hereby established within the Virginia Polytechnic Institute and State University~~
876 ~~a division to be known as the "Wytheville Branch of the Virginia Polytechnic Institute and State~~
877 ~~University," hereinafter referred to as the division. Such division shall be in all respects subject~~
878 ~~to the judgment, control and supervision of the governing board of the Virginia Polytechnic~~
879 ~~Institute and State University.~~

880 **Drafting note: Existing § 23-135.17 is stricken as obsolete.**

881 ~~§ 23-135.18. Administration.~~

882 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall have~~
883 ~~the same powers as to determining the fields of instruction to be offered; as to fixing tuition,~~
884 ~~fees and other charges; as to the appointment and removal of administrative officers, professors,~~
885 ~~agents and servants, and the making of rules and regulations as are now vested in said board~~
886 ~~with respect to Virginia Polytechnic Institute and State University. The board of visitors shall~~
887 ~~have the power of granting appropriate diplomas or certificates of successful completion of the~~
888 ~~two-year curriculum of such division.~~

889 **Drafting note: Existing § 23-135.18 is stricken as obsolete.**

890 ~~§ 23-135.19. Courses of instruction.~~

891 ~~The curriculum offered by the division shall be limited to courses of instruction which~~
892 ~~are offered by the Virginia Polytechnic Institute and State University to resident students during~~
893 ~~their first two years of enrollment and to such other terminal courses of no more than two years'~~
894 ~~duration as may be authorized by the board of visitors to meet the post-high school educational~~
895 ~~needs of the community.~~

896 **Drafting note: Existing § 23-135.19 is stricken as obsolete.**

897 ~~§ 23-135.20. Expenditure of appropriations.~~

898 ~~Appropriations, directly or indirectly, from the Commonwealth to the college shall be~~
899 ~~expended as directed by the board of visitors of the Virginia Polytechnic Institute and State~~
900 ~~University.~~

901 **Drafting note: Existing § 23-135.20 is stricken as obsolete.**

902 ~~§ 23-135.21. Care and preservation of property; acquisition of site; gifts and donations.~~

903 ~~The board of visitors of the Virginia Polytechnic Institute and State University shall be~~
904 ~~charged with the care and preservation of all property real and personal, belonging to the~~
905 ~~college. To this end, the board is authorized to acquire, by gift or purchase, a suitable site for the~~
906 ~~college, and may accept and expend gifts and donations of any kind from individuals, firms,~~
907 ~~corporations and organizations.~~

908 **Drafting note: Existing § 23-135.21 is stricken as obsolete.**

909 Article ~~3~~ 6.

910 Governmental and Individual Donations.

911 **Drafting note: Technical changes.**

912 § ~~23-136~~ 23.1-26xx. Institutions receiving interest accruing on proceeds of land scrip.

913 ~~The General Assembly having accepted the donation of lands proffered to Virginia by~~
914 ~~the act of Congress of July 2, 1862; and,~~

915 ~~The authorities of the Commonwealth having received the land scrip it was entitled to~~
916 ~~under such act of Congress; and,~~

917 ~~The Board of Education having, in conformity with the acts of February seventh, and~~
918 ~~March 19, 1872, made sale of the scrip and invested the proceeds in state bonds, which were~~
919 ~~directed to be set apart and to constitute an education fund;~~

920 The annual accruing interest from ~~such fund~~ the education fund resulting from the
921 donation of lands by act of Congress on July 2, 1862, and the sale of such lands and the
922 investment of the proceeds from such sale in state bonds by the Board of Education on February
923 7 and March 19, 1872, shall ~~henceforth until otherwise provided by law~~ be paid one-third
924 ~~thereof to the~~ Virginia State University; and two-thirds to the ~~board of visitors of the Virginia~~
925 ~~Polytechnic Institute and State~~ University.

926 **Drafting note: Technical changes.**

927 § ~~23-137~~ 23.1-26xx. Institutions receiving money allotted to Commonwealth under act
928 of Congress.

929 The Comptroller shall receive from the U.S. Secretary of the Interior ~~of the United States~~
930 such sums of money as shall be allotted to ~~Virginia~~ the Commonwealth under and in accordance
931 with the act of Congress approved August 30, 1890, and shall pay ~~over the same as follows:~~
932 one-third to the treasurer of ~~the~~ Virginia State University; and two-thirds to the treasurer of the
933 ~~Virginia Polytechnic Institute and State~~ University, who shall receive and disburse the ~~same~~
934 sums as required by section two of ~~the such~~ act of Congress ~~aforsaid~~.

935 **Drafting note: Technical changes.**

936 § ~~23-138~~ 23.1-26xx. Experimental farms.

937 A. A portion of the fund, not exceeding ~~ten per centum~~ 10 percent of ~~the proportion each~~
938 sum assigned to Virginia State University and ~~Virginia Polytechnic Institute and State the~~
939 University, may be expended, in the discretion of the ~~governing boards~~ board of visitors of ~~the~~
940 ~~institutions, respectively~~ each institution, in the purchase of lands for experimental farms ~~for~~
941 ~~each of them.~~

942 B. The respective governing boards may use a portion of the accruing interest from such
943 fund to purchase suitable and appropriate laboratories.

944 **Drafting note: Existing §§ 23-138 and 23-139 are logically combined as proposed §**
945 **23.1-26xx. Technical changes are made.**

946 § ~~23-139~~. ~~Laboratories.~~

947 ~~A portion of the accruing interest from such fund may be, from time to time, expended~~
948 ~~by the respective governing boards of such institutions in the purchase of laboratories suitable~~
949 ~~and appropriate for the institutions.~~

950 **Drafting note: The provisions of existing § 23-139 are stricken and incorporated**
951 **into proposed § 23.1-26xx.**

952 § ~~23-140~~ 23.1-26xx. Reversion of property on withdrawal of annuity.

953 If at any time such annuity should be withdrawn from the ~~Virginia Polytechnic Institute~~
954 ~~and State~~ University, the property, real and personal, conveyed and appropriated to its use and
955 benefit by the trustees of the Preston and Olin Institute, and ~~by~~ the County of Montgomery,
956 under the provisions of Chapter 234 of the Acts of Assembly of 1871-1872, shall revert to the
957 trustees and ~~to~~ the county, respectively, from which it was conveyed and appropriated.

958 **Drafting note: Technical changes.**

959 § ~~23-141~~ 23.1-26xx. County subscriptions and individual donations.

960 ~~It shall be lawful for the~~ The board ~~of visitors of the Institute to may~~ accept (i) the
961 subscription of any county made under ~~an the~~ act to authorize subscriptions in aid of the
962 Institute, University approved March 21, 1872, and ~~also the donation of any individual,~~ (ii)

963 individual donations in aid of the purposes and objects of the ~~Institute; and such~~ University.
964 Such donations and subscriptions, ~~when made,~~ shall be held by the board in trust for the benefit
965 of the ~~Institute, on condition that the same~~ University and shall revert to the ~~several~~ donors ~~of~~
966 and subscribers, ~~pari passu,~~ if ~~at any time~~ the Commonwealth ~~should withdraw~~ withdraws from
967 the use of the ~~Institute~~ University the interest accruing on the proceeds of the land scrip, as
968 provided in § ~~23-136~~ 23.1-26xx.

969 **Drafting note: Technical changes.**

970 Article 3.1.

971 Program on Food and Nutrition.

972 §§ 23-141.1 through 23-141.5. Expired.

973 **Drafting note: Expired pursuant to Acts 1982, c. 283, cl. 2, effective June 30, 1986.**

974 Article 4.

975 Nautical School.

976 **Drafting note: Existing Article 4 (§ 23-142 et seq.) of Chapter 11 is stricken as**
977 **obsolete.**

978 § 23-142. Establishment, management, etc.

979 ~~There shall be established and maintained under the management, direction and control~~
980 ~~of the board of visitors and faculty of the Virginia Polytechnic Institute and State University, a~~
981 ~~nautical school for instruction in the science and practice of navigation, seamanship and~~
982 ~~engineering and any such other subjects, to be prescribed by the proper authorities of the~~
983 ~~University, as may be necessary for proper training for the position of deck or engine room~~
984 ~~officers of the merchant marine. Such school shall be open to residents of the several counties~~
985 ~~and cities of this Commonwealth, but the authorities of the University shall have the right to~~
986 ~~limit the number of students attending the nautical school and to prescribe the necessary~~
987 ~~physical and educational entrance requirements and standards of admission therefor, and the~~
988 ~~government and discipline thereof, and to fix the terms and conditions upon which students shall~~

989 ~~be received and instructed in the school and be graduated, discharged and suspended therefrom,~~
 990 ~~and to make all necessary requirements for its management.~~

991 **Drafting note: Existing § 23-142 is stricken as obsolete.**

992 ~~§ 23-143. Cost to students.~~

993 ~~The students admitted to the nautical school shall have the privilege of attending the~~
 994 ~~same without charge for tuition, or for use of laboratories or public buildings, but the cost of~~
 995 ~~such students in the school for board, room, medical care and other necessary expenses shall be~~
 996 ~~the same as the cost to students in the engineering departments of the Institute.~~

997 **Drafting note: Existing § 23-143 is stricken as obsolete.**

998 ~~§ 23-144. Books and equipment; commander and instructors.~~

999 ~~The authorities of the Institute shall provide the necessary books, charts, instruments,~~
 1000 ~~apparatus and supplies required in the work of the nautical school or they may accept gifts or~~
 1001 ~~loans of the same, and shall appoint and may remove a commander and all necessary instructors~~
 1002 ~~and fix their duties and compensation, or they may appoint as commander or as instructors~~
 1003 ~~therein such officers of the United States Navy as may be designated or detailed for that~~
 1004 ~~purpose.~~

1005 **Drafting note: Existing § 23-144 is stricken as obsolete.**

1006 ~~§ 23-145. Governmental aid; donations, endowments, etc.~~

1007 ~~The authorities of the Institute shall likewise accept from the Commonwealth and from~~
 1008 ~~the federal government, or either, such aid in the maintenance and conduct of the nautical school~~
 1009 ~~as may be offered and which may be for the best interest of the school, including a suitable~~
 1010 ~~vessel with her apparel, charts, books and instruments of navigation, and may receive from other~~
 1011 ~~proper sources such funds, properties, donations and endowments as may be given, subscribed,~~
 1012 ~~loaned or bequeathed for the support and maintenance of the nautical school, and all moneys so~~
 1013 ~~appropriated or donated, subscribed or bequeathed shall be used or expended in accordance with~~
 1014 ~~the provisions governing the same, provided such use or expenditures shall further the purpose~~
 1015 ~~of the school and promote its usefulness and service.~~

1016 **Drafting note: Existing § 23-145 is stricken as obsolete.**

1017 ~~§ 23-146. Practical training aboard ship.~~

1018 ~~The authorities of the Institute shall, moreover, make provision for the necessary~~
1019 ~~practical training aboard ship or ships of students attending the nautical school in the science of~~
1020 ~~navigation, seamanship and engineering and such other subjects as may be prescribed, and no~~
1021 ~~student shall be received in the school until such provision has been made, nor shall any student~~
1022 ~~be graduated from the school who has not had such practical training in these and in such other~~
1023 ~~subjects as may be prescribed.~~

1024 **Drafting note: Existing § 23-146 is stricken as obsolete.**

1025 ~~Article 5.~~

1026 ~~Radford College, Woman's Division of the Virginia Polytechnic Institute.~~

1027 ~~§§ 23-147 through 23-155.~~

1028 **Drafting note: Repealed by Acts 1964, c. 50.**

1029 ~~Article 7.~~

1030 ~~Purchase of Electric Power and Energy.~~

1031 **Drafting note: Existing Article 7 (§ 23-155.05) of Chapter 11 is stricken. Its single**
1032 **section is relocated to proposed § 23.1-26xx in Article 1 with technical changes.**

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CHAPTER ~~13~~ 27.

VIRGINIA STATE UNIVERSITY.

Drafting note: Existing Chapter 13 of Title 23 is logically reorganized as proposed Chapters 13 and 27 of Title 23.1. Existing provisions that apply generally to governing boards of public institutions of higher education are consolidated in proposed Chapter 13. Existing provisions relating to the incorporation, membership and meetings, and powers and duties of the governing board that are unique to the University are retained in proposed Chapter 27.

~~§ 23-165.~~

Drafting note: Repealed by Acts 1964, c. 70.

~~§ 23-165.1 23.1-27xx. Corporation composed of board of visitors created; style Corporate name; name of the University.~~

~~A. The corporation composed of the board of visitors of Virginia State College, heretofore established by law, is continued as the board of visitors of Virginia State University (the board) shall be a corporation under the name and style of "The Visitors of Virginia State University" in this chapter hereinafter referred to as the board and shall have, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1. The board shall at all times be under the control of the General Assembly.~~

~~B. The institution shall be known as Virginia State University (the University).~~

~~C. All laws relating to Virginia State College or the board of visitors of Virginia State College shall be construed as relating to Virginia State the University or the board, respectively.~~

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

~~§ 23-165.2. Name of University.~~

~~The University shall be known as Virginia State University.~~

27 **Drafting note: Existing § 23-165.2 is stricken and its provisions incorporated into §**
28 **23.1-27xx.**

29 ~~§ 23-165.3. Transfer of property.~~

30 ~~All the real estate and personal property now existing and heretofore standing in the~~
31 ~~name of the Visitors of Virginia State College shall be transferred to and be known and taken as~~
32 ~~standing in the name, and to be under the control, of the Visitors of Virginia State University.~~
33 ~~Such real estate and personal property shall be the property of the Commonwealth.~~

34 **Drafting note: The provisions of existing § 23-165.3 are stricken as obsolete.**

35 ~~§ 23-165.4~~ 23.1-27xx. Members of board; appointment; terms; vacancies Membership.

36 A. The board shall consist of 15 members appointed by the Governor, of whom at least
37 three shall be alumni of the~~university,~~ University and at least 10 shall be residents of ~~Virginia~~
38 the Commonwealth.~~All appointments shall be for a term of four years. No member shall serve~~
39 ~~for more than two consecutive four year terms. Vacancies shall be filled in the same manner as~~
40 ~~the original appointments. Appointments to fill vacancies, other than by expiration of a term,~~
41 ~~shall be for the unexpired terms. The remainder of any term to which a member is appointed to~~
42 ~~fill a vacancy shall not constitute a term in determining the member's eligibility for~~
43 ~~reappointment. Of the four additional members appointed to the board on July 1, 2008, the~~
44 ~~Governor shall appoint two members for an initial term of four years, and two members for an~~
45 ~~initial term of two years. Thereafter, such members and their successors shall be appointed for a~~
46 ~~term of four years, in accordance with the provisions of this section.~~

47 B.~~The Governor may appoint alumni visitors from a list of qualified persons submitted~~
48 ~~to him upon the recommendation of the National Alumni Association of Virginia State~~
49 ~~University on or before July 1 of any year in which the terms of such visitors shall expire. The~~
50 ~~alumni association shall submit the names of at least three qualified alumni for each such~~
51 ~~vacaney~~ The alumni association of the University may submit to the Governor a list of three
52 nominees for each vacancy on the board of visitors, whether the vacancy occurs by expiration of
53 a term or otherwise. The Governor may appoint a member from the list of nominees.

54 ~~C. All appointments shall be subject to the confirmation of the General Assembly.~~
55 ~~Members shall continue to hold office until their successors have been appointed and have~~
56 ~~qualified.~~

57 **Drafting note: Existing provisions relating to the membership of the board of**
58 **visitors are logically combined in this proposed section, existing provisions relating to the**
59 **terms and removal of members of the board are stricken and incorporated into proposed**
60 **Chapter 13, and technical changes are made to conform the language to that of each other**
61 **four-year public institution of higher education.**

62 ~~§ 23-165.5. Eligibility to serve more than two consecutive terms.~~

63 ~~No person shall be eligible to serve more than two consecutive four-year terms, except~~
64 ~~that a member may be appointed to a term of less than four years immediately prior to or~~
65 ~~between the four-year terms.~~

66 **Drafting note: The provisions of existing § 23-165.5 are stricken and incorporated**
67 **into proposed § 23.1-13xx.**

68 ~~§ 23-165.6. Rights, powers and duties of board.~~

69 ~~The board shall be vested with all the rights and powers conferred by the provisions of~~
70 ~~this chapter insofar as the same are not inconsistent with the laws of the Commonwealth.~~

71 ~~The board shall control and expend the funds of the University and any appropriation~~
72 ~~hereafter provided, and shall make all needful rules and regulations concerning the University,~~
73 ~~appoint the president, who shall be its chief executive officer, and all professors, teachers and~~
74 ~~agents, and fix their salaries, and generally direct the affairs of the University.~~

75 **Drafting note: The provisions of existing § 23-165.6 are stricken and incorporated**
76 **into proposed § 23.1-13xx.**

77 ~~§ 23-165.7. Tuition, fees and charges.~~

78 ~~The board may fix the rates charged the students of the University for tuition, fees and~~
79 ~~other necessary charges.~~

80 **Drafting note: The provisions of existing § 23-165.7 are stricken and incorporated**
81 **into proposed § 23.1-13xx.**

82 ~~§ 23-165.8. Degrees.~~

83 ~~The board shall have the right to confer degrees.~~

84 **Drafting note: The provisions of existing § 23-165.8 are stricken and incorporated**
85 **into proposed § 23.1-13xx.**

86 ~~§ 23-165.9 23.1-27xx.~~ Curriculum.

87 The curriculum of ~~Virginia State the~~ University shall ~~embrace branches of learning as~~
88 ~~relate to~~ include agriculture, home economics, commerce, industrial education and technology,
89 the liberal arts and sciences, teacher education, nursing education, and military science.

90 **Drafting note: Technical changes.**

91 ~~§ 23-165.10. School of agriculture to be continued.~~

92 ~~The school of agriculture at Virginia State University shall be continued. The State~~
93 ~~Council of Higher Education and the institutions of higher education concerned shall execute~~
94 ~~such administrative actions as are necessary to carry out the purposes of this section.~~

95 **Drafting note: The provisions of existing § 23-165.10 are stricken as obsolete.**

96 ~~§ 23-165.11 23.1-27xx.~~ Cooperative Extension Service ~~Program recognized; funding~~
97 ~~authority; unified plan; reports.~~

98 As provided in Article ~~1-1 2~~ (§ ~~23-132.1 23.1-26xx~~ et seq.) of Chapter ~~11 of Title 23 26~~
99 and subject to the federally required plan, the Cooperative Extension Service ~~Program~~ within
100 ~~Virginia State the~~ University, ~~hereinafter referred to as "~~ (the Service ~~Program,"~~) is hereby
101 recognized. The ~~Virginia State~~ University is ~~hereby~~ empowered to accept grants, gifts, or
102 donations for the ~~Cooperative Extension~~ Service ~~Program~~ from the local governing bodies ~~of the~~
103 ~~several counties and cities~~ of the Commonwealth, other public or private agencies, and
104 individual donors. The ~~Cooperative Extension~~ Service ~~Program~~ shall be operated cooperatively
105 by Virginia Polytechnic Institute and State University and ~~Virginia State the~~ University, with
106 ~~agreed upon~~ agreed-upon areas of program and service emphasis as set forth in the unified plan

107 submitted by the two institutions to the U.S. Department of Agriculture. The ~~Virginia State~~
108 University shall file such reports on the activities of the Service ~~Program~~ as may be required by
109 law or requested by the Governor, and the two institutions shall file such reports on the unified
110 plan as may be required by law or requested by the Governor.

111 **Drafting note: Technical changes.**

112 ~~§ 23-166. University a body corporate under control of board.~~

113 ~~The institution shall continue to be a body corporate under the name and style of the~~
114 ~~"Virginia State University." It shall be under the management, supervision and control of the~~
115 ~~board.~~

116 **Drafting note: The provisions of existing § 23-166 are stricken and incorporated**
117 **into § 23.1-27xx.**

118 ~~§ 23-167. Further powers and duties of board.~~

119 ~~The powers and duties of the board shall be to direct and do all things not inconsistent~~
120 ~~with the laws of this Commonwealth which to the board shall seem best adapted to accomplish~~
121 ~~the legitimate objects of the University; to designate depositories, provide for the proper~~
122 ~~bonding of financial officers and depositories, and provide for the disbursing of the funds of the~~
123 ~~University consistent with the laws of the Commonwealth; and to grant to such as excel in any~~
124 ~~field of knowledge or complete a prescribed course of study, such certificates, diplomas or~~
125 ~~degrees as shall be deemed expedient and proper. All of which several functions they shall be~~
126 ~~free to exercise by rules, bylaws, resolutions, orders, instructions, or otherwise.~~

127 **Drafting note: The provisions of existing § 23-167 are stricken and incorporated**
128 **into proposed § 23.1-13xx.**

129 ~~§ 23-168, 23-169.~~

130 **Drafting note: Repealed by Acts 1979, c. 147.**

131 ~~§ 23-170, 23.1-27xx. Bequests and gifts; governmental Governmental aid.~~

132 ~~The board shall have power to take, hold, receive and enjoy any gift, grant, devise or~~
133 ~~bequest to the Visitors of Virginia State University or to or for the benefit of the University.~~

134 ~~Any such gift, grant, devise or bequest shall be used for the purposes designated by the donor, if~~
135 ~~any, or, if no purposes are so designated, for the general purposes of the board.~~

136 The University shall receive the governmental aid designated in §§ ~~23-136 and 23-137~~
137 ~~23.1-26xx and 23.1-26xx.~~

138 **Drafting note: The provisions of the first paragraph of existing § 23-170 are**
139 **stricken and incorporated into proposed § 23.1-13xx. Technical changes are made.**

140 ~~§ 23-171, 23-172.~~

141 **Drafting note: Repealed by Acts 1964, c. 70.**

142 ~~§ 23-173.~~

143 **Drafting note: Repealed by Acts 1979, c. 147.**

144 ~~§ 23-174. Control by General Assembly.~~

145 ~~The University, and all its property and funds, shall, at all times and in all things, be~~
146 ~~under the control of the General Assembly.~~

147 **Drafting note: Existing § 23-174 is stricken and incorporated into proposed § 23.1-**
148 **27xx (existing § 23-165.1).**

149 #

1 CHAPTER ~~5~~ 28.

2 THE COLLEGE OF WILLIAM AND MARY AND IN VIRGINIA; RICHARD BLAND
3 COLLEGE.

4 **Drafting note: Existing Chapter 5 of Title 23 is logically reorganized as proposed**
5 **Chapters 13 and 28 of Title 23.1. Existing provisions that apply generally to governing**
6 **boards of public institutions of higher education are consolidated in proposed Chapter 13.**
7 **Existing provisions relating to the incorporation, membership and meetings, and powers**
8 **and duties of the governing board that are unique to The College of William and Mary in**
9 **Virginia and Richard Bland College are retained in proposed Chapter 28.**

10 § ~~23-39~~ 23.1-28xx. Corporate name; name of the University.

11 A. The board of visitors of ~~the~~ The College of William and Mary in Virginia (the board)
12 shall be a corporation under the name and style of "The College of William and Mary in
13 Virginia-" and shall have, in addition to its other powers, (i) all the corporate powers given to
14 corporations by the provisions of Title 13.1 except those powers that are confined to
15 corporations created pursuant to Title 13.1 and (ii) all powers conferred by the ancient royal
16 charter of The College of William and Mary in Virginia. The board shall at all times be under
17 the control of the General Assembly.

18 B. The institution shall be known as The College of William and Mary in Virginia (the
19 University).

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

22 § ~~23-40~~. ~~Property transferred to College of William and Mary and owned by State.~~

23 ~~All the real estate and personal property relating to the College of William and Mary in~~
24 ~~Virginia, in Williamsburg, or relating to the Richard Bland College in Petersburg now existing~~
25 ~~and standing in the name of the corporate body designated "The Colleges of William and Mary"~~
26 ~~and all real estate and personal property standing in the name of or heretofore exclusively used~~
27 ~~by the Virginia Institute of Marine Science shall be transferred to and be known and taken as~~

28 ~~standing in the name, and to be under the control of the corporate body designated "The College~~
29 ~~of William and Mary in Virginia." Such real estate and personal property shall be the property~~
30 ~~of the Commonwealth.~~

31 **Drafting note: The provisions of existing § 23-40 are stricken as obsolete.**

32 ~~§ 23-41. 23.1-28xx. Appointment of visitors generally; number and terms; vacancies~~
33 ~~Membership.~~

34 ~~A. The board of visitors is to shall~~ consist of 17 members ~~to be~~ appointed by the
35 Governor, ~~four of whom may be nonresidents of Virginia of whom at least 13 shall be residents~~
36 ~~of the Commonwealth.~~

37 ~~B. The alumni association of The University may submit to the Governor a list of at least~~
38 ~~three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a~~
39 ~~term or otherwise. The Governor may appoint a member from the list of nominees.~~

40 ~~All appointments shall be for terms of four years each, except appointments to fill~~
41 ~~unexpired vacancies which shall be made by the Governor for the remainder of the unexpired~~
42 ~~terms. However, the term of the member holding the office of Rector on March 1, 2005, shall be~~
43 ~~extended for one year to June 30, 2006. The Governor may make an appointment for the~~
44 ~~member whose term is so extended to June 30, 2006, as though this service extension had not~~
45 ~~been granted and the term had expired as scheduled.~~

46 ~~The board of visitors may be expanded to no more than 18 members from July 1, 2005,~~
47 ~~to June 30, 2006. Thereafter, the membership shall revert to 17 members. Reappointment by the~~
48 ~~Governor of any member eligible for the service extension shall be for the term of four years.~~

49 ~~No person shall be eligible to serve more than two consecutive four-year terms, except~~
50 ~~that a member may be appointed to a term of less than four years immediately prior to or~~
51 ~~between the four-year terms. For the purpose of determining service eligibility, any term of~~
52 ~~service extended to June 30 of the respective year pursuant to this section shall be treated as a~~
53 ~~four-year term. Hereafter, all appointments shall expire June 30 of the year in which the term~~
54 ~~expires.~~

55 ~~All appointments are subject to confirmation by the General Assembly if in session~~
56 ~~when such appointments are made, and if not in session, at its next succeeding session.~~

57 **Drafting note: Existing provisions relating to the membership of the board of**
58 **visitors are logically combined in this proposed section, existing provisions relating to the**
59 **terms and removal of members of the board are stricken and incorporated into proposed §**
60 **23.1-13xx, and technical changes are made to conform the language to that of each other**
61 **four-year public institution of higher education. In addition, obsolete language is stricken.**

62 ~~§ 23-42. Appointment of visitors from alumni.~~

63 ~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him,~~
64 ~~before or after induction into office, by the alumni association of the College of William and~~
65 ~~Mary in Virginia, on or before the first day of December of any year next preceding a year in~~
66 ~~which the terms of any visitors will expire.~~

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

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

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

73 **Drafting note: The provisions of existing § 23-42 are stricken and incorporated**
74 **instead into proposed § 23.1-28xx (existing § 23-41).**

75 ~~§ 23-43.~~

76 **Drafting note: Repealed by Acts 1975, c. 484.**

77 ~~§ 23-44. Rights, powers and duties of board in general.~~

78 ~~The board of visitors shall be vested with all the rights and powers conferred by the~~
79 ~~provisions of this chapter and by the ancient royal charter of the College of William and Mary in~~
80 ~~Virginia, insofar as the same are not inconsistent with the provisions of this chapter and the~~
81 ~~general laws of the Commonwealth.~~

82 ~~The board shall control and expend the funds of the colleges and any appropriation~~
 83 ~~hereafter provided, and shall make all needful rules and regulations concerning the colleges, and~~
 84 ~~generally direct the affairs of the colleges.~~

85 **Drafting note: The provisions of existing § 23-44 are stricken and incorporated**
 86 **instead into proposed § 23.1-28xx (existing § 23-39) and proposed § 23.1-13xx.**

87 ~~§ 23-44.1. Investment of endowment funds, endowment income, and gifts; standard of~~
 88 ~~care; liability; exemption from the Virginia Public Procurement Act.~~

89 ~~A. The board of visitors shall invest and manage the endowment funds, endowment~~
 90 ~~income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the~~
 91 ~~College in accordance with this section and the provisions of the Uniform Prudent Management~~
 92 ~~of Institutional Funds Act (§ 64.2-1100 et seq.).~~

93 ~~B. No member of the board of visitors shall be personally liable for losses suffered by an~~
 94 ~~endowment fund, endowment income, gifts, all other nongeneral fund reserves and balances, or~~
 95 ~~local funds of or held by the College, arising from investments made pursuant to the provisions~~
 96 ~~of subsection A.~~

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

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

105 ~~1. In this section, "derivative" means a contract or financial instrument or a combination~~
 106 ~~of contracts and financial instruments, including, without limitation, any contract commonly~~
 107 ~~known as a "swap," which gives the College the right or obligation to deliver or receive delivery~~
 108 ~~of, or make or receive payments based on, changes in the price, value, yield, or other~~

109 ~~characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index~~
110 ~~of prices or rates, or other market indicator for an asset or a group of assets.~~

111 ~~2. In this section, an "option" means an agreement or contract whereby the College may~~
112 ~~grant or receive the right to purchase or sell, or pay or receive the value of, any personal~~
113 ~~property asset including, without limitation, any agreement or contract that relates to any~~
114 ~~security, contract, or agreement.~~

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

125 ~~E. The authority as provided in this section as it relates to nongeneral fund reserves and~~
126 ~~balances of or held by the College is predicated upon an approved management agreement~~
127 ~~between the College and the Commonwealth of Virginia.~~

128 **Drafting note: The provisions of existing § 23-44.1 are stricken and incorporated**
129 **instead into proposed § 23.1-10xx.**

130 ~~§ 23-45. Board may fix tuition, fees and other charges.~~

131 ~~The board of visitors may fix in their discretion, the rates charged the students of the~~
132 ~~colleges for tuition, fees and other necessary charges.~~

133 **Drafting note: The provisions of existing § 23-45 are stricken and incorporated**
134 **instead into proposed § 23.1-13xx.**

135 ~~§ 23-46. Conferring of degrees.~~

136 ~~The board of visitors shall have the right to confer degrees.~~

137 **Drafting note: The provisions of existing § 23-46 are stricken and incorporated**
138 **instead into proposed § 23.1-13xx.**

139 ~~§ 23-47 23.1-28xx. Courses for educating and training Program of instruction to educate~~
140 ~~and train teachers to be maintained.~~

141 The ~~College University~~ shall maintain ~~in connection with its courses a system a program~~
142 of instruction ~~and training for the purpose of educating and training to educate and train~~ teachers
143 for the public ~~elementary and secondary~~ schools of the Commonwealth ~~without excluding other~~
144 ~~programs of instruction.~~

145 **Drafting note: Technical changes.**

146 ~~§ 23-48.~~

147 **Drafting note: Repealed by Acts 1960, c. 180.**

148 ~~§ 23-49 23.1-28xx.~~ Students.

149 The ~~College University~~ shall admit properly prepared men and women ~~to its courses,~~
150 and upon completion of the requirements shall grant them degrees.

151 **Drafting note: Technical change.**

152 ~~§ 23-49.1 23.1-28xx. Constituent colleges; administration, bylaws, titles, etc Richard~~
153 ~~Bland College.~~

154 A. ~~The College of William and Mary in Virginia, in Williamsburg, and the Richard~~ Richard
155 Bland College, ~~in Petersburg~~ shall be ~~subject to the supervision, management and control of the~~
156 ~~board of visitors of the College of William and Mary in Virginia. Such colleges shall be separate~~
157 ~~from each other and each college shall report directly to the board of visitors through the~~
158 ~~president in the case of the College of William and Mary in Virginia, and as the board of visitors~~
159 ~~may direct in the case of the Richard Bland College a separate college under the supervision,~~
160 ~~management, and control of the board. Richard Bland College shall report to the board in such~~
161 ~~manner as the board may coordinate and direct.~~

162 B. The board shall establish and publish bylaws for Richard Bland College that define
163 the school's functions.

164 C. All property, property rights, duties, contracts, and agreements of ~~the colleges~~
165 Richard Bland College are vested in the board ~~of visitors of the College of William and Mary in~~
166 Virginia. ~~The chief executive officer of the College of William and Mary in Virginia shall be the~~
167 ~~president; the title of the~~

168 D. The board shall designate a chief executive officer of ~~the~~ Richard Bland College ~~shall~~
169 ~~be designated by the board of visitors.~~

170 E. ~~The board of visitors of the College of William and Mary in Virginia is charged with~~
171 ~~the care and preservation of~~ shall care for and preserve all property belonging to ~~the colleges~~
172 Richard Bland College.

173 ~~With respect to the Richard Bland College, the~~ F. The board ~~of visitors~~ shall ~~have the~~
174 ~~same powers as to fixing tuitions~~ (i) fix tuition, fees, and other necessary charges, ~~as to the~~
175 ~~appointment and removal of administrative officers, professors, agents, and employees;~~ (ii)
176 appoint, remove, and define the responsibilities of the chief executive; and ~~the making of~~ (iii)
177 make such rules and regulations, ~~as are now vested in them with respect to the College of~~
178 William and Mary in Virginia as it deems appropriate for Richard Bland College.

179 C. ~~Appropriations directly and indirectly from the Commonwealth to the colleges shall~~
180 ~~be expended as directed by the board of visitors of the College of William and Mary in Virginia.~~

181 D. ~~The board of visitors of the College of William and Mary in Virginia is authorized~~
182 ~~and directed to prepare the bylaws for the colleges and to publish the same and to define the~~
183 ~~functions of the colleges, and to specify the responsibilities of the chief executive officers, all~~
184 ~~professors, teachers and agents of the colleges, as the board may deem necessary.~~

185 E. ~~The board of visitors of the College of William and Mary in Virginia shall designate~~
186 ~~the organizational channel of coordination and supervision of the Richard Bland College for~~
187 ~~administration by the board of visitors.~~

188 ~~F. The use of the library of the College of William and Mary in Virginia, in~~
 189 ~~Williamsburg, shall be granted to the students and faculty of Christopher Newport University.~~

190 ~~G. The board of visitors of the College of William and Mary in Virginia shall make~~
 191 ~~cooperative agreements with the board of visitors of Christopher Newport University for the~~
 192 ~~sharing of faculty and of laboratory and other facilities.~~

193 **Drafting note: Subsections C, F, and G of existing § 23-49.1 are stricken as obsolete.**

194 **Technical changes are made.**

195 § ~~23-49.1-1~~ 23.1-28xx. Virginia Institute of Marine Science ~~subject to board of visitors.~~

196 The Virginia Institute of Marine Science (the Institute) shall be subject to the
 197 supervision, management, and control of the board ~~of visitors of the College of William and~~
 198 ~~Mary in Virginia.~~ University shall provide for the administration of the
 199 Institute and ~~shall~~ appoint and remove its administrative and professional staff.

200 **Drafting note: Technical changes.**

201 § ~~23-4.01~~ 23.1-28xx. Approval for transfer of ~~property~~ College Woods.

202 A. The property known as College Woods that includes Lake Matoaka and is possessed
 203 and controlled by ~~a college founded in 1693~~ the University, regardless of whether such property
 204 has been declared surplus property pursuant to § 2.2-1153, shall not be transferred or disposed
 205 of without the approval of the board ~~of visitors of such college~~ by a two-thirds vote of all ~~board~~
 206 members at a regularly scheduled board meeting. The General Assembly shall also approve
 207 such disposal or transfer.

208 B. The provisions of subsection A shall not operate to prevent the transfer or dedication
 209 to the Virginia Department of Transportation (the Department) of a portion of the property
 210 described in subsection A, together with a temporary construction easement and a permanent
 211 easement for drainage, sufficient to permit the reconstruction of the intersection of Virginia
 212 Route 615 (Ironbound Road) and Virginia Route 321 (Monticello Avenue).

213 C. In order for any transfer or dedication set forth in subsection B to the Department to
 214 occur:

215 1. The Department shall remain within the boundaries or dedication area identified as a
216 right-of-way addition of approximately 1.63 acres and easement areas as detailed on Exhibit A,
217 labeled Proposed Right-of-Way and Easement Dedication by The College of William and Mary
218 for Widening of the Intersection of Monticello Avenue and Ironbound Road and dated January
219 9, 2004, drawn by AES Consulting Engineers of Williamsburg, Virginia, in completion of any
220 reconstruction of such intersection;

221 2. The Department shall employ and construct all required best management practices
222 and erosion and sediment control measures to minimize and mitigate any impacts to College
223 Woods and Lake Matoaka; and

224 3. The Department shall vacate, subject to a reserved drainage easement, approximately
225 3.22 acres of right-of-way and ~~re-designate~~ redesignate such to the College University so that
226 the College University has confirmed encumbrances. This vacation shall create not less than a
227 ~~78-foot~~ 78-foot right-of-way and shall not create or provide for any easements except for such
228 reserved drainage easement from approximately 1,000 feet east of Virginia Route 615
229 (Ironbound Road) to approximately 4,000 feet east of Virginia Route 615 (Ironbound Road)
230 along Virginia Route 321 (Monticello Avenue) identified on Exhibit A, labeled Proposed Right-
231 of-Way and Easement Dedication by The College of William and Mary for Widening of the
232 Intersection of Monticello Avenue and Ironbound Road and dated January 9, 2004, drawn by
233 AES Consulting Engineers of Williamsburg, Virginia, as right-of-way abandonment. This
234 vacation to create a right-of-way width shall not allow for a ~~road-widening~~ road-widening to add
235 additional travel lanes for the remainder of Virginia Route 321 (Monticello Avenue).

236 D. The provisions of subsection A shall not operate to prevent the transfer or dedication
237 to the Department of a portion of the property described in subsection A, together with
238 easements for slope, drainage, and utilities, sufficient to permit the reconstruction and widening
239 of Virginia Route 615 (Ironbound Road).

240 E. For any transfer or dedication to the Department to occur pursuant to subsection D,
241 the Department shall:

242 | 1. ~~Shall remain~~ Remain within the boundaries identified as a proposed right-of-way
243 dedication area of approximately 0.38 acres and easement areas as detailed on Exhibit B,
244 labeled Proposed Right-of-Way and Easement Dedication by The College of William and Mary
245 for Widening of Ironbound Road to Four Lanes and dated January 9, 2004, drawn by AES
246 Consulting Engineers of Williamsburg, Virginia, in completion of the widening of Virginia
247 Route 615 (Ironbound Road), except with respect to that portion of Virginia Route 615
248 (Ironbound Road) to be widened in connection with the reconstruction of the intersection as
249 described, and as provided for, in subsections B and C; and

250 | 2. ~~Shall employ~~ Employ and construct all required best management practices and
251 erosion and sediment control measures to minimize and mitigate any impacts to College Woods
252 and Lake Matoaka.

253 F. The provisions of subsections B and C shall not become effective until a
254 reconstruction of the intersection has been designed and fully funded as required by the
255 Department.

256 G. The provisions of subsections D and E shall not become effective until the widening
257 of the portion of Ironbound Road described therein has been designed and fully funded as
258 required by the Department.

259 **Drafting note: Technical changes.**

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CHAPTER ~~16~~ 29.

STATE BOARD FOR COMMUNITY COLLEGES AND COMMUNITY COLLEGE
SYSTEM.

Drafting note: Existing Chapter 16 is reorganized as proposed Chapter 29. The article structure of the existing chapter is removed and the provisions of existing Article 2, relating to the Community College Incentive Scholarship Program, are removed as obsolete.

~~Article 1.~~

~~General Provisions.~~

Drafting note: The designation of Article 1 is removed because the article structure of existing Chapter 16 is not retained in proposed Chapter 29.

~~§§ 23-192 through 23-213.~~

Drafting note: Repealed by Acts 1966, c. 679.

~~§ 23-214 23.1-29xx.~~ Definitions.

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

~~(a) "Area career and technical school" means a career or technical school used exclusively or principally for providing career and technical education to persons who (i) have completed or left high school or are recommended for transfer by the school last attended and (ii) are available for full-time study in preparation for entering the labor market or part-time study after entering the labor market.~~

~~"Career and technical education" means the training or retraining under public supervision and control that is (i) given in school classes, including field or laboratory work incidental to such training or retraining, exclusive of those career and technical education programs provided and administered by or through the public school system and (ii) conducted as part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations.~~

~~"Chancellor" means the Chancellor of Community Colleges.~~

28 ~~"Comprehensive community college" means an institution of higher education which~~
29 ~~offers instruction in one or more of the following fields:~~

30 ~~(1) Freshman and sophomore courses in arts and sciences acceptable for transfer in~~
31 ~~baccalaureate degree programs;~~

32 ~~(2) Diversified technical curricula including programs leading to the associate degree;~~

33 ~~(3) Career and technical education leading directly to employment;~~

34 ~~(4) Courses in general and continuing education for adults in the above fields;~~

35 ~~(5) Noncredit training and retraining courses and programs of varying lengths to meet~~
36 ~~the needs of business and industry in the Commonwealth.~~

37 ~~(b) "State Board" or "Board" means the State Board for Community Colleges.~~

38 ~~(c) "Local community college board" means the board established to act in an advisory~~
39 ~~capacity to the State Board and to perform such duties with respect to the operation of a single~~
40 ~~comprehensive community college as may be delegated to it by the State Board.~~

41 ~~(d) "Career and technical education" means the training, or retraining, which is given in~~
42 ~~school classes (including field or laboratory work incidental thereto), under public supervision~~
43 ~~and control, exclusive of those career and technical education programs provided and~~
44 ~~administered by, or through, the public school system and is conducted as part of a program~~
45 ~~designed to fit individuals for gainful employment as semiskilled or skilled, workers or~~
46 ~~technicians in recognized occupations.~~

47 ~~(e) "Area career and technical school" means a career or technical school used~~
48 ~~exclusively, or principally, for providing career and technical education to persons who have~~
49 ~~completed, or left, high school, or are recommended for transfer by the school last attended, and~~
50 ~~who are available for full-time study in preparation for entering the labor market, or for part-~~
51 ~~time study after entering the labor market.~~

52 ~~(f) "System" means the Virginia Community College System.~~

53 **Drafting note: Definitions are moved into alphabetical order and are no longer**
54 **numbered, consistent with current Code style. A chapter-wide definition is added for**

55 "Chancellor." Definitions for "Board," "comprehensive community college," and
56 "System" are stricken and incorporated into the proposed title-wide definitions section, §
57 23.1-1xx.

58 ~~§ 23-214.1. Meaning of statutory references to Department of Community Colleges.~~

59 ~~Wherever the words "Virginia Community College System" are used in any law of this~~
60 ~~State, they shall mean the State Board for Community Colleges.~~

61 **Drafting note: Existing § 23-214.1 is stricken as obsolete.**

62 ~~§ 23-215 23.1-29xx. Responsibilities of State Board and System for Community~~
63 ~~Colleges established; purpose; Virginia Community College System.~~

64 ~~A. The State Board for Community Colleges heretofore established by law is continued.~~
65 ~~The Board shall be is established as~~ a corporation under the style of "the State Board for
66 Community Colleges." ~~The State Board shall be responsible, through the exercise of the powers~~
67 ~~and performance of the duties set forth in this chapter, for the establishment, control, and~~
68 ~~administration of to establish, control, and administer~~ a statewide system of publicly supported
69 comprehensive community colleges, which shall be known as the Virginia Community College
70 System.

71 ~~B. The Virginia Community College System shall be the state agency with primary~~
72 ~~responsibility for coordinating workforce training at the postsecondary to the associate degree~~
73 ~~level, exclusive of the career and technical education programs provided through and~~
74 ~~administered by the public school system. This responsibility shall not preclude other agencies~~
75 ~~from also providing such services as appropriate, but these activities shall be coordinated with~~
76 ~~the community colleges.~~

77 ~~C. In addition to other responsibilities of the Virginia Community College System, the~~
78 ~~community colleges shall (i) maximize noncredit course offerings made available to business~~
79 ~~and industry at a time and place that meet current and projected workforce needs and minimize~~
80 ~~the cost of noncredit offerings to business and industry to the extent feasible, (ii) deal directly~~
81 ~~with employers in designing and offering courses to meet real, current, and projected workforce~~

82 ~~training needs, and (iii) maximize the availability and use of distance learning courses~~
83 ~~addressing workforce training needs. The Virginia Community College System shall report on~~
84 ~~actions taken to meet the requirements of this subsection in its annual report to the General~~
85 ~~Assembly on workforce development activities required by the appropriation act.~~

86 **Drafting note: The provisions of subsection B and the last sentence of subsection C**
87 **of existing § 23-215 are relocated to proposed § 23.1-29xx (existing § 23-218). Technical**
88 **changes are made.**

89 ~~§ 23-216~~ 23.1-29xx. ~~Number, terms and eligibility of members of State~~ Board;
90 membership.

91 ~~(a) A.~~ The State Board shall consist of 15 nonlegislative citizen members
92 appointed by the Governor subject to confirmation by the General Assembly ~~if in session, and if~~
93 ~~not, at its next succeeding session. The first appointments shall be four members for one year,~~
94 ~~four members for two years, four members for three years and three members for four years,~~
95 ~~and thereafter all such appointments shall be made for terms of four years each, except that~~
96 ~~appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to~~
97 ~~serve more than two consecutive four-year terms, except that a member may be appointed to a~~
98 ~~term of less than four years immediately prior to or between the four-year terms. No person~~
99 ~~shall be eligible for reappointment following two consecutive four-year terms for two years~~
100 ~~thereafter. Members shall continue to discharge their duties after their terms have expired until~~
101 ~~their successors have been appointed and have qualified. Members who serve two consecutive~~
102 four-year terms shall be eligible for reappointment two years after the expiration of their second
103 term.

104 ~~(b) The State Board shall be composed of persons selected from B. Each member shall~~
105 be a resident of the Commonwealth ~~at large~~. No officer, employee, or member of the governing
106 board of any public institution of higher education; or of any school subject to the control of the
107 ~~State~~ Board, ~~or any member of the General Assembly, or any~~ and no member of the ~~State~~ Board
108 of Education; shall be eligible for appointment to the State Board. All members of the State

109 Board shall be deemed members at large charged with the responsibility of serving the best
110 interests of the whole Commonwealth. ~~No, and no~~ member shall act as the representative of any
111 particular region or ~~of any particular~~ institution of higher education.

112 **Drafting note: Language establishing staggered terms for State Board members is**
113 **removed as obsolete. Current language in subsection A that establishes terms and**
114 **conditions of membership in and reappointment to a State Board is stricken and**
115 **incorporated into proposed § 23.1-13xx relating to the terms and removal of members of**
116 **the board of visitors of each public institution of higher education generally. The**
117 **prohibition on membership by a member of the General Assembly is removed because the**
118 **section is amended to classify all members as nonlegislative citizen members, which are**
119 **defined for the Code in § 1-225 as "any natural person who is not a member of the**
120 **General Assembly of Virginia." Technical changes are made.**

121 § ~~23-217~~ 23.1-29xx. ~~Chairman and vice chairman of State~~ Board; ~~oath of members;~~
122 ~~officers,~~ meetings; ~~quorum; rules and,~~ and regulations.

123 A. The State Board shall ~~select~~ elect a chairman from its membership; and may provide
124 for the election of one of its members as vice-chairman.

125 B. ~~Before entering upon the discharge of his duties, each member of the Board shall take~~
126 ~~an oath that he will faithfully and honestly execute the duties of his office during his~~
127 ~~continuance therein.~~

128 ~~C.~~ The State Board shall meet at least four times annually; and on call of the chairman
129 when in his opinion additional meetings are expedient or necessary.

130 ~~D.C.~~ Eight members of the State Board shall constitute a quorum for all purposes.

131 ~~E.D.~~ The main office of the State Board shall be in the Commonwealth.

132 ~~F.E.~~ The State Board is ~~empowered~~ authorized to promulgate necessary ~~rules and~~
133 regulations for carrying out the purposes of this chapter.

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

136 of existing § 23-217 is removed as duplicative of § 49-1, which states that "[e]very person
 137 before entering upon the discharge of any function as an officer of this Commonwealth
 138 shall take and subscribe the following oath: 'I do solemnly swear (or affirm) that . . . I will
 139 faithfully and impartially discharge all the duties incumbent upon me'"

140 ~~§ 23-218 23.1-29xx. Plan for comprehensive community colleges; appropriations; tuition~~
 141 ~~fees and charges; grants or contributions; apprenticeships~~ State Board duties.

142 ~~A. The State Board is authorized and directed to prepare shall:~~

143 1. Be the state agency with primary responsibility for coordinating workforce training at
 144 the postsecondary through the associate degree level, exclusive of the career and technical
 145 education programs provided through and administered by the public school system. This
 146 responsibility shall not preclude other agencies from also providing such services as appropriate,
 147 but these activities shall be coordinated with the comprehensive community colleges;

148 2. Report on actions that comprehensive community colleges have taken to meet the
 149 requirements of § 23.1-29xx [community colleges; duties; workforce (below)] in its annual
 150 report to the General Assembly on workforce development activities required by the
 151 appropriation act;

152 3. Prepare and administer a plan providing standards and policies for the establishment,
 153 development, and administration of comprehensive community colleges under its authority. It
 154 shall determine the need for comprehensive community colleges; and develop a statewide plan
 155 for their location and a time schedule for their establishment. In the development of such plan, a
 156 principal objective shall be to provide and maintain a system of comprehensive community
 157 colleges ~~through which appropriate educational opportunities and programs to accomplish the~~
 158 ~~purposes set forth in subdivision (a) of § 23-214 shall be made available throughout the~~
 159 Commonwealth, as that term is defined in § 23.1-29xx [23-214] to make appropriate educational
 160 opportunities and programs available throughout the Commonwealth. In providing these
 161 offerings, the State Board shall recognize the need for excellence in all curricula and shall

162 endeavor to establish and maintain standards appropriate to the various purposes the respective
163 programs are designed to serve.

164 ~~B. The Board shall have the authority to control and expend funds appropriated by law,
165 and to fix tuition fees and charges. The Board may establish policies and guidelines providing
166 for reduced tuition rates at Virginia's community colleges for employees of the Virginia
167 Community College System. The Board may exercise the powers conferred by Chapter 3 (§ 23-
168 14 et seq.) of this title as any other educational institution as defined in § 23-14.~~

169 ~~C. The Board shall be authorized, with the approval of the Governor, to accept from any
170 government or governmental department or agency or any public or private body or from any
171 other source, grants or contributions of money or property which the Board may use for or in aid
172 of any of its purposes.~~

173 **Note to work group: Amended in 2015.**

174 ~~§ 23-220. Local community college boards.~~

175 ~~The State Board shall establish~~ 4. Establish policies providing for the creation of a local
176 community college board for each ~~institution~~ comprehensive community college established
177 under this chapter and the procedures and regulations under which such local boards shall
178 operate. ~~A local community college board as defined in § 23-214 shall be established for each
179 college.~~ These boards shall assist in ascertaining educational needs; and enlisting community
180 involvement and support; and shall perform such other duties as may be prescribed by the State
181 Board;

182 ~~D. The Board shall establish~~ 5. Establish policies to coordinate apprenticeship-related
183 instruction delivered by state and local public education agencies. The Chancellor, with the
184 approval of the State Board ~~for Community Colleges~~, shall provide for the administration and
185 supervision of related and supplemental instruction for apprentices;:

186 6. Adhere to the policies of the Council for the coordination of higher education as
187 required by law; and

188 ~~§ 23-219.1. Mental health policies.~~

189 ~~The Board shall develop~~ 7. Develop a mental health referral policy directing
 190 comprehensive community colleges to designate at least one individual at each college to serve
 191 as a point of contact with an emergency services system clinician at a local community services
 192 board, or another qualified mental health services provider, for the purposes of facilitating
 193 screening and referral of students who may have emergency or urgent mental health needs and
 194 of assisting the college in carrying out the duties specified by §§ ~~23-9.2:8~~ 23.1-xxx and ~~23-~~
 195 ~~9.2:10~~ 23.1-xxx. ~~A~~ Each comprehensive community college may establish relationships with
 196 community services boards or other mental health providers for referral and treatment of
 197 persons with less serious mental health needs.

198 **Drafting note: Existing § 23-218 is logically reorganized as follows: Provisions in**
 199 **existing subsections B and C relating to State Board powers are stricken and incorporated**
 200 **into proposed § 23.1-29xx [next section]. Provisions relating exclusively to State Board**
 201 **duties are retained as proposed § 23.1-29xx, into which is incorporated the provisions of**
 202 **subsection B of existing § 23-215 as proposed subdivision 1; the last sentence of subsection**
 203 **C of existing § 23-215 as proposed subdivision 2; the provisions of existing § 23-220 as**
 204 **proposed subdivision 4; the provisions of subsection D of existing § 23-218 as proposed**
 205 **subdivision 5; the provisions of the first paragraph of existing § 23-221 as subdivision 6;**
 206 **and the provisions of existing § 23-219.1 as proposed subdivision 7. Technical changes are**
 207 **made.**

208 § 23.1-29xx. State Board powers.

209 The State Board may:

210 1. With the approval of the Governor, accept from any government or governmental
 211 department or agency or any public or private body or from any other source grants or
 212 contributions of money or property that the State Board may use for or in aid of any of its
 213 purposes;

214 2. Control and expend funds appropriated by law;

215 3. Fix tuition, fees, and other necessary charges;

216 4. Establish policies and guidelines providing for reduced tuition rates at comprehensive
217 community colleges for employees of the System;

218 5. Exercise the powers conferred to educational institutions by Chapter xxx (§ 23.1-xxx
219 et seq.) [Chapter 3 (§ 23-14 et seq.)]; and

220 § 23-219. Diplomas, certificates and associate degrees.

221 ~~The Board shall have the right to confer~~ 6. Confer diplomas, certificates, and associate
222 degrees.

223 **Drafting note: Proposed § 23.1-29xx is created to consolidate provisions relating**
224 **exclusively to State Board powers. Subdivisions 1 through 5 are derived from subsections**
225 **B and C of existing § 23-218, and existing § 23-219 is incorporated as subdivision 6.**
226 **Technical changes are made.**

227 § 23.1-29xx. Comprehensive community colleges; duties; workforce.

228 Each comprehensive community college shall:

229 1. Maximize noncredit course offerings made available to business and industry at a time
230 and place that meet current and projected workforce needs and minimize the cost of noncredit
231 offerings to business and industry to the extent feasible;

232 2. Deal directly with employers in designing and offering courses to meet real, current,
233 and projected workforce training needs; and

234 3. Maximize the availability and use of distance learning courses addressing workforce
235 training needs.

236 **Drafting note: The provisions of all but the last sentence of subsection C of existing**
237 **§ 23-215 are logically reorganized as proposed § 23.1-29xx. Technical changes are made.**

238 ~~§ 23-220.1. Expired.~~

239 **Drafting note: Expired pursuant to Chapter 875 of the Acts of Assembly of 1996.**

240 ~~Article 2.~~

241 ~~Community College Incentive Scholarship Program.~~

242 **Drafting note: The provisions of existing Article 2 are stricken as obsolete.**

243 ~~§ 23-220.2. Incentive scholarships program; Board to administer; promulgation of~~
244 ~~regulations.~~

245 ~~There is hereby created the Community College Incentive Scholarship Program to~~
246 ~~provide incentive scholarships to eligible students attending comprehensive community colleges~~
247 ~~in Virginia. Funds may be paid to any comprehensive community college on behalf of students~~
248 ~~who have been awarded such scholarships pursuant to § 23-220.4.~~

249 **Drafting note: The provisions of existing § 23-220.2 are stricken as obsolete.**

250 ~~§ 23-220.3. Community College Incentive Scholarship Fund created.~~

251 ~~A. From such funds as are appropriated for this purpose and from such gifts, donations,~~
252 ~~grants, bequests, and other funds as may be received on its behalf, there is hereby created in the~~
253 ~~state treasury a special nonreverting fund to be known as the Community College Incentive~~
254 ~~Scholarship Fund, hereafter referred to as "the Fund." The Fund shall be established on the~~
255 ~~books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and~~
256 ~~be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of~~
257 ~~each fiscal year shall not revert to the general fund but shall remain in the Fund. Funds may be~~
258 ~~paid to any comprehensive community college on behalf of students who have been awarded~~
259 ~~scholarships pursuant to § 23-220.4. The first such scholarships shall be awarded after July 1,~~
260 ~~1998.~~

261 ~~Expenditures and disbursements from the Fund shall be made by the State Treasurer on~~
262 ~~warrants issued by the Comptroller upon written request signed by the State Board for~~
263 ~~Community Colleges.~~

264 ~~B. The Board shall promulgate regulations for the implementation of the provisions of~~
265 ~~this article and shall award scholarships to eligible students meeting the criteria established~~
266 ~~pursuant to § 23-220.4.~~

267 **Drafting note: The provisions of existing § 23-220.3 are stricken as obsolete.**

268 ~~§ 23-220.4. Eligible students; criteria for award of scholarships.~~

269 ~~A. Only students who (i) are domiciled residents of Virginia as defined by § 23-7.4, (ii)~~
270 ~~are enrolled as second-year students on a full-time basis in a designated technical training~~
271 ~~program at a comprehensive community college in Virginia, and (iii) have a cumulative grade~~
272 ~~point average of at least 3.0 on a scale of 4.0 or its equivalent upon the completion of one year~~
273 ~~as a full-time student at a comprehensive community college in Virginia shall be eligible to~~
274 ~~receive such scholarships.~~

275 ~~B. The Board, in consultation with the Virginia Economic Development Partnership,~~
276 ~~shall designate those technical training programs for which scholarships may be awarded. The~~
277 ~~selected programs shall reflect current and projected workforce training needs in the~~
278 ~~Commonwealth.~~

279 ~~C. Scholarships awarded pursuant to this article shall provide for the payment in full of~~
280 ~~tuition and fees for enrollment for one year as a full-time, second-year student.~~

281 **Drafting note: The provisions of existing § 23-220.4 are stricken as obsolete.**

282 ~~Article 3.~~

283 ~~Administration Generally.~~

284 **Drafting note: The designation of Article 3 is removed because the article structure**
285 **of existing Chapter 16 is not retained in proposed Chapter 29.**

286 ~~§ 23-221.1.~~

287 **Drafting note: Repealed by Chapter 728 of the Acts of Assembly of 1980.**

288 ~~§ 23-222. Transfer of facilities, assets and programs.~~

289 ~~(a) Effective July 1, 1967, all physical facilities, assets and programs of instruction in the~~
290 ~~fields specified in subdivision (a) of § 23-214 of the following institutions shall be transferred to~~
291 ~~and placed under the control and administration of the State Board for Community Colleges:~~

292 ~~Eastern Shore Branch of the School of General Studies of the University of Virginia;~~

293 ~~Lynchburg Branch of the School of General Studies of the University of Virginia;~~

294 ~~Patrick Henry College of the University of Virginia;~~

295 ~~Clifton Forge Covington Branch of the Virginia Polytechnic Institute and State~~
296 ~~University,~~

297 ~~Roanoke Technical Institute of the Virginia Polytechnic Institute and State University,~~

298 ~~Roanoke Center of the School of General Studies of the University of Virginia, and~~

299 ~~Wytheville Branch of the Virginia Polytechnic Institute and State University.~~

300 ~~Provided, however, that no such transfer shall take place with respect to any individual~~
301 ~~institution specified in the next preceding paragraph until (1) the Advisory Committee on~~
302 ~~Community Colleges certifies to the State Board and the Governor that such individual~~
303 ~~institution has demonstrated the requirements necessary for accreditation by the Southern~~
304 ~~Association of Colleges and Schools and (2) the Governor signifies in writing his approval of~~
305 ~~such transfer. If such certification by the Advisory Committee is not made with respect to any~~
306 ~~individual institution prior to July 1, 1967, then certification shall only be made between July~~
307 ~~one and August one of any succeeding year, and such transfer shall take place, if the Governor~~
308 ~~signifies in writing his approval of such transfer, on July one next following the date on which~~
309 ~~such certification is made.~~

310 ~~The college or university of which any individual institution is a part shall cooperate in~~
311 ~~obtaining certification for such institution. As soon as practicable, the State Board shall request~~
312 ~~individual accreditation of the institutions specified in this section by the Southern Association~~
313 ~~of Colleges and Schools.~~

314 ~~Notwithstanding any provision of this subsection or any other provision of this chapter,~~
315 ~~it is further provided that by agreement between the State Board and the governing body of the~~
316 ~~college or university of which any such individual institution is a part, and with the approval of~~
317 ~~the Governor, such transfer may take place prior to July 1, 1967, or any date subsequent thereto.~~

318 ~~(b) Effective July 1, 1966, the physical facilities, assets and programs of existing~~
319 ~~technical colleges and all assets of the existing State Board and Department of Technical~~
320 ~~Education shall be transferred to and placed under the control and administration of the State~~
321 ~~Board for Community Colleges.~~

322 ~~(c) Effective July 1, 1966, all educational programs for post high school age youth and~~
323 ~~adults in existing area career and technical schools under the State Board of Education shall be~~
324 ~~transferred to and placed under the control and government of the State Board for Community~~
325 ~~Colleges.~~

326 ~~(d) All the real estate and personal property now existing and heretofore [before July 1,~~
327 ~~1966] standing in the name of institutions or boards included in subsections (a) and (b) of this~~
328 ~~section shall, on the dates set forth in such subsections, be transferred to and taken as standing in~~
329 ~~the name of the State Board for Community Colleges.~~

330 ~~(e) In effecting the transfers specified in this section, the State Board for Community~~
331 ~~Colleges shall respect any existing financial investment of local communities in these~~
332 ~~institutions by establishing policies which will insure an equitable method of financing future~~
333 ~~developments.~~

334 **Drafting note: The provisions of existing § 23-222 are stricken as obsolete.**

335 ~~§ 23-223 23.1-29xx. Chancellor of Community Colleges generally.~~

336 ~~(a) A. The State Board shall appoint a Chancellor of Community Colleges, hereinafter~~
337 ~~sometimes called the Chancellor, shall be appointed by the State Board for Community~~
338 ~~Colleges. Any vacancy shall be filled by the Board. The Chancellor shall to be the chief~~
339 ~~executive officer of the System. The Chancellor shall, without additional compensation, serve as~~
340 ~~and secretary to the State Board for Community Colleges and shall fix his salary.~~

341 ~~(b) The salary of the Chancellor shall be fixed by the Board.~~

342 ~~(e) B. Before entering upon the discharge of the duties of his office, the Chancellor shall~~
343 ~~qualify by taking and subscribing the oath required of all officers of the Commonwealth~~
344 ~~pursuant to § 49-1.~~

345 ~~§ 23-224. Duties of Chancellor generally.~~

346 ~~(a) It shall be the duty of the C. The Chancellor of Community Colleges to formulate~~
347 ~~shall:~~

348 1. Formulate such ~~rules~~ policies and regulations; and provide for such assistance in his
349 office as shall be necessary for the proper performance of the duties prescribed by the provisions
350 of this chapter.;

351 ~~(b) The State Board shall prescribe the duties of the Chancellor, in addition to those~~
352 ~~duties otherwise prescribed for him by law, and, in its discretion, approve the appointment by~~
353 ~~the Chancellor of such agents and employees as may be needed by the Chancellor in the~~
354 ~~exercise of the functions, duties and powers conferred and imposed by law and in order to effect~~
355 ~~a proper organization to carry out his duties.~~

356 **Note to work group: Amended in 2015.**

357 ~~§ 23-225. Agents and employees generally.~~

358 ~~The functions, duties, powers and titles of the agents and employees provided for in §~~
359 ~~23-224, their salaries and remunerations, not in excess provided therefor by law, shall be fixed~~
360 ~~by the Chancellor with the approval of the State Board and subject to~~

361 2. Appoint agents and employees and fix their functions, powers, duties, titles, and
362 salaries, subject to the approval of the State Board and the provisions of ~~Chapter 29~~ the Virginia
363 Personnel Act (§ 2.2-2900 et seq.) ~~of Title 2.2.;~~

364 ~~§ 23-227. Annual report.~~

365 ~~The Chancellor shall submit~~ 3. Submit an annual report to the Governor and General
366 Assembly on or before November 1 of each year. Such report shall contain, at a minimum, the
367 annual financial statements for the year ending the preceding June 30 and the accounts and
368 status of any ongoing capital projects.;

369 ~~§ 23-228. Forms.~~

370 ~~The Chancellor shall prescribe~~ 4. Prescribe the forms of applications, reports, affidavits,
371 and such other forms as ~~shall~~ may be required in the administration of ~~the~~ this chapter.;

372 ~~§ 23-229. Cooperation with federal agencies; federal grants in aid generally.~~

373 ~~(a) Subject to the direction of the Board, the Chancellor shall cooperate~~ 5. Cooperate
374 with agencies of the United States in relation to matters set forth in this chapter; and in any

375 reasonable manner that may be necessary for the Commonwealth to qualify for and to receive
376 grants or aid from such federal agencies, subject to the direction of the State Board-

377 ~~(b) Nothing in this chapter shall preclude any other agency, board or officer of the~~
378 ~~Commonwealth from being designated as the directing or allocating agency, board or officer for~~
379 ~~the distribution of federal grants in aid or the performance of other duties to the extent~~
380 ~~necessary to qualify for and to receive grants in aid for programs and institutions under the~~
381 ~~administration of the State Board for Community Colleges; and~~

382 ~~§ 23-231. Enforcement of standards for personnel.~~

383 ~~The Chancellor shall enforce~~ 6. Enforce the standards established by the State Board for
384 personnel employed in the administration of this chapter and remove or cause to be removed
385 each employee who does not meet such standards.

386 ~~§ 23-230. Chancellor authorized to receive grants in aid and gifts; payment of funds into~~
387 ~~state treasury.~~

388 D. The Chancellor is authorized to receive, for and on behalf of the Commonwealth and
389 its subdivisions, from the United States and agencies ~~thereof, and from~~ of the United States and
390 any ~~and all~~ other ~~sources, source~~ grants-in-aid and gifts, made for the purpose of providing, or ~~to~~
391 assist ~~assist~~ in providing, any career and technical, or other, education or educational
392 programs authorized by this chapter, including expenses of administration. All such funds shall
393 be paid into the state treasury. However, nothing in this chapter shall preclude any other agency,
394 board, or officer of the Commonwealth from being designated as the directing or allocating
395 agency, board, or officer for the distribution of federal grants-in-aid or the performance of other
396 duties to the extent necessary to qualify for and to receive grants-in-aid for programs and
397 institutions under the administration of the State Board.

398 **Drafting note: Existing § 23-223, relating to the Chancellor of Community Colleges**
399 **generally, is expanded as proposed § 23.1-29xx to incorporate the Chancellor's powers and**
400 **duties from multiple existing sections as follows:**

401 **1. Subsection (a) of existing § 23-224 is relocated as proposed subdivision C 1;**

402 2. Subsection (b) of existing § 23-224 and existing § 23-225 are combined to create
403 proposed subdivision C 2;

404 3. Existing § 23-227 is relocated as proposed subdivision C 3;

405 4. Existing § 23-228 is relocated as proposed subdivision C 4;

406 5. Subsection (a) of existing § 23-229 is relocated as proposed subdivision C 5, and
407 subsection (b) of existing § 23-229 is relocated as the second sentence of proposed
408 subsection D;

409 6. Existing § 23-231 is relocated as proposed subdivision C 6; and

410 7. Existing § 23-230 is relocated as proposed subsection D, the second sentence of
411 which is derived from subsection (b) of existing § 23-229.

412 § ~~23-226~~ 23.1-xxx. Bonds of agents and System employees.

413 Proper bonds shall be required of all agents and employees who ~~shall~~ handle any funds
414 ~~which that~~ may come into the custody of the System. The premiums on the bonds shall be paid
415 from funds appropriated by the Commonwealth for the administration of the provisions of this
416 chapter.

417 **Drafting note: Technical changes.**

418 § ~~23-224~~ 23.1-29xx. ~~Adherence to policies of State Council of Higher Education;~~
419 ~~extension~~ Extension programs; similar courses of study.

420 ~~The State Board shall adhere to the policies of the State Council of Higher Education for~~
421 ~~the coordination of higher education as required by law.~~

422 In any area served by a comprehensive community college, no public institution of
423 higher ~~learning which~~ education that conducts extension programs shall, ~~after July 1, 1966~~, offer
424 courses of study similar to those offered by a comprehensive community college, except as
425 authorized by the ~~State Council of Higher Education~~. Whenever practicable, the State Board
426 shall provide facilities to such public institutions of higher ~~learning~~ education for conducting
427 extension programs not in conflict with the provisions of this chapter.

428 **Drafting note: The first paragraph of existing § 23-221 is relocated as subdivision 8**
429 **of proposed § 23.1-29xx (existing § 23-218). Technical changes are made.**

430 ~~§ 23-231.1~~ 23.1-29xx. Community College Week.

431 The ~~General Assembly finds that the community colleges in Virginia provide the general~~
432 ~~public with quality educational services which contribute to maintaining a knowledgeable and~~
433 ~~skilled citizenry. In recognition of these services, the~~ fourth week in January of every year
434 ~~beginning in 1986~~ shall be declared "Community College Week." ~~The~~ and the State Board ~~for~~
435 ~~Community Colleges~~ may approve such activities in observance of this week as it deems
436 appropriate.

437 **Drafting note: The statement of legislative finding by the General Assembly is**
438 **stricken per the Code Commission policy regarding such statements. Technical changes**
439 **are made.**

440 ~~§ 23-220.01~~ 23.1-29xx. ~~Apprenticeship program for employees of ship manufacturing~~
441 ~~and ship repair companies; fund~~ Shipyard workers; applied sciences and apprenticeship
442 programs; Virginia Vocational Incentive Scholarship Program for Shipyard Workers; Fund.

443 A. For purposes of this section:

444 "Applied sciences program" means a three-year program of educational instruction at the
445 college that incorporates instruction in industrial applied sciences and leads to the conferral of
446 an Associate in Applied Science degree on any person who successfully completes such
447 program.

448 "Apprenticeship program" means a three-year program at the college combining
449 educational instruction and on-the-job training that is established for the purpose of enhancing
450 the education and skills of shipyard workers.

451 "College" means the Tidewater Community College.

452 "Industrial applied sciences" may include applied sciences such as welding, burning,
453 blasting, and other applied sciences.

454 "Shipyard worker" means any employee employed full time on a salaried or wage basis,
455 whose tenure is not restricted as to temporary or provisional appointment, at a ship
456 manufacturing or ship repair company located in the Commonwealth.

457 B. The Virginia Vocational Incentive Scholarship Program for Shipyard Workers is
458 established.

459 C. From such funds as are appropriated for this purpose and from such gifts, donations,
460 grants, bequests, and other funds as may be received on its behalf, there is hereby created in the
461 state treasury a special nonreverting fund to be known as the Virginia Vocational Incentive
462 Scholarship Program for Shipyard Workers Fund, referred to in this section as "the Fund." The
463 Fund shall be established on the books of the Comptroller. Interest earned on moneys in the
464 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,
465 including interest thereon, at the end of each fiscal year shall not revert to the general fund but
466 shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i)
467 awarding scholarships to shipyard workers enrolled at the college in the applied sciences
468 program or the apprenticeship program or (ii) the administration and implementation of the
469 applied sciences program or the apprenticeship program or both. Expenditures and
470 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
471 Comptroller upon written request signed by the president of Tidewater Community College.

472 D. Subject to the ~~State Council of Higher Education for Virginia's Council's~~ authority to
473 approve or disapprove all new academic programs as provided in subdivision ~~5. xx~~ of § ~~23-9.6:1~~
474 ~~23.1-xxx~~, the college may offer ~~a three-year program of educational instruction that incorporates~~
475 ~~instruction in industrial applied sciences. An Associate in Applied Science Degree shall be~~
476 ~~conferred on any person successfully completing such academic program. The college may an~~
477 ~~applied sciences program and~~ coordinate such ~~academic~~ program with an apprenticeship
478 program offered to shipyard workers by their employers.

479 ~~C-E.~~ Beginning in the calendar year that the Council approves ~~such academic~~ an applied
480 sciences program and for calendar years thereafter, shipyard workers who are (i) domiciled

481 residents of Virginia as described in § ~~23-7.4~~ 23.1-xxx and (ii) enrolled as ~~full-~~ full-time or part-
482 time students in ~~such academic~~ the applied sciences program; shall be eligible for scholarships
483 for such program. Renewal of the scholarships of such shipyard workers shall be contingent
484 upon maintaining (a) enrollment in ~~such academic~~ the applied sciences program, (b) a
485 cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent at the
486 completion of each academic year, and (c) full-time employment as a shipyard worker.

487 F. The college shall award scholarships to eligible students in the applied sciences
488 program or the apprenticeship program for no more than three academic years. Scholarship
489 amounts shall not exceed full tuition and required fees relating to such academic program or the
490 apprenticeship program.

491 ~~D.-G.~~ Before any scholarship is awarded in accordance with the provisions of this
492 section, the scholarship recipient shall sign a promissory note under which he agrees (i) to
493 continue full-time employment as a shipyard worker until his graduation and (ii) upon
494 graduation, to work continuously as a shipyard worker for the same number of years that he was
495 the beneficiary of ~~such~~ the scholarship. The college shall recover the total amount of funds
496 awarded as a scholarship, or the appropriate portion thereof, including any accrued interest, if
497 the scholarship recipient fails to honor such requirements.

498 ~~E. There is hereby created the Virginia Vocational Incentive Scholarship Program for~~
499 ~~Shipyard Workers to provide scholarships to shipyard workers enrolled at the college either in~~
500 ~~such academic program or in the apprenticeship program.~~

501 ~~F. From such funds as are appropriated for this purpose and from such gifts, donations,~~
502 ~~grants, bequests, and other funds as may be received on its behalf, there is hereby created in the~~
503 ~~state treasury a special nonreverting fund to be known as the Virginia Vocational Incentive~~
504 ~~Scholarship Program for Shipyard Workers Fund, referred to in this section as "the Fund." The~~
505 ~~Fund shall be established on the books of the Comptroller. Interest earned on moneys in the~~
506 ~~Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,~~
507 ~~including interest thereon, at the end of each fiscal year shall not revert to the general fund but~~

508 ~~shall remain in the Fund. Funds may be paid to the college on behalf of shipyard workers who~~
 509 ~~have been awarded scholarships pursuant to subsection C and shipyard workers in the~~
 510 ~~apprenticeship program. Funds may also be used for the administration and implementation of~~
 511 ~~such academic program and/or the apprenticeship program.~~

512 ~~Expenditures and disbursements from the Fund shall be made by the State Treasurer on~~
 513 ~~warrants issued by the Comptroller upon written request signed by the President of Tidewater~~
 514 ~~Community College.~~

515 ~~G.-H.~~ The Council shall promulgate regulations for the implementation of the provisions
 516 of this section ~~and the college shall award scholarships to eligible students for no more than~~
 517 ~~three academic years. Scholarship amounts shall not exceed full tuition and required fees~~
 518 ~~relating to such academic program or the apprenticeship program.~~

519 **Drafting note: A definition of "applied sciences program" has been created and the**
 520 **term has been used in several places in proposed § 23.1-29xx in lieu of "such academic**
 521 **program" and similar phrases used in existing § 23-220.01. Subsections E and F of existing**
 522 **§ 23-220.01 are logically reordered as subsections B and C of proposed § 23.1-29xx. The**
 523 **language in existing subsection C is updated to conform more closely to language currently**
 524 **used to designate other special funds in the Code.**

525 23-220.4 [placeholder]

526 **Note to work group: Added in 2015 (academic credit for military training).**

527 § ~~23-231.1:1~~ 23.1-29xx. Machinery and Equipment Donation Grant Program and Fund
 528 established.

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

530 ~~"Chancellor" means the Chancellor of the System.~~

531 "Machinery and equipment" means engines, machines, motors, mechanical devices,
 532 laboratory trainers, computers, printers, tools, parts, and similar machinery and equipment as set
 533 forth in guidelines developed by the System. "Machinery and equipment" includes specialized

534 software required for the operation of machinery and equipment qualified for a grant pursuant to
535 this section.

536 "Vocational school" means any entity that offers career or technical education
537 administered by the Department of Education pursuant to § 22.1-227. "Vocational school" does
538 not include instructional programs that are intended solely for recreation, enjoyment, or personal
539 interest, or as a hobby, or courses or programs of instruction that prepare individuals to teach
540 such pursuits.

541 B. From such funds as may be appropriated by the General Assembly and any gifts,
542 grants, or donations from public or private sources, there is hereby created in the state treasury a
543 special nonreverting fund to be known as the Machinery and Equipment Donation Grant Fund,
544 hereafter referred to as "the Fund." The Fund shall be established on the books of the
545 Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to
546 it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year
547 shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be
548 used solely for the purposes of awarding grants [through the Machinery and Equipment Donation](#)
549 [Grant Program](#) for qualified donations of machinery and equipment to comprehensive
550 community colleges and vocational schools. Expenditures and disbursements from the Fund
551 shall be made by the State Treasurer on warrants issued by the Comptroller upon written request
552 signed by the Chancellor.

553 C. 1. A business that donates new machinery and equipment in good working condition,
554 purchased within the 12 months prior to the donation, to a comprehensive community college or
555 vocational school shall be eligible to apply to the System for a grant from the Fund. Such grant
556 shall be in an amount equal to 20 percent of the purchase price of the machinery or equipment,
557 not to exceed an aggregate grant of \$5,000 for all such donations during a calendar year.

558 2. In order to be eligible for a grant, the application shall include a written certification
559 made by the donee comprehensive community college or vocational school that identifies the
560 donee comprehensive community college or vocational school, the business donating the

561 machinery or equipment, the date of the donation, and the number of units of each item of
562 machinery and equipment donated. The certification shall also include a statement by the donee
563 comprehensive community college or vocational school that the machinery and equipment was
564 needed and can be utilized by the comprehensive community college or vocational school for
565 teaching or training students, and that such machinery and equipment will be principally used in
566 [Virginia the Commonwealth](#) in teaching or training students.

567 3. Grants shall be issued in the order that each completed application is received. In the
568 event that the amount of eligible grants requested in a fiscal year exceeds the funds available in
569 the Fund, such grants shall be paid in the next fiscal year in which funds are available.

570 4. In consultation with the Department of Education and the ~~State Council of Higher~~
571 ~~Education for Virginia~~, the System shall maintain and update as necessary on its website a list of
572 vocational schools to which donations of machinery and equipment may qualify for a grant
573 under this section. The System, in consultation with the ~~State Council of Higher Education for~~
574 ~~Virginia~~, shall also develop guidelines setting forth the general requirements for qualifying for
575 and applying for a grant under this section, including a description of the types of machinery
576 and tools eligible for a grant pursuant to this section. Such guidelines shall be exempt from the
577 Administrative Process Act (§ 2.2-4000 et seq.).

578 **Drafting note: Technical changes are made, including relocating the definition of**
579 **"Chancellor" to the proposed chapter-wide definitions section, § 23.1-29xx, and**
580 **abbreviating references to the State Council of Higher Education for Virginia, the**
581 **definition of which appears in the proposed title-wide definitions section, § 23.1-1xx.**

582 #



COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

DAVID B. ALBO
6367 ROLLING MILL PLACE, SUITE 102
SPRINGFIELD, VIRGINIA 22152

FORTY-SECOND DISTRICT

February 27, 2015

COMMITTEE ASSIGNMENTS:
COURTS OF JUSTICE (CHAIRMAN)
PRIVILEGES AND ELECTIONS
GENERAL LAWS

The Honorable John S. Edwards
Chair, Virginia Code Commission
P.O. Box 1179
Roanoke, VA 24006

Dear Senator Edwards,

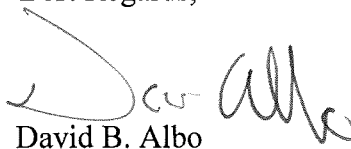
During the 2015 legislative session the Courts of Justice Committee tabled identical bills HB 1600 and SB 1211, which concerned the use of gender-specific terms in the Code of Virginia:

- **HB 1600** (Simon) and **SB 1211** (Ebbin)
Gender-specific references. Revises references to certain gender-specific terms in the Code of Virginia in light of the 2014 *Bostic v. Rainey* decision, 970 F.Supp.2d 456 (E.D. Va. 2014), *cert. denied*, 83 U.S.L.W. 3189 (U.S. Oct. 6, 2014), which struck down Virginia's ban on same-sex marriage.

However, the Committee felt that the subject matter was in keeping with the responsibilities of the Code Commission. Therefore, we would appreciate the Commission reviewing these bills over the course of the year and making any suggestions for clarification or improvement.

If you have any questions regarding these bills, please let me know.

Best Regards,


David B. Albo

CC: The Honorable Marcus Simon
The Honorable Adam P. Ebbin



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2015 SESSION

| print version

HB 1600 Gender-specific terms; revises certain references.

Introduced by: [Marcus B. Simon](#) | [all patrons](#) ... [notes](#) | [add to my profiles](#)

SUMMARY AS INTRODUCED:

Gender-specific references. Revises references to certain gender-specific terms in the Code of Virginia in light of the 2014 *Bostic v. Rainey* decision, 970 F.Supp.2d 456 (E.D. Va. 2014), *cert. denied*, 83 U.S.L.W. 3189 (U.S. Oct. 6, 2014), which struck down Virginia's ban on same-sex marriage.

FULL TEXT

01/08/15 House: Prefiled and ordered printed; offered 01/14/15 15102472D pdf

HISTORY

01/08/15 House: Prefiled and ordered printed; offered 01/14/15 15102472D

01/08/15 House: Referred to Committee for Courts of Justice

01/13/15 House: Assigned Courts sub: Civil Law

01/28/15 House: Subcommittee recommends laying on the table by voice vote

02/10/15 House: Left in Courts of Justice

ACROSS SESSIONS

Subject Index: *Since 1995*

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of Legislative Automated Systems.

15102472D

HOUSE BILL NO. 1600

Offered January 14, 2015

Prefiled January 8, 2015

A *BILL to amend and reenact §§ 1-216 and 32.1-271 of the Code of Virginia, relating to gender-specific terms.*

Patrons—Simon, Carr, Hope, Kory, Lindsey, Lopez, McClellan, McQuinn, Plum, Rasoul, Sickles, Sullivan, Surovell and Watts; Senators: Ebbin, Edwards, Favola, Howell, Lewis, Locke, Puller and Saslaw

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 1-216 and 32.1-271 of the Code of Virginia are amended and reenacted as follows:

§ 1-216. Gender.

A. A word used in the masculine includes the feminine and neuter.

B. *Unless the context clearly indicates otherwise:*

1. *The terms "father" and "mother" may mean any parent of a child.*

2. *The terms "husband" and "wife" mean either spouse to a marriage.*

3. *The terms "maternal" or "paternal" when describing any familial relationship may be used interchangeably.*

§ 32.1-271. Disclosure of information in records; when unlawful; when permitted; proceeding to compel disclosure; when certain records made public.

A. To protect the integrity of vital records and to ensure the efficient and proper administration of the system of vital records, it shall be unlawful, notwithstanding the provisions of §§ 2.2-3700 through 2.2-3714, for any person to permit inspection of or to disclose information contained in vital records or to copy or issue a copy of all or part of any such vital records except as authorized by this section or regulation of the Board or when so ordered by a court of the Commonwealth.

B. Data contained in vital records may be disclosed for valid and substantial research purposes in accordance with the regulations of the Board.

C. Any person aggrieved by a decision of a county or city registrar may appeal to the State Registrar. If the State Registrar denies disclosure of information or inspection of or copying of vital records, such person may petition the court of the county or city in which he resides if he resides in the Commonwealth or in which the recorded event occurred or the Circuit Court of the City of Richmond, Division I, for an order compelling disclosure, inspection or copying of such vital record. The State Registrar or his authorized representative may appear and testify in such proceeding.

D. When 100 years have elapsed after the date of birth, or 25 years have elapsed after the date of death, marriage, divorce, or annulment the records of these events in the custody of the State Registrar shall, unless precluded from release by statute or court order, or at law-enforcement request, become public information and be made available in accordance with regulations that shall provide for the continued safekeeping of the records. All records that are public information on July 1, 1983, shall continue to be public information. Original records in the custody of the State Registrar that become public information shall be turned over to the Library of Virginia for safekeeping and for public access consistent with other state archival records, subject to the State Registrar and the Library of Virginia entering into a memorandum of understanding to arrange for continued prompt access by the State Registrar to original records for purposes of amendments to those records or other working purposes. The State Registrar's office may retain copies thereof for its own administrative and disclosure purposes.

E. The State Registrar or the city or county registrar shall disclose data about or issue a certified copy of a birth certificate of a child to the grandparent of the child upon the written request of the grandparent when the grandparent has demonstrated to the State Registrar evidence of need, as prescribed by Board regulation, for the data or birth certificate.

F. The State Registrar or the city or county registrar shall issue a certified copy of a death certificate to the grandchild or great-grandchild of a decedent in accordance with procedures prescribed by the Board in regulation.

G. The State Registrar or the city or county registrar shall disclose data about or issue a certified copy of a death certificate to a nonprofit organ, eye or tissue procurement organization that is a member of the Virginia Transplant Council for the purpose of determining the suitability of organs, eyes and tissues for donation, as prescribed by the Board in regulations. Such regulations shall ensure that the information disclosed includes the cause of death and any other medical information necessary to

INTRODUCED

HB1600

57 determine the suitability of the organs, eyes and tissues for donation.

58 H. The State Registrar shall seek to enter into a long-term contract with a private company
59 experienced in maintaining genealogical research databases to create, maintain, and update such an
60 online index at no direct cost to the Commonwealth, in exchange for allowing the private company to
61 also provide such index to its subscribers and customers. The online index shall be designed and
62 constructed to have the capability of allowing birth, marriage, divorce, and death entries on the index to
63 be linked to a digital image of the underlying original birth, marriage, divorce, or death record once any
64 such underlying record has become public information, and the index shall be designed to allow the
65 Library of Virginia to create and activate such links to digital images of the original records. Any social
66 security numbers appearing on original birth, marriage, divorce, or death records shall be redacted from
67 the digital images provided to the public in the manner provided by law, which may include bulk
68 redaction of social security fields from the images via automated methods.

69 Following contract implementation, the State Registrar shall maintain a publicly available online vital
70 records index or indexes, consisting at a minimum of name, date, and county or city of occurrence for
71 births (naming the child), marriages (naming the ~~bride and groom~~ *parties*), divorces (naming the parties
72 to the divorce), and deaths (naming the decedent), which vital records index information, except as
73 otherwise precluded from release by statute, court order, or law-enforcement request, shall be public
74 information from the time of its receipt by the State Registrar and shall be accessible on the State
75 Registrar's website and on or through the Library of Virginia website.



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2015 SESSION

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SB 1211 Gender-specific references; revisions to certain terms in the Code of Virginia.

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SUMMARY AS INTRODUCED:

Gender-specific references. Revises references to certain gender-specific terms in the Code of Virginia in light of the 2014 *Bostic v. Rainey* decision, 970 F.Supp.2d 456 (E.D. Va. 2014), *cert. denied*, 83 U.S.L.W. 3189 (U.S. Oct. 6, 2014), which struck down Virginia's ban on same-sex marriage. The bill also makes technical amendments.

FULL TEXT

[01/13/15 Senate: Prefiled and ordered printed; offered 01/14/15 15103437D pdf](#)

HISTORY

01/13/15 Senate: Prefiled and ordered printed; offered 01/14/15 15103437D

[01/13/15 Senate: Referred to Committee on General Laws and Technology](#)

[01/26/15 Senate: Reported from General Laws and Technology \(12-Y 2-N\)](#)

[01/28/15 Senate: Constitutional reading dispensed \(38-Y 0-N\)](#)

01/29/15 Senate: Read second time and engrossed

01/30/15 Senate: Passed by for the day

02/02/15 Senate: Passed by for the day

[02/03/15 Senate: Read third time and passed Senate \(20-Y 18-N\)](#)

02/06/15 House: Placed on Calendar

02/06/15 House: Read first time

[02/06/15 House: Referred to Committee on General Laws](#)

02/10/15 House: Referred from General Laws by voice vote

[02/10/15 House: Referred to Committee for Courts of Justice](#)

[02/10/15 House: Assigned Courts sub: Civil Law](#)

ACROSS SESSIONS

Subject Index: *Since 1995*

Bills & Resolutions: *Since 1994*

Summaries: *Since 1994*

Developed and maintained by the Division
of Legislative Automated Systems.

02/11/15 House: Subcommittee recommends laying on the table by voice vote

02/24/15 House: Left in Courts of Justice

15103437D

SENATE BILL NO. 1211

Offered January 14, 2015

Prefiled January 13, 2015

A BILL to amend and reenact §§ 1-216, 11-8, and 32.1-271 of the Code of Virginia, relating to gender-specific terms.

Patrons—Ebbin; Delegate: Simon

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 1-216, 11-8, and 32.1-271 of the Code of Virginia are amended and reenacted as follows:

§ 1-216. Gender.

A. A word used in the masculine includes the feminine and neuter.

B. Unless the context clearly indicates otherwise:

1. The terms "father" and "mother" may mean any parent of a child.

2. The terms "husband" and "wife" mean either spouse to a marriage.

3. The terms "maternal" or "paternal" when describing any familial relationship may be used interchangeably.

§ 11-8. Instruments executed by minors or unmarried widows or widowers to obtain benefits under certain federal legislation.

Any person under the age of ~~eighteen~~ 18 or any widow or widower who has not remarried who is eligible for a guaranty of credit under the provisions of Title III of an Act of Congress of the United States approved June 22, 1944, entitled the "Servicemen's Readjustment Act of 1944," as now or hereafter amended, or other like federal law, shall be, upon complying with the terms of this section, qualified to contract for and purchase any real or personal property with respect to which the guaranteed loan is to be made, to execute the note or other evidence of the loan indebtedness, and to secure the debt by the execution of a deed of trust or chattel mortgage, or other instrument, upon the real or personal property acquired as aforesaid in connection with the proposed loan or theretofore acquired by such person, whether by purchase or otherwise, and such person shall, in all respects, be bound by such contracts or other instruments entered into as though he or she were of full age.

When any such person is under the age of ~~eighteen~~ 18 years, no contract, note, deed of trust, mortgage, or other instrument required to obtain benefits under such federal legislation shall be executed by such person unless the circuit or corporation court of the city or county, or judge thereof in vacation, in which the property is located or to be used, after a petition signed by any such person shall have been filed with it or him, approve the same. Such petition shall set forth the facts pertaining to the proposed transaction and shall state why the judge or court should approve and authorize the execution of the necessary instruments.

The petition shall be heard by the court without a jury and its decision thereon shall be final. A guardian ad litem shall be appointed who shall make an investigation and report in writing whether in his opinion the best interest of the petitioner would be served by permitting the petitioner to enter into such transaction and the report shall be filed with the papers in the case. No such petition shall be approved by the court unless such approval is recommended by the report of the guardian ad litem and unless it is also recommended by the testimony of at least two disinterested and qualified witnesses appointed by the court, or the judge thereof in vacation. The order of approval shall recite the recommendation of the guardian ad litem and the witnesses and also their names and addresses. And the judge of the court hearing the case shall fix a reasonable fee for the attorneys and guardians ad litem.

The court, if of opinion that entry into such transaction would benefit the petitioner, shall approve the prayer of the petition and the petitioner, if he enter into such transaction and execute any instrument required therein, shall be bound thereby as if of full age whether all or part of the obligation secured be so guaranteed.

All rights which have accrued or obligations which have arisen under this section prior to January 30, 1947, are hereby declared valid and binding.

If the court approve the prayer of the petition such approval shall operate to vest title and confer the power to encumber or convey title to real or personal property acquired pursuant to such approval.

Any infant spouse of an infant veteran permitted by the court to make loans under this section may unite in any conveyance to effectuate such a loan as if he or she was a spouse of an adult signing as provided under the provisions of § ~~55-42~~ 64.2-301, relating to the removal of disability of infancy in

INTRODUCED

SB1211

59 certain cases.

60 **§ 32.1-271. Disclosure of information in records; when unlawful; when permitted; proceeding to**
61 **compel disclosure; when certain records made public.**

62 A. To protect the integrity of vital records and to ensure the efficient and proper administration of
63 the system of vital records, it shall be unlawful, notwithstanding the provisions of §§ 2.2-3700 through
64 2.2-3714, for any person to permit inspection of or to disclose information contained in vital records or
65 to copy or issue a copy of all or part of any such vital records except as authorized by this section or
66 regulation of the Board or when so ordered by a court of the Commonwealth.

67 B. Data contained in vital records may be disclosed for valid and substantial research purposes in
68 accordance with the regulations of the Board.

69 C. Any person aggrieved by a decision of a county or city registrar may appeal to the State
70 Registrar. If the State Registrar denies disclosure of information or inspection of or copying of vital
71 records, such person may petition the court of the county or city in which he resides if he resides in the
72 Commonwealth or in which the recorded event occurred or the Circuit Court of the City of Richmond,
73 Division I, for an order compelling disclosure, inspection or copying of such vital record. The State
74 Registrar or his authorized representative may appear and testify in such proceeding.

75 D. When 100 years have elapsed after the date of birth, or 25 years have elapsed after the date of
76 death, marriage, divorce, or annulment the records of these events in the custody of the State Registrar
77 shall, unless precluded from release by statute or court order, or at law-enforcement request, become
78 public information and be made available in accordance with regulations that shall provide for the
79 continued safekeeping of the records. All records that are public information on July 1, 1983, shall
80 continue to be public information. Original records in the custody of the State Registrar that become
81 public information shall be turned over to the Library of Virginia for safekeeping and for public access
82 consistent with other state archival records, subject to the State Registrar and the Library of Virginia
83 entering into a memorandum of understanding to arrange for continued prompt access by the State
84 Registrar to original records for purposes of amendments to those records or other working purposes.
85 The State Registrar's office may retain copies thereof for its own administrative and disclosure purposes.

86 E. The State Registrar or the city or county registrar shall disclose data about or issue a certified
87 copy of a birth certificate of a child to the grandparent of the child upon the written request of the
88 grandparent when the grandparent has demonstrated to the State Registrar evidence of need, as
89 prescribed by Board regulation, for the data or birth certificate.

90 F. The State Registrar or the city or county registrar shall issue a certified copy of a death certificate
91 to the grandchild or great-grandchild of a decedent in accordance with procedures prescribed by the
92 Board in regulation.

93 G. The State Registrar or the city or county registrar shall disclose data about or issue a certified
94 copy of a death certificate to a nonprofit organ, eye or tissue procurement organization that is a member
95 of the Virginia Transplant Council for the purpose of determining the suitability of organs, eyes and
96 tissues for donation, as prescribed by the Board in regulations. Such regulations shall ensure that the
97 information disclosed includes the cause of death and any other medical information necessary to
98 determine the suitability of the organs, eyes and tissues for donation.

99 H. The State Registrar shall seek to enter into a long-term contract with a private company
100 experienced in maintaining genealogical research databases to create, maintain, and update such an
101 online index at no direct cost to the Commonwealth, in exchange for allowing the private company to
102 also provide such index to its subscribers and customers. The online index shall be designed and
103 constructed to have the capability of allowing birth, marriage, divorce, and death entries on the index to
104 be linked to a digital image of the underlying original birth, marriage, divorce, or death record once any
105 such underlying record has become public information, and the index shall be designed to allow the
106 Library of Virginia to create and activate such links to digital images of the original records. Any social
107 security numbers appearing on original birth, marriage, divorce, or death records shall be redacted from
108 the digital images provided to the public in the manner provided by law, which may include bulk
109 redaction of social security fields from the images via automated methods.

110 Following contract implementation, the State Registrar shall maintain a publicly available online vital
111 records index or indexes, consisting at a minimum of name, date, and county or city of occurrence for
112 births (naming the child), marriages (naming the ~~bride and groom~~ *parties*), divorces (naming the parties
113 to the divorce), and deaths (naming the decedent), which vital records index information, except as
114 otherwise precluded from release by statute, court order, or law-enforcement request, shall be public
115 information from the time of its receipt by the State Registrar and shall be accessible on the State
116 Registrar's website and on or through the Library of Virginia website.

Requesting Comments on Future Code of Virginia Title Recodifications

The Virginia Code Commission, which is responsible for publishing and maintaining the Code of Virginia, is considering which title of the Code of Virginia to select next for recodification and accepting comments relating to this selection.

Generally, the commission selects a title for recodification on the basis of the need to logically reorganize content, modernize language, and reflect current Code style and numbering schemes. To the extent practical, the commission avoids making substantive changes to the statutory text. In the event that a substantive change is made, the change is highlighted and explained in a final report. More information on title recodification can be found on the commission's website: http://codecommission.dls.virginia.gov/title_23.shtml.

The commission is currently working on the recodification of **Title 23, Educational Institutions**, assisted by an advisory panel of practitioners experienced in this subject area. The completion of work on proposed Title 23.1, Educational Institutions, is expected by the end of 2015, with the introduction of resulting legislation expected in the 2016 Session of the General Assembly.

Titles considered as recodification candidates include: Titles **8.01** (Civil Remedies and Procedure), **22.1** (Education), **36** (Housing), **40.1** (Labor and Employment), **45.1** (Mines and Mining), and **55** (Property and Conveyances).

The commission is scheduled to meet on May 4, 2015, at 10 a.m. in the General Assembly Building, 6th Floor, Speaker's Conference Room, Richmond, VA 23219 to discuss title recodification candidates and review comments.

Comments received by May 3, 2015, will be considered at the May 4 meeting. Comments may be emailed to vacode@dls.virginia.gov or mailed to Virginia Code Commission, General Assembly Building, 2nd Floor, 201 North Ninth Street, Richmond, VA 23219.

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

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

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

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

⁴ Title 8.6A was repealed as obsolete in 2011.

Code of Virginia Titles with Recodification Dates

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

Updated 3-31-2015

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

⁵ Title 9 was repealed in 2001; certain material was incorporated into Titles 2.2, 3.1, and 30.

⁶ Title 14.1 was repealed in 1998; provisions relating to costs, fees, salaries, and allowances are now located throughout the Code of Virginia.

Code of Virginia Titles with Recodification Dates

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

Updated 3-31-2015

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

⁷ Titles 26 and 31 were repealed in 2012 and their provisions incorporated into Title 64.2.

⁸ Title 39.1 was repealed in 1973 and its provisions incorporated into Title 19.2.

Code of Virginia Titles with Recodification Dates

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

Updated 3-31-2015

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

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

Code of Virginia Titles with Recodification Dates

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

Updated 3-31-2015

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

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



COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

THOMAS DAVIS RUST
HERNDON TOWN HALL
730 ELDEN STREET
HERNDON, VIRGINIA 20170

EIGHTY-SIXTH DISTRICT

COMMITTEE ASSIGNMENTS:
TRANSPORTATION (CHAIRMAN)
EDUCATION
COMMERCE AND LABOR
SCIENCE AND TECHNOLOGY

December 22, 2014

The Honorable John S. Edwards
Chair, Virginia Code Commission
P. O. Box 1179
Roanoke, VA 24006

Dear Senator Edwards:

A constituent, who is also an attorney, contacted me in reference to Title 8.01, Chapter 4, Limitations of Actions, of the Code of Virginia. He noted that while this chapter includes a compilation of various statutes of limitations, it is incomplete because other statutes of limitations are scattered elsewhere in the Code. He recommends that all the Statutes of Limitations not presently included in Title 8.01, Chapter 4 of the Code of Virginia be referenced in this Chapter to avoid confusion. In addition, he suggests legislation be enacted to mandate such referencing.

I would appreciate your thoughtful review of his suggestion. If you would like to contact him directly to discuss his suggestions, I would be pleased to provide you his contact information. Thank you for your service to the citizens of Virginia.

Best regards,

A handwritten signature in black ink that reads "THOMAS DAVIS RUST".

Thomas Davis Rust

cc: Mr. J. M. Sonies

**Code Commission Authority and Responsibilities related to the
Virginia Register Act and Administrative Process Act**

Code Commission basic law	
§ 30-146	<p>Publish and maintain the Virginia Administrative Code (VAC) and the Virginia Register of Regulations (as provided for in § 2.2-4031)</p> <ul style="list-style-type: none"> • Fix the number of volumes. • Decide all questions of form, makeup, and arrangement -- including title pages, prefaces, annotations, indices, tables of contents and reference etc.
§ 30-150	<p>Make minor changes to VAC</p> <ul style="list-style-type: none"> • Correct unmistakable printer's errors, misspellings, and other unmistakable errors. • Make consequential changes in titles of officers and agencies, and other consequential changes to terminology and references, or other language no longer appropriate. • Correct unmistakable errors in cross-references to COV or VAC sections and change cross-references to sections that are outdated or incorrect. • Renumber, rename, and rearrange titles, sections, or other divisions within the regulations and make corresponding changes in lists of subject and section headings, catchlines, and tables, when deemed necessary by the Commission. • Omit provisions the Commission deems inappropriate in a code, including severability clauses, which are provided for under § 2.2-4004, and effective date clauses.
§ 30-155	<p>Monitor Administrative Process Act and Virginia Register Act</p> <ul style="list-style-type: none"> • Monitor to ensure these laws provide the most practical means for agencies to promulgate, amend, and repeal "administrative law," and to recommend from time to time such changes as Commission deems appropriate. • May appoint an Administrative Law Advisory Committee (ALAC) to assist the Commission in fulfilling this responsibility. • May authorize ALAC to undertake research projects, hire consultants, sponsor conferences, hold public hearings, conduct surveys, and engage in other efforts consistent with assisting the Commission in fulfilling this responsibility.
Virginia Register Act	
§ 2.2-4100	<p>Purpose of Act; policy of Commonwealth</p> <ul style="list-style-type: none"> • Satisfy the need for public availability of information respecting state agency regulations. • Encourage, facilitate, and assist agencies in developing regulations that will inform the public of the requirements, policies, and procedures of agencies.
§ 2.2-4103	<p>Guidance document list</p> <ul style="list-style-type: none"> • Publish list of agency guidance documents (annually). • Develop format for filing of guidance document list.
§ 2.2-4104	<p>Central repository for currently operative state agency regulations</p> <ul style="list-style-type: none"> • Call upon all agencies to submit to the Registrar copies of all existing regulations and subsequent amendments, repeals, additions, or new regulations. • Advise agencies as to the form and style of regulations as well as codification thereof. <p>Issue Code Commission regulations</p> <ul style="list-style-type: none"> • Formulate and issue, without reference to or limitation by the Administrative Process Act, general or special regulations respecting (i) the nature and content of VAC and making exceptions thereto, (ii) supplementing or limiting the duties of agencies under the Register Act, and (iii) otherwise carrying out the purposes of the Register Act.

Administrative Process Act	
§ 2.2-4006	<p>Exemption</p> <ul style="list-style-type: none"> Registrar determines applicability of exemption to APA in § 2.2-4006 A 4 c regarding regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation.
§ 2.2-4007.05	<p>Regulation submission package</p> <ul style="list-style-type: none"> Code Commission staff must review package to verify that the requirements of § 2.2-4007.05 are met prior to publication of the proposed regulation. The package consists of the proposed regulation; a summary of the regulation; a statement of the basis, purpose, substance, and issue; and the agency's response to economic impact analysis.
§ 2.2-4008	<p>Guidance document list</p> <ul style="list-style-type: none"> Publish list of agency guidance documents (annually). Develop format for filing of guidance document list.
§ 2.2-4012	<p>Central repository for proposed and final regulations and related information</p> <ul style="list-style-type: none"> Registrar must retain (i) proposed regulation; (ii) summary of regulation; (iii) statement of basis, purpose, substance, and issue; and (iv) agency's response to economic impact analysis. Registrar must retain (i) copy of the final regulation; (ii) current summary, (iii) current statement as to the basis, purpose, substance, issues; (iv) Department of Planning and Budget's economic impact estimate; and (iv) the agency's summary description of the nature of the oral and written data, views, or arguments presented during the public proceedings and the agency's comments thereon. These documents are permanent records and are available to the public. <p>Statutory authority - All regulations adopted pursuant to APA must contain a citation to the section of the Code of Virginia that authorizes or requires the regulations and, where the regulations are required to conform to federal law or regulation in order to be valid, a citation to the specific federal law or regulation to which conformity is required.</p>
§ 2.2-4031	<p>Virginia Register of Regulations</p> <ul style="list-style-type: none"> Publish Virginia Register of Regulations every two weeks, which includes (i) proposed and final regulations; (ii) emergency regulations; (iii) executive orders; (iv) notices of all public hearings on regulations; and (v) petitions for rulemaking made in accordance with § 2.2-4007. Publish forms that the agency anticipates will be incorporated into or be used in administering the regulation with the proposed and final regulation. Publish the Register by posting on the Code Commission's website. May also arrange for printing of the Register. <p>Summary - Registrar approves a summary of the regulation prior to publication.</p> <p>Format - Develop standardized format for proposed regulations.</p>

Code Commission Regulations

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

Summary of Changes

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

1 **Proposed Regulations**

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~~
8 ~~with the Virginia Register Act. The regulation defines more particularly the scope of certain terms~~
9 ~~and provisions of the Act as interpreted and modified by the Code Commission. In order to render~~
10 ~~them more readably complete and usable, the following text includes statements copying or~~
11 ~~paraphrasing the Act.~~

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

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

23 **§ 1.2. Definitions.**

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

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

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

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

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

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

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

49 "Commission" means the Virginia Code Commission.

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

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

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

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

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

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

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

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

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

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

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

78 **§ 1.2:1 Computation of time.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

193 **§ 1.7 Waiver by registrar.**

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

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

198 **§ 1.8 Agency regulatory coordinator.**

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

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

203

204 PART II.

205

206 ~~REGULATIONS REQUIRED TO BE FILED.~~

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

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

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

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

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

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

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

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

227

228

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

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

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

239
240 Document available for inspection at the following location:

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

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

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

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

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

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

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

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

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

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

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

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

285 ~~In every instance in which the Registrar authorizes an agency to file a regulatory document by~~
286 ~~description, a current document shall be maintained and, upon request, be made available to the~~
287 ~~public by the agency. This current document shall be deemed to be filed in its entirety with the~~
288 ~~Registrar and shall, at any time during business hours, be made available to the Registrar upon~~
289 ~~request.~~

290

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

390 2. Agency contact information;

391 3. The publication information; and

392 4. The date of agency action.

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

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

397 **§ 2.9 Omissions and errors.**

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

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

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

PART III

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

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

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

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

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

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

~~§ 3.2. Statement of availability.~~

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

Drafting note: This section is unnecessary.

§ 3.1:1 Incorporation by reference permitted.

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

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

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

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

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

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

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

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

457 **§ 3.1:2 Filing requirements.**

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

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

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

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

468 **§ 3.1:3 Regulation text.**

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

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

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

476 A. The requirements established in §§ ~~3-4~~ 3.1:2 and ~~3-2~~ 3.1:3 do not apply to incorporation of
477 textual matter by reference to material published in the Federal Register or the Code of Federal
478 Regulations, or by reference to regulations of other Virginia agencies. Where such references are
479 made, ~~however, the citation shall be~~ the regulatory text must contain a citation sufficient for
480 accurate identification of the referenced material.

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

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

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

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

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

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

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

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

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

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

522 PART IV.

523 ADMINISTRATIVE LAW APPENDIX.

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

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

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

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

538

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

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

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

543 Part V

544 Forms

545 **§ 5.1. Filing requirements.**

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

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

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

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

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

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

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

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

564

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

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

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

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

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

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

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

580 **§ 5.4. Publication.**

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

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

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

589 Part VI

590 Virginia Register of Regulations

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

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

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