

**REPORT OF THE  
VIRGINIA CODE COMMISSION**

**Revision of Title 23  
of the Code of Virginia**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**SENATE DOCUMENT NO. 16**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2015**

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# COMMONWEALTH of VIRGINIA

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**VIRGINIA CODE COMMISSION**

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*Report of the  
Virginia Code Commission  
The Revision of Title 23 of the Code of Virginia*

**Richmond, Virginia  
December 2015**

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

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

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

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

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

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

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

Respectfully submitted,

Senator John S. Edwards, Chairman

Delegate James M. LeMunyon, Vice Chairman

Senator Ryan T. McDougle

Delegate Gregory D. Habeeb

The Honorable Charles S. Sharp

The Honorable Pamela S. Baskervill

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# EXECUTIVE SUMMARY

## Introduction

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

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

## Organization of Proposed Title 23.1

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

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

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

campus police departments. Proposed Chapter 9 (Academic Policies) includes provisions relating to programs of instruction, course credit, articulation, transfer, and dual enrollment.

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

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

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

### **Repealed Statutory Provisions**

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

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

### **Repealed Acts of Assembly**

During the revision process, the Code Commission became aware of four acts of Assembly that are obsolete: Chapter 306 of the Acts of Assembly of 1986, Chapter 319 of the Acts of Assembly of 2002, Chapter 148 of the Acts of Assembly of 2004, and Chapter 195 of the Acts of Assembly of 2007. These Acts of Assembly are recommended for repeal in conjunction with the repeal of Chapter 7 (§§ 23-51, 23-52, and 23-53), as noted *supra*, because all of the relevant and necessary provisions regarding the governance of the Miller School of Albemarle are included in school's Articles of Incorporation filed with the State Corporation Commission.

## **Other Affected Titles**

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

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

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

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

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

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

## **Technical Changes Made Throughout Title 23.1**

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

Many of the technical changes arose from the Code Commission's determination that terminology should be clear, consistent, and modern. The following lists provide a representative

sample of the most significant and most widely implemented technical changes made in the proposed title.

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

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

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

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

The following technical 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," "hereunder," and "thereunder" are replaced by appropriate references to a section, article, chapter, or title.
- Phrases such as "heretofore or hereafter" are removed as unnecessary because they mean "before now or after now."
- "Per centum" and "per annum" are replaced by "percent" and "per year," respectively.

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

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

- In the case of annual reports, standard language is included to specify that each such report "shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website."
- "Appropriation act" is changed to "general appropriation act."
- "Approval in writing first obtained" is changed to "prior written approval."
- Variations are stricken in favor of "the Armed Forces of the United States."
- "As well as" is changed to "and."
- "Branches of learning" is changed to "courses of study" or "programs of instruction," as the context requires.
- To the extent feasible, several sets of clauses within paragraphs are labelled for the sake of clarity.
- "Course work" is changed to "coursework."
- "Governing body" is changed to "governing board" or "board of visitors," as the context requires. The term "local governing body" is retained as appropriate for localities.
- "Hereby" is stricken as unnecessary.

- "In-state students" and similar variants of this term are stricken in favor of the standardized term "Virginia students."
- "In pursuance of" is changed to "pursuant to" or "for the purpose of," as the context requires.
- "Is authorized to" and similar variants of this term are changed to "may."
- "Out-of-state students" and similar variants of this term are stricken in favor of the standardized term "non-Virginia students."
- To the extent feasible, phrases in the passive voice are changed to the active voice.
- "Related to" is changed to "relating to."
- To the extent feasible, "shall be" is stricken in favor of "is."
- "State institution of higher learning" and similar variants of this term are stricken in favor of the standardized term "public institution of higher education."
- Unclear references to "therefor," "thereof," and "thereon" are replaced with more specific references.
- To the extent feasible, variations are stricken in favor of the standardized term "tuition, mandatory fees, and other necessary charges."
- § 1-222 states that "[w]henver authority is conferred by law to three or more persons, a majority of such persons shall have the power to exercise such authority, unless otherwise provided." Except as otherwise provided *infra*, several articles and chapters throughout existing Title 23 are silent with regard to quorum for the operation of several boards and remain silent with regard to quorum in proposed Title 23.1 in light of the generally applicable § 1-222.
- "Within or without the Commonwealth" is changed to "within or outside the Commonwealth."

### **Substantive Changes Proposed in Title 23.1**

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

- The provision in existing § 23-4 that any chief executive officer failing to keep a record of an institution's property for inspection by its governing board and the public is required to forfeit \$50 is recommended for repeal as obsolete because such provision is no longer enforced.
- Existing § 23-2.4 is incorporated into proposed § 23.1-204, which expires on June 30, 2017. As such, the requirement in existing § 23-2.4 for institutions of higher education to provide a link to postsecondary education and employment data will also expire on June 30, 2017.

- A substantive change is made in proposed subsection C of § 23.1-210 to reduce the meeting frequency of the Private College Advisory Board from twice annually to once annually to reflect the current practice of this board.
- "Or" is stricken in favor of "and" in the definition of "institution of higher education" in proposed § 23.1-213. Without such change, "institution of higher education" would include "academic-vocational non-college degree schools" in conflict with the meaning and use of each such term.
- The first sentence of subsection B of existing § 23-38.53:6 is recommended for repeal as obsolete because actual awards under the Virginia Guaranteed Assistance Program are not determined by the State Council of Higher Education for Virginia annually but are rather based on student need and vary by institution.
- A substantive change is made in proposed subsections A and B of § 23.1-1301 to permit the governing board of each public institution of higher education to delegate specific authority to a designee to reflect the current practice of such boards.
- Existing § 23-49.33 and subsections F and G of existing § 23-49.1 are recommended for repeal as obsolete because the purposes of the original 1976 Act of Assembly that established requirements for shared faculty, library use, and laboratory and other facility use between Christopher Newport University and The College of William and Mary in Virginia have been accomplished by the respective boards of visitors.
- The provisions in existing subsection (a) of § 23-91.26 relating to nonresident members of the board of visitors of George Mason University and in existing subsection (b) of § 23-91.26 relating to members of such board from Planning District Eight and Fauquier County are recommended for repeal as obsolete because such provisions are not enforced and are inconsistent with current practice.
- The annual deadlines for alumni association nominations of members of boards of visitors of various baccalaureate public institutions of higher education are recommended for repeal as obsolete because such provisions are not enforced and are inconsistent with current practice.
- The provisions of existing § 23-103 relating to the board of visitors of Virginia Military Institute communicating to the Governor the removal of professors for good cause are recommended for repeal as obsolete because such provisions are inconsistent with the current board practice and such procedure is not required of other public institutions of higher education.
- Home economics, an obsolete branch of learning at Virginia State University set forth in existing § 23-165.9, is recommended for repeal.
- A substantive change is made in proposed subsection A of § 23.1-2619 to remove specific qualifications of members of the board of directors (advisory board) of the Hampton Roads and Eastern Shore Agricultural Research and Extension Centers in favor of more general qualifications. This substantive change reflects the current appointment method for this advisory board.



- A substantive change is made in proposed subsection D of § 23.1-3102 to establish a quorum for the meetings of the board of trustees of the A.L. Philpott Manufacturing Extension Partnership at eight members, which is fewer than a majority. The Code is currently silent on the quorum required for meetings of this organization.
- A substantive change is made in proposed § 23.1-3121 to reduce the number of members of the Southern Virginia Higher Education Foundation on the board of the Southern Virginia Higher Education Center from three to two and increase the representatives of business and industry on the board from three to four. Section 2.2-3701 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) defines "meeting" to include an informal assemblage of as many as three members. If the three current members of the board of the Center were to discuss board business while assembled at a Southern Virginia Higher Education Foundation meeting, such discussion could violate the open meeting provisions of § 2.2-3707.
- A substantive change is made in proposed § 23.1-3125 to broaden the duties of the Southwest Virginia Higher Education Center to include encouraging the expansion of higher education degrees, adult and continuing education, workforce training, and professional development through partnerships with public and private institutions of higher education in order to better align the Center's duties with its current mission and practices.
- A substantive change is made in proposed § 23.1-3126 to add the president of Virginia Commonwealth University as an ex officio member of the board of trustees of the Southwest Virginia Higher Education Center. The board lost one ex officio member due to the closure of Virginia Intermont College in 2014.
- Substantive changes are made in proposed § 23.1-3127 to give the board of trustees of the Southwest Virginia Higher Education Center the authority to establish and administer agreements with (i) public and private institutions of higher education in the Commonwealth to provide undergraduate-level and graduate-level instructional programs at the Center and (ii) Virginia Highlands Community College and other public and private institutions of higher education to provide freshman-level and sophomore-level courses and associate degrees. Under existing law, the Center is only permitted to establish and administer agreements with (a) public institutions of higher education in the Commonwealth to provide graduate-level instructional programs at the Center and (b) Virginia Highlands Community College to provide associate degree instructional programs at the Center. This substantive change is intended to align the Center's powers with its current mission and practices.
- A substantive change is made in proposed § 23.1-3128 to specify that additional staff support for the functions of the Southwest Virginia Higher Education Center may be provided upon agreement by any public institution of higher education that offers courses or instructional programs at the Center. Under current law, such agreements are only permitted between the Center and Virginia Polytechnic Institute and State University, the University of Virginia, the University of Virginia's College at Wise, and Virginia Highlands Community College.

- A substantive change is made in proposed subsections A and D of § 23.1-3202 to (i) remove the restriction that members of the board of trustees of the Frontier Culture Museum of Virginia who are not residents of the Commonwealth shall serve at no expense to the Commonwealth and (ii) specify that all members are entitled to reimbursement for reasonable and necessary expenses, but only legislative members are entitled to be compensated at a per diem rate.
- A substantive change is made in proposed subsection C of § 23.1-3202 to specify that the board of trustees of the Frontier Culture Museum of Virginia may appoint an executive committee for the transaction of business in the recess of the board. Similar language is found in the enabling statutes of other boards in proposed Title 23.1. The existing statute is silent on the appointment and powers of the executive committee.
- A substantive change is made in proposed subdivision A 8 of § 23.1-3203 to remove the requirement that the Attorney General approve contracts entered into by the board of trustees of the Frontier Culture Museum of Virginia. The Attorney General does not exercise approval of such contracts.
- A substantive change is made in proposed subdivision 4 of § 23.1-3207 to remove the requirement that the Attorney General approve contracts entered into by the board of trustees of the Jamestown-Yorktown Foundation. The Attorney General does not exercise approval of such contracts.
- A provision in existing § 23-253.5 permitting members of the Virginia Museum of Fine Arts who made a contribution of \$1,000 or more prior to June 27, 1958, to dispose of their membership by last will and testament is recommended for repeal as obsolete per the recommendation of the Museum.
- A substantive change is made in proposed § 23.1-3219 to specify that the Art and Architectural Review Board is authorized to exercise powers conferred to it by law in relation to additions, repairs, and alterations to the exterior of the Virginia Museum of Fine Arts. Existing law does not distinguish between the interior and the exterior of the building.
- The first sentence of existing subsection E of § 23-278 is recommended for repeal as obsolete. Currently, members of the Commonwealth Health Research Board do not receive per diem compensation for their services but are reimbursed for reasonable and necessary expenses.

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## **PROPOSED ENACTMENT CLAUSES TO TITLE 23 RECODIFICATION BILL**

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

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

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

5. That the amendment of § 2.2-108 and the repeal of Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, and Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, and Title 23 (§ 23-1 et seq.) of the Code of Virginia, Chapter 471 of the Acts of Assembly of 1964, Chapter 396 of the Acts of Assembly of 1975, Chapter 170 of the Acts of Assembly of 1978, Chapter 217 of the Acts of Assembly of 1979, Chapter 121 of the Acts of Assembly of 1981, Chapter 306 of the Acts of Assembly of 1986, Chapter 329 of the Acts of Assembly of 1987, Chapter 386 of the Acts of Assembly of 1988, Chapter 454 of the Acts of Assembly of 1991, Chapters 87, 319, and 478 of the Acts of Assembly of 2002, Chapter 148 of the Acts of Assembly of 2004, Chapter 195 of the Acts of Assembly of 2007, Chapter 658 of the Acts of Assembly of 2008, Chapters 820 and 844 of the Acts of Assembly of 2009, and Chapter 168 of the Acts of Assembly of 2013, effective as of October 1, 2016, shall not affect any act or offense done or committed, or any penalty incurred, or any right established, accrued, or accruing on or before such date, or any proceeding, prosecution, suit, or action pending on that date. Except as otherwise provided in this act, the amendment of § 2.2-108, the repeal of Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, and Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, and Title 23 (§ 23-1 et seq.) of the Code of Virginia, Chapter 471 of the Acts of Assembly of 1964, Chapter 396 of the Acts of Assembly of 1975, Chapter 170 of the Acts of Assembly of 1978, Chapter 217 of the Acts of Assembly of 1979, Chapter 121 of the Acts of Assembly of 1981, Chapter 306 of the Acts of Assembly of 1986, Chapter 329 of the Acts of Assembly of 1987, Chapter 386 of the Acts of Assembly of 1988, Chapter 454 of the Acts of Assembly of 1991, Chapters 87, 319, and 478 of the Acts of

Assembly of 2002, Chapter 148 of the Acts of Assembly of 2004, Chapter 195 of the Acts of Assembly of 2007, Chapter 658 of the Acts of Assembly of 2008, Chapters 820 and 844 of the Acts of Assembly of 2009, and Chapter 168 of the Acts of Assembly of 2013, and the enactment of Title 23.1 shall not apply to offenses committed prior to October 1, 2016, and prosecution for such offenses shall be governed by the prior law, which is continued in effect for that purpose. For the purpose of this enactment, an offense was committed prior to October 1, 2016, if any of the essential elements of the offense occurred prior thereto.

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

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

8. That the amendment of § 2.2-108 and the repeal of Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, and Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, and Title 23 (§ 23-1 et seq.) of the Code of Virginia, Chapter 471 of the Acts of Assembly of 1964, Chapter 396 of the Acts of Assembly of 1975, Chapter 170 of the Acts of Assembly of 1978, Chapter 217 of the Acts of Assembly of 1979, Chapter 121 of the Acts of Assembly of 1981, Chapter 306 of the Acts of Assembly of 1986, Chapter 329 of the Acts of Assembly of 1987, Chapter 386 of the Acts of Assembly of 1988, Chapter 454 of the Acts of Assembly of 1991, Chapters 87, 319, and 478 of the Acts of Assembly of 2002, Chapter 148 of the Acts of Assembly of 2004, Chapter 195 of the Acts of Assembly of 2007, Chapter 658 of the Acts of Assembly of 2008, Chapters 820 and 844 of the Acts of Assembly of 2009, and Chapter 168 of the Acts of Assembly of 2013, effective as of October 1, 2016, shall not affect the validity, enforceability, or legality of any loan agreement, management agreement, memorandum of understanding, prepaid tuition contract, savings trust agreement, or other contract, or any right established or accrued under such loan agreement, management agreement, memorandum of understanding, prepaid tuition contract, savings trust agreement, or other contract, that existed prior to such amendment or repeal.

9. That the amendment of § 2.2-108 and the repeal of Article 4 (§ 2.2-2508 et seq.) of Chapter 25, Article 1 (§ 2.2-2700 et seq.) of Chapter 27, and Chapter 50.1 (§ 2.2-5004 et seq.) of Title 2.2, § 3.2-503, and Title 23 (§ 23-1 et seq.) of the Code of Virginia, Chapter 471 of the Acts of Assembly of 1964, Chapter 396 of the Acts of Assembly of 1975, Chapter 170 of the Acts of Assembly of 1978, Chapter 217 of the Acts of Assembly of 1979, Chapter 121 of the Acts of Assembly of 1981, Chapter 306 of the Acts of Assembly of 1986, Chapter 329 of the Acts of Assembly of 1987, Chapter 386 of the Acts of Assembly of 1988, Chapter 454 of the Acts of Assembly of 1991, Chapters 87, 319, and 478 of the Acts of Assembly of 2002, Chapter 148 of the Acts of Assembly of 2004, Chapter 195 of the Acts of Assembly of 2007, Chapter 658 of the Acts of Assembly of 2008, Chapters 820 and 844 of the Acts of Assembly of 2009, and Chapter 168 of the Acts of Assembly of 2013, effective as of October 1, 2016, shall not affect the validity, enforceability, or legality of any bond or other debt obligation authorized, issued, or outstanding prior to such amendment or repeal.

10. That Article 4 (§§ 2.2-2508, 2.2-2509, and 2.2-2510) of Chapter 25, Article 1 (§§ 2.2-2700 through 2.2-2704) of Chapter 27, and Chapter 50.1 (§§ 2.2-5004 and 2.2-5005) of Title 2.2, § 3.2-503, and Title 23 (§§ 23-1 through 23-303) of the Code of Virginia, Chapter 471 of the Acts of Assembly of 1964, Chapter 396 of the Acts of Assembly of 1975, Chapter 170 of the Acts of Assembly of 1978, Chapter 217 of the Acts of Assembly of 1979, Chapter 121 of the Acts of Assembly of 1981, Chapter 306 of the Acts of Assembly of 1986, Chapter 329 of the Acts of Assembly of 1987, Chapter 386 of the Acts of Assembly of 1988, Chapter 454 of the Acts of Assembly of 1991, Chapters 87, 319, and 478 of the Acts of Assembly of 2002, Chapter 148 of the Acts of Assembly of 2004, Chapter 195 of the Acts of Assembly of 2007, Chapter 658 of the Acts of Assembly of 2008, Chapters 820 and 844 of the Acts of Assembly of 2009, and Chapter 168 of the Acts of Assembly of 2013 are repealed.

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

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



## ORGANIZATION OUTLINE

Proposed Title 23.1.  
Institutions of Higher Education; Other Educational and Cultural Institutions.

### SUBTITLE I. GENERAL PROVISIONS.

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

### SUBTITLE II. STUDENTS AND CAMPUS.

<b>Chapter 4</b>		<b>General Provisions</b>
<b>Chapter 5</b>		<b>In-State Tuition and Reduced Rate Tuition Eligibility</b>
<b>Chapter 6</b>		<b>Financial Assistance</b>
	Article 1	General Provisions
	Article 2	Scholarships
	Article 3	Student Loan Funds
	Article 4	Two-Year College Transfer Grant Program
	Article 5	Tuition Assistance Grant Act
	Article 6	Virginia Guaranteed Assistance Program and Fund
	Article 7	Senior Citizens Higher Education Act of 1974
<b>Chapter 7</b>		<b>Virginia College Savings Plan and ABLE Savings Trust Accounts</b>
<b>Chapter 8</b>		<b>Health and Campus Safety</b>
	Article 1	Student Health
	Article 2	Campus Safety; General Provisions
	Article 3	Campus Safety; Campus Police Departments
<b>Chapter 9</b>		<b>Academic Policies</b>
	Article 1	General Provisions
	Article 2	Programs of Instruction
	Article 3	Course Credit
	Article 4	Articulation, Transfer, and Dual Enrollment

**SUBTITLE III.  
MANAGEMENT AND FINANCING.**

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

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

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

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

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

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

**RELOCATED TO OTHER TITLES OF THE CODE OF VIRGINIA**

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





**TITLE 23.1: INSTITUTIONS OF HIGHER EDUCATION;  
OTHER EDUCATIONAL AND CULTURAL INSTITUTIONS**

~~TITLE 23~~ 23.1.

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

**Drafting note: The name of proposed Title 23.1 is amended to more accurately reflect the contents of the title, including institutions of higher education and other educational and cultural institutions.**

SUBTITLE I.

GENERAL PROVISIONS.

**Drafting note: Proposed Subtitle I is created to bring together general provisions that apply throughout the title and those dealing with the State Council of Higher Education for Virginia, which is the higher education coordinating council in the Commonwealth, and provisions relating to goals and incentives for public institutions of higher education in areas such as investment, access, and economic opportunity.**

CHAPTER 1.

DEFINITIONS AND GENERAL PROVISIONS.

**Drafting note: Proposed Chapter 1 is renamed to reflect that it is divided into separate articles for Definitions and General Provisions.**

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:

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

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

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

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

Virginia Polytechnic Institute and State University, Virginia State University, and The College of William and Mary in Virginia.

"Chief executive officer" includes the Chancellor of Community Colleges, the Chancellor of the University of Virginia's College at Wise, the Superintendent of Virginia Military Institute, and the president of each other public institution of higher education.

"Comprehensive community college" means an associate-degree-granting public institution of higher education governed by the State 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.

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

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

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

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

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

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

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

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

"System" means the Virginia Community College System.

"Virginia student" means any student who has established domicile in the Commonwealth pursuant to § 23.1-502.

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

## Article 2.

### General Provisions.

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

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

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

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

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

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

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

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

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

**Drafting note: Proposed § 23.1-101 incorporates portion of existing subsection B of § 23-252, existing § 23-253.7, and existing subsection A of § 23-287. Technical changes are made.**

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

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

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

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

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

B. ~~The president of each state-supported institution of higher education, including the chancellor of the Virginia Community College System, shall, beginning with fiscal year 2016,~~

~~include~~ 2. Include in its six-year plan adopted pursuant to § ~~23-38.87:17~~ 23.1-306 the following for the most recently ended fiscal year: (i) the assignment during the year of any intellectual property interests to a person or nongovernmental entity by the institution, any foundation supporting the intellectual property research performed by the institution, or any entity affiliated with the institution; (ii) the value of externally sponsored research funds received during the year from a person or nongovernmental entity by the institution, any foundation supporting the intellectual property research performed by the institution, or any entity affiliated with the institution; and (iii) the number and types of patents awarded during the year to the institution, any foundation supporting the intellectual property research funded by the institution, or any entity affiliated with the institution that were developed in whole or part from externally sponsored research provided by a person or nongovernmental entity. The plan shall report separate aggregate data on (a) those persons or nongovernmental entities that have a principal place of business in ~~Virginia~~ the Commonwealth as reflected in the assignment agreement or awarding documents and (b) those persons or nongovernmental entities that do not have a principal place of business in ~~Virginia~~ the Commonwealth as reflected in the assignment agreement or awarding documents.

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

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

**Drafting note: Existing §§ 23-4 (as proposed subdivision 1) and 23-1.1 (as proposed subdivision 3) are combined in this proposed section concerning duties of the chief executive officer of public institutions of higher education. Proposed subdivision 2 incorporates existing subsection B of § 23-4.4. Existing subsection A of § 23-4.4 is relocated as proposed subdivision B 9 of § 23.1-1301. The provision that any chief executive officer failing to keep a record of an institution's property for inspection by its governing board and the public is required to forfeit \$50 is recommended for repeal as obsolete because such provision is no longer enforced. Technical changes are made.**

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

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

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

**Drafting note: Technical changes are made, including changing references to "counties, cities, and towns" to "localities" pursuant to § 1-221, which states that throughout the Code "locality" means a county, city, or town. A necessary but missing reference to "division" is included in proposed subsections A and B.**

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

A. The ~~board of visitors or other governing body of every state~~ board of each public institution of higher education and every private accredited nonprofit each accredited nonprofit private institution of higher education in the Commonwealth may provide by regulation or institution policy for the care, restitution, sale, destruction, or disposal of unclaimed personal property, whether lost or abandoned, in the possession of the institution. Whenever procedures in accordance with such regulations or institution policies and this section are followed and ownership cannot be established with respect to certain property, neither the institution, and the employees and agents thereof, shall have no liability nor any of its agents or employees is liable to any person claiming any interest in the property.

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

1. The institution, upon receipt of ~~lost~~ such property, shall make reasonable efforts to give notice that the property has been found to any person that the institution determines to reasonably appears appear to be the owner. The institution shall hold such property shall be held by the institution for a period of not less than for at least 120 days. The institution shall allow a

claim upon satisfactory proof of ~~it~~ such claim and payment of the institution's reasonable charges for storage or other services necessary to preserve the property.

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

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

~~B.-C.~~ Whenever a motor vehicle is lost or abandoned on the campus of any public institution of higher education or accredited nonprofit private institution of higher education that ~~lies within a county, city, or town which~~ is located in a locality that has adopted an ordinance as provided in Chapter 12 (§ 46.2-1200 et seq.) of Title 46.2, such motor vehicle shall be disposed of as provided in that ordinance. Notwithstanding any provisions of Chapter 12 of Title 46.2, the proceeds of any sale of a motor vehicle lost or abandoned ~~and unclaimed~~ on institutional property shall be credited to the institution's operating fund after the ~~ninety-day~~ 90-day holding period. The ~~board of visitors or other governing body board of an a public~~ board of a public institution of higher education ~~having that has~~ that has a campus or part of a campus ~~lying in a locality which that~~ in a locality that has not adopted such an ordinance, may ~~promulgate a regulation~~ adopt regulations dealing with motor vehicles abandoned ~~within~~ on such campus or such part of the campus. Such regulations shall comply with all provisions of Chapter 12 of Title 46.2 and ~~shall~~ have the same legal effect as though the institution ~~were~~ is a political subdivision as defined in that chapter and the regulation ~~was~~ is an ordinance. The proceeds from any sale resulting from such regulations shall be held for ~~a period of ninety~~ at least 90 days and if no claim to the motor vehicle is made ~~therefor~~ within that time, such funds shall be credited to the institution's operating fund.

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

~~D.~~E. Whenever any personal property, tangible or intangible, has been accepted for safekeeping during a patient's stay by any hospital operated by a ~~state~~ public institution of higher education, and ~~said~~ such property is believed by the appropriately designated official to be lost or abandoned or unclaimed, it shall be administered as provided in Article 4 (§ 55-210.12 et seq.) of Chapter 11.1 of Title 55.

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

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

A. For the purposes of this section:

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

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

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

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

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

2. ~~D.~~ Except as provided in ~~paragraph B 1 subsection C,~~ contracts for services between private colleges ~~on the one hand~~ and the Commonwealth or any of its political subdivisions ~~on the other~~ may be entered into in any ~~circumstances where~~ circumstance in which the Commonwealth or its political subdivisions would, by virtue of law, have authority to contract with private contractors for educational or related services and ~~with~~ public institutions of higher



education in Virginia. ~~C. When contracts covered by paragraph B 2 of this section are made by private colleges, such~~ Private colleges shall report ~~the~~ such contracts to the ~~State Council of Higher Education for information.~~

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

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

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

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

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

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

A. As used in this section:

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

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

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

"Private educational institution" means a ~~nonpublic, nonprofit college or university~~ private institution of higher education that is accredited by a nationally recognized regional accreditation body or by the Board of Governors of the American Bar Association; and:

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

213.

"Sponsoring association" means an association of private educational institutions that is incorporated under the laws of the Commonwealth, has been in existence for at least 20 years,

and exists for purposes other than arranging for or providing health and welfare benefits to members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Drafting note: Technical changes are made, including removing "or policies" in subdivision B 10 pursuant to § 1-227, which states that throughout the Code any word in the singular includes the plural and vice versa.**

§ 23.1-107. Private institutions of higher education; human research review committees.

The human research review committee at each proprietary and nonprofit private institution of higher education that conducts human research as that term is defined in § 32.1-162.16 shall submit to the Governor, the General Assembly, and the president of the institution or his designee at least annually a report on the human research projects reviewed and approved by the committee and any significant deviations from approved proposals.

**Drafting note: The provisions of existing § 23-9.2:3.3 relating to the human research review committee at private institutions of higher education are incorporated into proposed § 23.1-107. A technical change is made to exclude the provisions of existing § 23-9.2:3.3 requiring such institutions to promulgate regulations as such provisions are inconsistent with the Administrative Process Act (§ 2.2-4000 et seq.). The provisions of existing § 23-9.2:3.3 that apply to human research at public institutions of higher education are located in proposed subdivision B 9 of § 23.1-1303.**

CHAPTER ~~1.1~~ 2.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA.

**Drafting note: Existing Chapter 1.1 (§ 23-9.3 et seq.) is reorganized as proposed Chapter 2 with three articles: Article 1 (Membership and Organization), Article 2 (Powers and Duties), which includes existing Chapter 20 (Responsibility for Federal Programs), and existing Chapter 21.1 (§ 23-276.1 et seq.) as Article 3 (Regulation of Certain Private and Out-of-State Institutions of Higher Education). Technical changes are made throughout for the sake of consistency and clarity.**

Article 1.

Membership and Organization.

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

~~§ 23-9.3~~ 23.1-200. State Council of Higher Education for Virginia ~~created~~ established; purpose; membership; terms; officers.

A. ~~There is hereby created a~~ The State Council of Higher Education for Virginia; hereinafter sometimes referred to as the Council. ~~The purpose of the Council shall be, through the exercise of the powers and performance of the duties set forth in this chapter, is established to~~ advocate for and promote the development and operation of an educationally and economically sound, vigorous, progressive, and coordinated system of higher education in the Commonwealth of Virginia and to lead state-level strategic planning and policy development and implementation based on research and analysis and in accordance with ~~§ 23-38.87:10~~ 23.1-301 and subsection ~~B~~ A of ~~§ 23-38.88~~ 23.1-1002. The Council shall ~~also~~ seek to facilitate collaboration among institutions of higher education that will enhance quality and create operational efficiencies and ~~shall~~ work with institutions of higher education and their governing boards on board development.

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

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

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

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

E. Nonlegislative citizen members shall serve for terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No nonlegislative citizen member shall serve for more than two consecutive terms; however, a nonlegislative citizen member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms. No nonlegislative citizen member who has served two consecutive four-year terms is eligible to serve on the Council until at least two years have passed since the end of his second consecutive four-year term. All appointments are subject to confirmation by the General Assembly. Nonlegislative citizen members shall continue to hold office until their successors have been appointed and confirmed. Ex officio members shall serve a term coincident with their term of office.

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

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

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

**Drafting note: Proposed subsection E contains provisions on term length, term limits, vacancies, and confirmation that conform to provisions contained in proposed § 23.1-1300. Technical changes are made.**

~~§ 23-9.3-1~~ 23.1-201. Student advisory committee.

A. ~~The State Council of Higher Education~~ shall appoint a student advisory committee ~~comprised~~ consisting of students enrolled in public and accredited private institutions of higher

~~education in the Commonwealth and students enrolled in private and accredited institutions of higher education in the Commonwealth, whose primary purpose is to provide collegiate or graduate education and not to provide religious training. Appointments shall be made in a manner to ensure broad student representation from among such institutions.~~

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

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

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

**Drafting note: Technical changes.**

~~§ 23-9.4~~ 23.1-202. Employment of director and other personnel.

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

**Drafting note: Technical changes.**

## Article 2.

### Powers and Duties.

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

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

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

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

~~§ 23-9.6.~~

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

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

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

1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection ~~B~~ A of ~~§ 23-38.88 23.1-1002~~ or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5 of ~~§ 23-38.87:20 23.1-309~~ for higher education in the Commonwealth, identifies a coordinated approach to such state and regional goals, and emphasizes the future needs for higher education in ~~Virginia~~ the Commonwealth at both the undergraduate and the graduate levels, ~~as well as~~ and the mission, programs, facilities, and location of each of the existing institutions of higher education, each public institution's six-year plan, and such other matters as the Council deems appropriate. The Council shall revise such ~~plans~~ plan at least once every six years and shall submit such recommendations as are necessary for the implementation of the plan to the Governor and the General Assembly.

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

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

4. Review and approve or disapprove all enrollment projections proposed by each public institution of higher education. The Council's projections shall be ~~in numerical terms~~ organized

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

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

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

7. Review and approve or disapprove the ~~creation and~~ establishment of any department, school, college, branch, division, or extension of any public institution of higher education that such institution proposes to ~~create and~~ establish. ~~This duty and responsibility shall be applicable to the proposed creation and establishment of departments, schools, colleges, branches, divisions and extensions, whether located on or off the main campus of the such institution in question.~~ If any organizational change is determined by the Council to be proposed solely for the purpose of internal management and the institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing in this ~~provision~~ subdivision shall be construed to authorize the Council to disapprove the ~~creation and~~ establishment of any such department, school, college, branch, division, or extension ~~of any institution that has been created and~~ established by the General Assembly.

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

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



the Council deems appropriate. When consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the Council, acting solely or in partnership with the Virginia Department of Education or the Virginia Employment Commission, may contract with private entities to create de-identified student records in which all personally identifiable information has been removed for the purpose of assessing the performance of institutions and specific programs relative to the workforce needs of the Commonwealth. ~~For the purposes of this section, "de-identified student records" means records in which all personally identifiable information has been removed.~~

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

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

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

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

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

15. Adopt such ~~rules~~ policies and regulations as the Council ~~believes~~ deems necessary to implement ~~all of the Council's~~ its duties and responsibilities as set forth in this Code established

~~by state law. The various~~ Each public ~~institutions~~ institution of higher education shall comply with such ~~rules~~ policies and regulations.

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

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

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

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

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

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

~~The Council shall cooperate~~ 21. Cooperate with the ~~State~~ Board of Education in matters of interest to both ~~the public~~ elementary and secondary schools and ~~the state-supported~~ public institutions of higher education, particularly in connection with coordination of the college admission requirements ~~and, coordination of~~ teacher training programs with the public school program. ~~In accomplishing this responsibility, the Council shall consult with programs, and the Board on its~~ Board's Six-Year Educational Technology Plan for Virginia ~~and. The Council~~ shall

encourage the public institutions of higher education to design programs ~~which~~ that include the skills necessary for the successful implementation of ~~the~~ such Plan.

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

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

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

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

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

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

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

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

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

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

**Drafting note: In subdivision 15, "rules and regulations" is changed to read "regulations" per recommendation of the Code Commission. Subdivisions 21 through 26 incorporate the provisions of existing §§ 23-9.8, 23-9.8:1, 23-9.13, 23-9.5, and 23-9.10:1 and the second sentence of existing § 23-261, respectively. Technical changes are made, including the incorporation of title-wide definitions and the replacement of references to "state" or "Virginia" with "Commonwealth" per Code Commission policy. The name of**

**the Brown v. Board of Education Scholarship Committee in proposed subdivision 22 is corrected based on amendments made in 2010.**

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

~~By August 1, 2013, and each year thereafter, the State Council of Higher Education for Virginia~~ **A.** The Council shall annually publish data on its website on the proportion of graduates ~~with employment at~~ who are employed (i) 18 months and (ii) five years after the date of graduation for each public institution of higher education and each nonprofit private ~~nonprofit~~ institution of higher education eligible to participate in the Tuition Assistance Grant Program (§ 23-617 et seq.). The data shall include the program and the program level, as recognized by the ~~State Council of Higher Education~~, for each degree awarded by each institution ~~and shall, at a minimum, include~~; the percentage of graduates known to be employed in the Commonwealth, the average salary, and the average higher education-related debt for the graduates on which the data is based; rates of enrollment in remedial coursework for each institution; individual student credit accumulation for each institution; rates of postsecondary degree completion; and any other information that the Council determines is necessary to address adequate preparation for success in postsecondary education and alignment between secondary and postsecondary education. The Council shall disseminate to each public high school and each public institution of higher education ~~in the Commonwealth~~ and private institution of higher education for which the Council has student-level data a link on its website to the published data. The Council shall provide a notification template that each public high school may use to annually notify students and their parents about the availability of such data. The published data shall be consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) and the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g).

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

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

**Drafting note: Existing § 23-2.4 is incorporated as subsection B. As such, the requirement to provide a link to the predicate data will also expire on June 30, 2017. An obsolete reference to an August 1, 2013, deadline is stricken and technical changes are made.**

#### ~~CHAPTER 20.~~

#### ~~RESPONSIBILITY FOR FEDERAL PROGRAMS.~~

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

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

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

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

~~§§ 23-262, 23-263.~~

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

~~§ 23-264.~~

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

~~§ 23-9.6:1.04 23.1-206. Assessments of institutional the performance of public institutions of higher education.~~

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

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

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

~~B. The Governor shall include objective measures of financial and administrative management and educational-related performance and related institutional performance benchmarks as described in subsection A in "The Budget Bill" submitted as required by~~

subsection A of § 2.2-1509 or in his proposed gubernatorial amendments to the general appropriation act pursuant to subsection E of § 2.2-1509.

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

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

~~Those institutions~~ Each public institution of higher education that ~~are~~ is certified by the State Council as having met the financial and administrative management and educational-related performance benchmarks in effect for the fiscal year as set forth in the general appropriation act ~~shall be~~ is entitled to the financial benefits set forth in subsection C of § 2.2-5005 23.1-1002. Such benefits shall first be provided as determined under such ~~section subsection~~.

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

**Drafting note: Obsolete language which refers to past deadlines regarding development of timeframes for objective measures and performance benchmarks in subdivisions A 1 and 2 and timeframes for financial and administrative management and educational-related performance benchmarks in subsections C and D is stricken. Technical changes are made, including striking the superfluous phrase "from time to time" in subdivisions A 1 and 2 per Code Commission policy.**

~~§ 23-9.6:2~~ 23.1-207. Tuition relief, refunds, and reinstatement for certain students in the uniformed services.

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

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

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

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

~~§ 23-9.7.~~

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

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

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

B. Not less than ~~thirty~~ 30 days prior to submitting its biennial budget request to the Governor, the governing board of each public institution of higher education shall transmit to the Council such selected budgetary information relating to its budget request for maintenance and operation and for capital outlay as the Council shall reasonably require. The Council shall analyze such information in light of the Council's plans, policies, formulae, and guidelines and

shall submit to the Governor recommendations for approval or modification of each institution's request together with a rationale for each such recommendation. The Council shall make available to the General Assembly its analyses and recommendations concerning institutional budget requests.

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

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

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

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

~~§ 23-9.9:01 23.1-209. Reports of expenditures of state funds.~~

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

**Drafting note: Technical changes.**

~~§ 23-9.10.~~

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

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

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



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

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

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

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

**Drafting note: The first sentence of existing subsection (b), which refers to the former name of the Private College Advisory Board, is stricken as obsolete. A substantive change is made: meeting frequency in proposed subsection C is changed to once annually to reflect the current practice of the Private College Advisory Board. The power to employ personnel to assist the Private College Advisory Board in existing subsection (c) is stricken as unnecessary. Technical changes are made.**

~~§ 23-9.10:4.~~

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

~~§§ 23-9.11, 23-9.12.~~

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

~~§ 23-9.13:1.~~

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

~~§ 23-9.14:3~~ 23.1-211. Distance learning reciprocity agreements; participation; Distance Learning Reciprocity Advisory Council.

A. The ~~State Council of Higher Education~~ may enter into interstate reciprocity agreements that authorize accredited ~~degree-granting~~ associate-degree-granting and baccalaureate (i) public institutions of higher education and (ii) private institutions of higher education located in the Commonwealth to offer postsecondary distance education. The ~~State Council~~ shall administer such agreements and shall approve or disapprove participation in such agreements by accredited ~~degree-granting~~ associate-degree-granting and baccalaureate (a) public institutions of higher education and (b) private institutions of higher education located in the Commonwealth. Participation in the agreements ~~shall be~~ is voluntary.

B. The ~~State Council~~ shall establish the Distance Learning Reciprocity Advisory Council, which shall include representatives from each ~~participating~~ institution that offers postsecondary

distance education pursuant to an interstate reciprocity agreement as set forth in subsection A. The Advisory Council shall advise the ~~State~~ Council on the development of policies governing the terms of participation by eligible institutions, including the establishment of fees to be paid by participating institutions to cover direct and indirect administrative costs incurred by the ~~State~~ Council.

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

**Drafting note: Subsection B of existing § 23-9.14:3 is stricken as unnecessary. Technical changes are made.**

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

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

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

**Drafting note: Technical changes.**

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

Article 3.

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

**Drafting note: Existing Chapter 21.1 (§ 23-276.1 et seq.) is reorganized as proposed Article 3 of Chapter 2.**

~~§ 23-276.1 23.1-213.~~ Definitions.

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

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

"Agent" means a person who is employed by any institution of higher education or ~~noncollege~~ non-college degree school, whether such institution or school is located within or outside the Commonwealth, to act as an agent, solicitor, procurer, broker, or independent contractor to procure students or enrollees for any such institution or school by solicitation in any

form at any place in the Commonwealth other than the office or principal location of such institution or school.

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

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

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

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

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

"Degree credit ~~course~~" means any earned credits awarded for successful completion of the requirements of a course of study or instruction beyond the secondary school level, ~~which that~~ that may be used toward completion of a certificate or ~~diploma, or an associate, baccalaureate, graduate, first professional or specialist level degree.~~

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

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

"Institution of higher education" or "institution" means any person or other entity, other than a ~~Virginia state supported public~~ public institution of higher education ~~named in § 23-9.5~~ or any public institution of higher education established in statute as an authority and declared a ~~governmental instrumentality~~ other entity authorized to issue bonds pursuant to ~~§ 23-14~~ 23.1-

1100, that has received approval from the Council to (i) use the term "college" or "university," or words of like meaning, in its name or in any manner in connection with its academic affairs or business; (ii) enroll students; ~~or and~~ (iii) offer approved courses for degree credit or programs of study leading to a degree ~~or to offer degrees either at a site in Virginia or via telecommunications equipment located within Virginia in the Commonwealth.~~

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

~~"Noncollege Non-college degree school" means any postsecondary school person or other entity that offers courses or programs of study that do not lead to an associate or higher level a degree. Such schools may be "Non-college degree school" includes academic-vocational or non-college degree schools and vocational non-college degree schools.~~

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

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

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

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

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

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

"Site" means a location in Virginia the Commonwealth where a postsecondary school (i) offers ~~one or more courses~~ at least one course on an established schedule and (ii) enrolls at least two or more persons individuals who are not members of the same household, regardless of the presence or absence of administrative capability at such location. ~~A site may be a branch of such postsecondary school, and shall not be required to possess administrative capability.~~

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

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

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

**Drafting note: Technical changes are made to the article-wide definitions section. The definition of "in-state institution" is stricken as obsolete; the term "in-state institution" is not used in this proposed article. "Or" is stricken in favor of "and" in the definition of "institution of higher education." For the purposes of this article, without such change, "institution of higher education" would include "academic-vocational non-college degree schools" in conflict with the meaning and use of each such term.**

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

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

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

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

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

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

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

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

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

**Drafting note: Technical changes.**

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

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

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

**Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

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

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

1. Use the term "college" or "university" or abbreviations or words of similar meaning in its name or in any manner in connection with its academic affairs or business;
2. Enroll students;
3. Offer degrees, courses for degree credit, programs of study leading to a degree, or courses for nondegree credit ~~courses~~, either at a site ~~in Virginia~~ or via telecommunications equipment located within ~~Virginia~~ the Commonwealth; or
4. Initiate other programs for degree credit or award degrees, or certificates, ~~or diplomas~~ at a new or additional level.

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

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

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

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

1. The institution or school is fully accredited by an accrediting agency recognized by the United States U.S. Department of Education;
2. All courses, degrees, or certificates, or diploma programs offered at any Virginia site are also offered at the school's main an out-of-state campus of the institution or school;
3. All credits earned at any Virginia site are transferable to an institution's main out-of-state campus of the institution or school; and
4. The institution or school has complied with the requirements of either Article 17 (§ 13.1-757 et seq.) of Chapter 9 of Title 13.1 or Article 14 (§ 13.1-919 et seq.) of Chapter 10 of Title 13.1.

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



**Drafting note: Language in existing subsection B regarding accreditation requirements required to have been fulfilled by 2009 and 2012 is stricken as obsolete. Technical changes are made, including striking "Virginia" where it occurs immediately preceding "site"; such specification is already included in the article-wide definition.**

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

A. Prior to Council approval for a postsecondary school to use the term "college" or "university" or abbreviations or words of similar meaning in its name or in any manner in connection with its academic affairs or business, ~~to~~ offer courses or programs for degree credit, enroll students in any courses or programs, or confer or award degrees, each postsecondary school shall be evaluated by the Council in accordance with the regulations adopted pursuant to ~~this chapter~~ § 23.1-215.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. The Council may, by regulation, authorize its director to take immediate action on its behalf in any instance in which a postsecondary school holding certification to operate in ~~Virginia~~ the Commonwealth is the subject of an adverse action by the ~~United States~~ U.S. Department of Education or ~~by~~ the postsecondary school's accrediting agency. When such adverse action threatens a disruption of the operation of the postsecondary school and exposes

students to a loss of course or degree credit or financial loss, the director may ~~take any or all of the following actions:~~

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

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

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

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

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

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

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

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

**Drafting note: Technical changes.**

~~§ 23-276.9~~ 23.1-224. Fees.

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

**Drafting note: Technical changes.**

~~§ 23-276.10~~ 23.1-225. Prohibited acts.

A. Without prior Council approval, no person or other entity subject to the provisions of ~~this chapter article~~ shall use in any manner, within the Commonwealth ~~of Virginia,~~ the term "college" or "university" or abbreviations or words of similar meaning in its name ~~or in any~~

~~manner,~~ in connection with its academic affairs or business, or in any literature, catalog, pamphlet, or descriptive material.

This subsection shall not apply to any person or other entity that (i) used the term "college" or "university" openly and conspicuously in its title within the Commonwealth prior to July 1, 1970; (ii) was granted authority to operate in ~~Virginia~~ the Commonwealth by the Council between July 1, 1970, and July 1, 2002, and maintains valid authority to so operate in ~~Virginia~~ the Commonwealth on or after July 1, 2002; (iii) was exempted from the provisions of ~~former~~ Chapter 21 (§ 23-265 et seq.) of ~~this title~~ Title 23, as such law was in effect prior to July 1, 2002; or (iv) was authorized by the Council to use a name while its request for approval to enroll students is pending before the Council.

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

C. No person or other entity shall ~~use;~~

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

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

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

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

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

~~G. Unless exempted from the provisions of this chapter or granted approval by the Council in accordance with this chapter and relevant regulations, no person or other entity shall represent;~~ 5. Represent that credits earned at or granted by any institution of higher education or academic-vocational-~~none~~ college non-college degree school may be applied for credit toward a degree unless such person is exempted from the provisions of this article or granted certification or approval by the Council in accordance with this article and the Council's regulations.

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

~~§ 23-276.2~~ 23.1-226. Exemptions.

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

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

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

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

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

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

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

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

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

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

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

C. The Council shall exempt from the provisions of this ~~chapter~~ article any postsecondary school whose primary purpose is to provide religious or theological education. Postsecondary

schools shall apply for exemptions to confer ~~diplomas~~, certificates, or degrees ~~related~~ relating to religion and theology. Exemptions may be granted for a maximum of five years, unless the postsecondary school has been granted a standing exemption prior to July 1, 2002.

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

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

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

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

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

**Drafting note: Technical changes.**

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

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

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

C. ~~Upon~~ The Council may institute a proceeding in equity to enjoin any violation of this article or its implementing regulations and upon substantially prevailing on the merits of the case and unless special circumstances would render such an award unjust, the Council ~~shall be~~ is

entitled to an award of reasonable ~~attorney's~~ attorney fees and costs in any such action to enjoin violations of this chapter or its implementing regulations.

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

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

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

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

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

**Drafting note: Technical changes.**

~~§ 23-8.1.~~

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

~~§ 23-8.2.~~

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

~~§ 23-8.3, 23-9.~~

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

#### ~~CHAPTER 21.~~

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

~~§§ 23-265 through 23-276.~~

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

#### ~~CHAPTER 4.9:1~~ 3.

#### THE VIRGINIA HIGHER EDUCATION OPPORTUNITY ACT OF 2011.

**Drafting note: Existing Chapter 4.9:1 (§ 23-38.87:10 et seq.) is reorganized as proposed Chapter 3. Technical changes are made.**

~~§ 23-38.87-11~~ 23.1-300. Definitions.

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

"College degree" means an undergraduate degree from an accredited ~~two-year~~ associate-degree-granting or four-year baccalaureate (i) public institution of higher education or (ii) private institution of higher education.

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

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

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

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

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

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

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

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

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

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

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



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

**Drafting note: The definitions of "Council" and "Virginia student" are stricken because they are included in proposed § 23.1-100, the definitions section that applies throughout the title. The title-wide definition of "public institution of higher education" from proposed § 23.1-100 is added so that comprehensive community colleges can be expressly excluded from that definition for the purposes of this proposed chapter.**

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

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

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

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

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

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

3. To (i) place ~~Virginia~~ the Commonwealth among the most highly educated states and countries by conferring approximately 100,000 cumulative additional undergraduate degrees on Virginians between 2011 and 2025, accompanied by a comparable percentage increase in privately conferred ~~Virginia~~ undergraduate degrees in the Commonwealth over the same period; and ~~to~~ (ii) ~~achieve these targets~~ this purpose by expanding enrollment of Virginians at public institutions of higher education and private institutions of higher education ~~institutions in the Commonwealth~~, improving undergraduate graduation and retention rates in the ~~Virginia~~ higher education system in the Commonwealth, and increasing degree completion by Virginians with

partial credit toward a college degree, including students with ongoing job and family commitments who ~~need~~ require access to nontraditional college-level educational opportunities;

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

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

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

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

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

9. To establish a higher education funding framework and policy that promotes stable, predictable, equitable, and adequate funding, facilitates effective planning at the institutional and state levels, provides incentives for increased enrollment of Virginia students at public ~~and or nonprofit private nonprofit colleges and universities in the Commonwealth~~ institutions of higher education, provides need-based financial aid for low-income and middle-income students and families, relieves the upward pressure on tuition associated with loss of state support due to

economic downturns or other causes, and provides financial incentives to promote innovation and enhanced economic opportunity in furtherance of the objective of this chapter set forth in subsection A; and

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

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

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

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

1. Basic operations and instruction, as provided in ~~§ 23-38.87:13 23.1-303~~;
2. Each Virginia undergraduate student actually enrolled at the institution, as provided in ~~§ 23-38.87:14 23.1-304~~;
3. Need-based financial aid, as provided in ~~§ 23-38.87:15 23.1-306~~; and
4. Support for targeted financial incentives that encourage and reward progress toward the policy objectives specified in this chapter, as provided in ~~§ 23-38.87:16 23.1-305~~.

**Drafting note: Technical changes.**

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

A. Following consultation with each public institution of higher education and the Higher Education Advisory Committee described in ~~§ 23-38.87:20 23.1-309~~, the Council shall calculate ~~each institution's~~ the basic operations and instruction funding need of each public institution of higher education as provided in subsection B for each year of the next biennium and ~~shall~~ make that such calculation available to the Governor, the General Assembly, and all public institutions of higher education. ~~Each~~ The Governor shall take into account each institution's basic operations and instruction funding need; and the Commonwealth's funding split policy established in the general appropriation act by which 67 percent of an institution's cost of education for Virginia students is funded from the state general fund and 33 percent from funds other than the state general fund, ~~shall be taken into account by the Governor~~ during the preparation of his proposed biennial budget bill ~~recommending the appropriation act~~ for the next biennium, and ~~by~~ the General Assembly shall take such items into account in enacting that the general appropriation act for the next biennium. Between ~~these such~~ such biennial recalculations, ~~an~~

~~institution's appropriated~~ the General Assembly may increase or decrease the appropriation of basic operations and instruction funding ~~may be increased or decreased for~~ (i) to a public institution of higher education to correspond with an increase or decrease in Virginia undergraduate student enrollment at the institution as provided in § ~~23-38.87:14~~ 23.1-304, (ii) or the institution's meeting or not meeting targeted financial incentives listed in § ~~23-38.87:16~~ 23.1-305, ~~and (iii) or for~~ any other purpose deemed appropriate by the General Assembly.

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

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

**Drafting note: Technical changes.**

§ ~~23-38.87:14~~ 23.1-304. Per student enrollment-based funding at public institutions of higher education.

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

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

C. ~~In order to~~ To assist the General Assembly in determining the per student amount provided for in subsection A and its relation to the per student amount provided to nonprofit ~~private-nonprofit~~ institutions of higher education pursuant to the Tuition Assistance Grant Act (§ ~~23-38.14~~ 23.1-617 et seq.), each nonprofit private ~~nonprofit~~ institution of higher education eligible to participate in the Tuition Assistance Grant Program shall submit to the Council its Virginia student enrollment projections for that fiscal year and its actual Virginia student enrollment for the prior fiscal year in a manner determined by the Council. The student admissions policies for ~~the~~ such private institutions and their specific programs shall remain the sole responsibility of the governing boards of ~~the~~ such individual institutions.

**Drafting note: Technical changes.**

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

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

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

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

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

1. Increased enrollment of Virginia students, in addition to the per student funding provided by ~~§ 23-38.87:14~~ 23.1-304;
2. Increased degree completion for Virginia residents who have partial credit completion for a degree;
3. Increased degree completion in a timely or expedited manner;

4. Improved retention and graduation rates;
5. Increased degree production in ~~the areas of science, technology, engineering, and mathematics and STEM~~ or other high-need areas such as the health care-related professions;
6. Increased research, including regional and public-private collaboration;
7. Optimal year-round utilization of resources and other efficiency reforms designed to reduce total institutional cost;
8. Technology-enhanced instruction, including course redesign, online instruction, and resource sharing among institutions; and
9. Enhanced comprehensive community college transfer programs and grants and other enhanced degree path programs; ~~and~~
10. ~~Other incentives based on the economic opportunity metrics developed pursuant to subdivision B 4 of § 23-38.87:20.~~

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

~~B.-C.~~ C. The criteria for measuring whether the ~~incentives~~ incentive areas in subsection A have been met, and the benefits or consequences for meeting or not meeting such ~~incentives~~ incentive areas, shall be developed and reviewed as provided in subdivisions B 3 and ~~B 4~~ of § ~~23-38.87:20~~ 23.1-309.

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

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

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

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

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

D. Each six-year plan shall (i) address the institution's academic, financial, and enrollment plans, ~~to include~~ including the number of Virginia and ~~out-of-state non-Virginia~~ students, for the six-year period; (ii) indicate the planned use of any projected increase in general fund, tuition, or other nongeneral fund revenues; (iii) be based upon any assumptions provided by the Council, following consultation with the Department of Planning and Budget and the staffs of the House Committee on Appropriations and the Senate Committee on Finance, for funding relating to state general fund support pursuant to §§ 23.1-303, 23.1-304, and 23.1-305 and subdivision 9; (iv) be aligned with the institution's six-year enrollment projections; and shall (v) include:

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Except to the extent included in the institution's six-year plan as provided in subsection C, if the total of an institution's tuition and educational and general fees for ~~a~~ any fiscal year for Virginia students exceeds the difference for ~~that such~~ that such fiscal year between (i) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § ~~23-38.87:13, 23.1-303~~ and (ii) the sum of the tuition and educational and general fees for non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § ~~23-38.87:13 23.1-303~~, and its per student funding provided pursuant to § ~~23-38.87:14 23.1-304~~, the institution shall ~~forego~~ forgo new state funding at a level above the general funds received by the institution during the 2011-2012 fiscal year, at the discretion of the General Assembly, and shall be obligated to provide increased financial aid to maintain affordability for students from low-income and middle-income families. This limitation shall not apply to any portion of tuition and educational and general fees for Virginia students allocated to student financial aid, ~~to~~ an institution's share of state-mandated salary or fringe benefit increases, ~~to~~ increases ~~with in~~ with in funds other than state general funds for the improvement of faculty salary competitiveness above the level included in the calculation in



clause (i) of subsection B of ~~§ 23-38.87:13~~ 23.1-303, ~~to~~ the institution's ~~share of progress towards achieving any of the targeted financial incentives described in~~ incentive pursuant to § 23-38.87:16 23.1-305, ~~to~~ unavoidable cost increases such as operation and maintenance for new facilities and utility rate increases, or ~~to~~ other items directly attributable to an institution's unique mission and contributions.

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

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

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

~~In order to~~ To (i) increase the number of students completing degrees in the high-demand, high-impact STEM fields ~~of science, technology, engineering, and mathematics (STEM)~~, and other high-demand, anticipated-shortage fields such as the health care-related professions; and ~~to~~ (ii) help develop and guide the implementation of a comprehensive plan for higher degree attainment in these fields, the Secretaries of Education and Finance, in cooperation with the House Committees on Appropriations and Education and the Senate Committees on Finance and on Education and Health, shall ~~cause to be formed~~ form a public-private partnership comprised of private-sector leaders, distinguished representatives from the scientific community (including retired military personnel, government scientists, and researchers), educational experts, relevant state and local government officials, and ~~others~~ such other individuals as they deem appropriate. The partnership shall advise on, and may collaborate with public and private entities to develop and implement strategies to address, such priority issues as (i) determining the need for additional high-demand degree enrollment, capacity, and resources at ~~the Commonwealth's~~ public institutions of higher education and private institutions of higher education; (ii) incentivizing greater coordination, innovation, and private collaboration in kindergarten through secondary school STEM and other high-demand degree initiatives; (iii) determining and refining best practices in STEM instruction and leveraging those best practices to promote STEM education in both the Commonwealth's ~~higher education~~ institutions of higher

education and its elementary and secondary schools; (iv) enhancing teacher education and professional development in STEM disciplines; (v) strengthening mathematics readiness in secondary schools through earlier diagnosis and remediation of deficiencies; (vi) providing financial incentives to increase STEM enrollment and degree production at the Commonwealth's ~~public and private colleges and universities~~ institutions of higher education; (vii) providing assistance to ~~the Commonwealth's public~~ institutions of higher education and ~~private colleges and universities~~ institutions of higher education in the acquisition and improvement of STEM-related facilities and equipment; (viii) providing STEM incentives in early ~~college and university~~ pathway programs at institutions of higher education and in the comprehensive community college transfer grant program; (ix) assessing degree programs using such economic opportunity metrics as marketplace demand, earning potential, and employer satisfaction; and other indicators of the historical and projected economic value and impact of degrees to provide useful information on degrees to students as they make career choices and to state policy makers and university decision makers as they decide how to allocate scarce resources; (x) aligning state higher education efforts with marketplace demands; and (xi) determining such other issues as the partnership deems relevant to increasing the number of students completing ~~college and university~~ degrees in STEM and other high-demand fields at institutions of higher education.

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

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

A. The Secretary of Education, in consultation with the ~~Chairs~~ Chairmen of the House Committee on Appropriations and the Senate Committee on Finance, the Secretary of Finance, ~~and the~~ each ~~public institutions~~ institution of higher education ~~in the Commonwealth~~, shall convene a Higher Education Advisory Committee (Advisory Committee) to provide advice and make recommendations on the matters set forth in subsections B, C, and D. The Advisory Committee shall consist of ~~10~~ at least 11 members as follows: ~~a one~~ one representative of the Office of the Secretary of Education, ~~to be appointed by the Secretary of Education,~~ and who shall serve as chair of the Advisory Committee; ~~a one~~ one representative of the Office of the Secretary of Finance, ~~to be appointed by the Secretary of Finance;~~ a one representative of the Council, ~~to be appointed by the Chairman of the Council;~~ the staff directors of the House Appropriations Committee and the Senate Finance Committee, or their designees; and the presidents or their designees of five public institutions of higher education, including which shall include two doctoral institutions, two comprehensive institutions, and one ~~from the Virginia Community College System. The~~ comprehensive community college, appointed by the presidents of all of the public institutions of higher education ~~shall select the institutions to be represented on the Advisory Committee, subject to the parameters set forth in this section. The Governor shall also~~ appoint, and a representative from a nonprofit private, nonprofit institution of higher education;

~~however, such representative appointed by the Governor who~~ shall not provide advice or make recommendations concerning policies that solely impact public institutions of higher education. Both the Governor and the Advisory Committee may designate other ~~persons~~ individuals to serve on the Advisory Committee, including ~~but not limited to~~ representatives of academic and instructional faculty or fiscal officers ~~from state of public~~ institutions of higher education.

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

1. The methodology established pursuant to subsection A of § ~~23-38.87:14 23.1-304~~ for determining how a significant increment of state funding shall follow the student to the ~~two-year~~ associate-degree-granting or four-year baccalaureate public institution of higher education in which the student enrolls, how the amount of such per student funding for ~~four-year~~ baccalaureate public institutions of higher education will be made to correspond as nearly as practical to the per student allocation envisioned under the then-existing appropriation for the Tuition Assistance Grant Act (§ ~~23-38.11 23.1-617~~ et seq.) for students attending nonprofit private-nonprofit higher education institutions in the Commonwealth of higher education, how and as of what date ~~an institution's~~ the student enrollment at each public institution of higher education shall be calculated, and how an increase or decrease in Virginia undergraduate student enrollment above or below the enrollment level used to calculate the institution's funding under pursuant to § 23-38.87:13 23.1-303 shall be reflected in the institution's appropriation pursuant to subsection A of § 23-38.87:14 23.1-304, and the standards and process for determining whether an increase or decrease in Virginia undergraduate student enrollment qualifies for funding under pursuant to § 23-38.87:14 23.1-304;

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

3. Objective performance criteria for measuring the financial incentives set forth in § ~~23-38.87:16, 23.1-305~~ and the benefits or consequences for of meeting or consequences of not meeting the incentives included in an institution's six-year plan pursuant to § 23-38.87:17 23.1-306;

4. Economic opportunity metrics, such as marketplace demand, earning potential, and employer satisfaction; and other indicators of the historical and projected economic value of degrees that can be used to assess degree programs in order to provide useful information on the

economic impact of degrees to students as they make career choices and ~~to~~ state policy makers and university decision makers as they decide how to allocate scarce resources;

5. The additional authority that should be granted to all public institutions of higher education under the Restructured Higher Education Financial and Administrative Operations Act (~~§ 23-38.88~~ 23.1-1000 et seq.), state goals and objectives each public institution of higher education should be expected to achieve, objective criteria for measuring educational-related performance with regard to those goals and objectives, and the ~~benefits or consequences for~~ of meeting or consequences of not meeting those goals and objectives, including those set forth in subsection C of § ~~2.2-5005~~ 23.1-1002; and

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

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

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

1. Federal and state financial aid programs and institutional practices to ensure that the appropriate level of financial assistance is being provided to both low-income and middle-income families, as required by ~~§ 23-38.87:15~~ 23.1-306, including loan forgiveness programs targeted by purpose in furtherance of the objective of this chapter; and

2. The Restructured Higher Education Financial and Administrative Operations Act (~~§ 23-38.88~~ 23.1-1000 et seq.) to identify additional ways to reduce costs and enhance efficiency by increasing managerial autonomy with accountability at the institutional level.

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

D. The Advisory Committee shall periodically assess, based upon the institutions' six-year plans and other relevant factors, the degree to which the Commonwealth's system of higher education is meeting the statewide objectives of economic impact, reform, affordability, and access reflected in this chapter, ~~as well as~~ and the strategic impact of new general fund

investments on achieving those objectives. The Advisory Committee shall submit its assessment and recommendations to the Council, which shall review the assessment and recommendations and report its recommendations to the Governor and the ~~Chairs~~ Chairmen of the House Committees on Appropriations and Education and the Senate Committees on Finance and on Education and Health.

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

**Drafting note: Proposed subdivision B 2 incorporates the provisions of the third sentence of existing § 23-38.87:15. Technical changes are made: the phrase "but not limited to" after "including" in subsection A is stricken pursuant to § 1-218, which states: "'Includes' means includes, but not limited to," and "persons" in subsection A is replaced with "individuals" pursuant to § 1-230, which is the Code-wide definition of "person."**

~~§ 23-38.87:21 23.1-310. Certification~~ Assessment and certification of institutions by the Council.

~~Upon the completion of the development of the objective criteria for measuring goals and objectives described in subdivision B 5 of § 23-38.87:20, and each year thereafter, the~~ The Council shall annually assess the degree to which each institution has satisfied any goals or criteria developed by the Higher Education Advisory Committee pursuant to § 23-38.87:20, 23.1-309 and shall, by no later than October 1 of each fiscal year, provide a certified written report of the results of such annual assessment to the Governor and the ~~Chairs~~ Chairmen of the House Committees on Appropriations and Education and the Senate Committees on Finance and on Education and Health. In order to assist the Council in its assessment, each public institution of higher education, and each nonprofit private ~~nonprofit~~ institution of higher education eligible for and seeking to qualify for state general funds, shall furnish periodic reports, including copies of institutional financial aid audit reports and audited financial statements, and such other pertinent information, including student-level data, as may be required by the Council. ~~The reports shall include, but not be limited to, copies of institutional financial aid audit reports and audited financial statements.~~

**Drafting note: The phrase "but not limited to" after "including" is removed pursuant to § 1-218, which states: "'Includes' means includes, but not limited to." Technical changes are made.**

~~§ 23-9.2:3.03.~~

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



SUBTITLE II.  
STUDENTS AND CAMPUS.

**Drafting note: Proposed Subtitle II contains proposed Chapters 4 through 9, which pertain to students generally, in-state and reduced rate tuition eligibility, financial assistance, savings plans and accounts, student health, campus safety, and academic policies.**

CHAPTER 4.  
GENERAL PROVISIONS.

**Drafting note: Provisions of existing Chapter 1 (§ 23-1 et seq.) relating to students generally are consolidated in proposed Chapter 4.**

~~§ 23-9.2-12~~ 23.1-400. Student organizations; rights and recognition.

A. To the extent allowed by state and federal law:

~~1. A.~~ a religious or political student organization may determine that ordering the organization's internal affairs, selecting the organization's leaders and members, defining the organization's doctrines, and resolving the organization's disputes are in furtherance of the organization's religious or political mission and that only persons committed to that mission should conduct such activities; ~~and~~

~~2. B.~~ No public institution of higher education that has granted recognition of and access to any student organization or group shall discriminate against any such student organization or group that exercises its rights pursuant to ~~subdivision 1~~ subsection A.

**Drafting note: Technical changes.**

~~§ 23-9.2-13~~ 23.1-401. Restrictions on student speech; limitations.

~~Public institutions~~ No public institution of higher education shall ~~not~~ impose restrictions on the time, place, and manner of student speech that (i) occurs in the outdoor areas of the institution's campus and (ii) is protected by the First Amendment to the United States Constitution unless the restrictions (a) are reasonable, (b) are justified without reference to the content of the regulated speech, (c) are narrowly tailored to serve a significant governmental interest, and (d) leave open ample alternative channels for communication of the information.

**Drafting note: Technical changes.**

~~§ 23-2-1~~ 23.1-402. Collection and dissemination of information concerning religious preferences and affiliations.

Notwithstanding any provision of law to the contrary, ~~any state public~~ any public institution of higher ~~learning~~ education may collect and disseminate information concerning the religious preferences and affiliations of its students; ~~provided that no student may be required such~~ institution shall (i) require any student to indicate his religious preference or affiliation and that ~~no dissemination of the~~ or (ii) disseminate such information shall be made except to categories of

~~persons as to whom~~ without the student has given his student's consent that dissemination may be made.

**Drafting note: Technical changes.**

~~§ 23-2.1:1~~ 23.1-403. Access to campus and student directory ~~for~~ provided to certain persons and groups.

~~If a~~ Any public institution of higher education that provides access to its campus and student directory to persons or groups for occupational, professional, or educational recruitment, ~~the institution~~ shall provide access on the same basis to official recruiting representatives of the military forces of the Commonwealth and the United States.

**Drafting note: Technical changes.**

~~§ 23-2.1:2~~ 23.1-404. Retention of ~~certain documents;~~ student birth certificates authorized.

~~If any~~ Any public institution of higher education ~~in Virginia,~~ as a condition of enrollment, that requests that a student an applicant who has been accepted for admission present a certified copy of his birth certificate, ~~a copy may be retained by the institution as a condition of enrollment may retain a copy of the birth certificate~~ in the student's record.

**Drafting note: Technical changes.**

~~§ 23-2.1:3~~ 23.1-405. Student records and personal information.

A. Each public institution of higher education and private institution of higher education may require ~~that~~ any student who attends, or any applicant who has been accepted to and who has committed to attend, ~~or is attending,~~ such institution to provide, to the extent available, from the originating secondary school and, if applicable, any institution of higher education he has attended a complete student record, including any mental health records held by the previous school or institution. ~~These~~ Such records shall be kept confidential as required by state and federal law, including the Family Educational Rights and Privacy Act; (20 U.S.C. § 1232g).

B. No public institution of higher education shall sell students' personal information, including names, addresses, phone numbers, and email addresses, to any person. This subsection shall not apply to transactions involving credit, debit, employment, finance, identity verification, risk assessment, fraud prevention, or other transactions initiated by the student.

**Drafting note: Technical changes.**

~~§ 23-2.2~~ 23.1-406. Reporting of certain students issued student visas.

A. Each associate-degree-granting and baccalaureate (i) public institution of higher education and (ii) private two and four year institution of higher education ~~in the Commonwealth~~ and the governing board, president, or director of any ~~correspondence school, postsecondary school, or proprietary career school, as defined in § 23-276.1,~~ or flight school in the Commonwealth shall ~~inform~~ notify the Attorney General ~~of the Commonwealth~~ whenever a ~~student~~ (a) an applicant who has been accepted for admission to such ~~an educational~~ institution pursuant to a student visa fails to enroll or (b) a student who has been attending such ~~an~~



~~educational~~ institution pursuant to a student visa ~~and~~ withdraws ~~at from~~ such institution or violates the terms of his visa. ~~The~~ Such notification shall contain all available information from ~~the~~ U.S. Citizenship and Immigration and Naturalization Service Form Services Form I-20 and shall be submitted ~~not no~~ later than ~~thirty~~ 30 days after the discovery of the ~~reportable~~ event for which notification is required.

B. The Attorney General shall notify ~~the~~ U.S. Citizenship and Immigration and Naturalization Service Services and all other appropriate national, state, and local agencies of any such failure to enroll, withdrawal, or student visa ~~violations~~ violation.

C. This section ~~shall be~~ is effective until ~~supereeded~~ superseded by federal action.

**Drafting note: References to correspondence schools and proprietary career schools in subsection A are stricken because such terms are neither used in proposed Article 2 (§ 23.1-213 et seq.) of Chapter 2 nor defined in § 23.1-213. Technical changes are made.**

~~§ 23-2.2:1~~ 23.1-407. Reporting of enrollment information to Sex Offender and Crimes Against Minors Registry.

A. Each associate-degree-granting and baccalaureate (i) public institution of higher education and (ii) private two- and four-year institution of higher education physically located in the Commonwealth shall electronically transmit enrollment data including (i) the complete name, (ii) social security number or other identifying number, ~~(iii) date of birth, and (iv) gender of each applicant accepted to attend the institution~~ to the Department of State Police, in a format approved by the Department of State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center ~~Convicted Sexual Sex Offender Registry File, for all applicants that are offered acceptance to attend the institution. This~~ Such data shall be transmitted (i) before such time that an accepted applicant becomes a "student in attendance" pursuant to 20 U.S.C. § 1232g(a)(6) at that institution. However, or (ii) in the case of institutions with a rolling or instantaneous admissions policy shall report enrollment, in accordance with guidelines developed by the Department of State Police in consultation with the State Council of Higher Education and the Virginia Community College System. Such guidelines shall be developed no later than January 1, 2007.

B. Whenever it appears from the records of the Department of State Police that a person an accepted applicant has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the Department of State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which ~~the person was enrolled with the educational institution of higher education is located.~~

**Drafting note: Technical changes.**

~~§ 23-2.3~~ 23.1-408. Annual reporting of the use of student fees.

Each public two- and four-year institution of higher education in the Commonwealth shall publish annually a descriptive report detailing (i) ~~the~~ (i) amount and distribution of student

activity fees assessed each semester or during an academic year; and (ii) the name of each organization, ~~including the nature of the organization's activity,~~ that receives funding of \$100 or more from student activity fees and the nature of such organization's activity. Each such institution shall post ~~the such~~ annual descriptive report of the use of student activity fees to on its website to facilitate its access by and availability ~~of the report to enrolled students enrolled at the institution~~ and their parents.

**Drafting note: Technical changes.**

~~§ 23-2.6~~ 23.1-409. Transparency in higher education information.

Each ~~four-year~~ baccalaureate public institution of higher education shall maintain and update annually no later than September 30 a tab or link on the home page of its website that shall include the following information:

1. The institution's six-year undergraduate graduation rate for each of the past 10 years;
2. The institution's freshman-to-sophomore retention rate for full-time undergraduate students for each of the past 10 years;
3. The institution's average annual percentage increase in base undergraduate tuition for each of the past 10 years;
4. The institution's average annual percentage increase in mandatory undergraduate comprehensive student fees for each of the past 10 years;
5. A link to the annual report of the use of student fees as required by ~~§ 23-2.3~~ 23.1-408;
6. A link to the postsecondary education and employment data referenced in subsection B of § 23-2.4 23.1-204; and
7. A summary of the institution's budget, consistent with the institution's annual budgeting process, that includes (i) the major budget units (MBUs) in the institution and standard expenditure categories within each MBU for the current fiscal year and the previous fiscal year or (ii) a link to the annual reports required by subdivision B 10 of § 23-1.04 23.1-1303.

**Drafting note: Technical changes.**

~~§ 23-4.3:2~~ 23.1-410. ~~Policies addressing student~~ Student loan vendors.

A. No employee ~~at~~ of a ~~Virginia~~ public institution of higher education shall demand or receive any payment, loan, advance, deposit of money, services, or anything, present or promised, as an inducement for promoting any student loan vendor.

B. No public institution of higher education shall enter into any agreement with any student loan vendor that states or implies an exclusive relationship between ~~the school~~ institution and vendor regarding student loans.

**Drafting note: Technical changes.**

CHAPTER 5.

IN-STATE TUITION AND REDUCED RATE TUITION ELIGIBILITY.

**Drafting note: Provisions of existing Chapter 1 (§ 23-1 et seq.) relating to in-state tuition eligibility are consolidated as proposed Chapter 5.**

~~§ 23-7.~~

**Drafting note: Repealed by Acts 1984, c. 422.**

~~§§ 23-7.1, 23-7.1:01.~~

**Drafting note: Repealed by Acts 1996, cc. 931 and 981.**

~~§§ 23-7.2 through 23-7.3.~~

**Drafting note: Repealed by Acts 1996, cc. 931 and 981.**

~~§ 23-7.4 23.1-500. Eligibility for in-state tuition charges Definitions.~~

~~A. For purposes of this section and §§ 23-7.4:1, 23-7.4:2, and 23-7.4:3, the following definitions shall apply As used in this chapter:~~

~~"Date of the alleged entitlement" means the first official day of class within the term, semester, or quarter of the student's program of study in which a student is enrolled.~~

~~"Dependent student" means ~~one~~ a student who is listed as a dependent on the federal or state income tax return of his parents or legal guardian or who receives substantial financial support from his spouse, ~~parents~~ parent, or legal guardian. ~~It shall be presumed that a student under the age of 24 on the date of the alleged entitlement receives substantial financial support from his parents or legal guardian, and therefore is dependent on his parents or legal guardian, unless the student (i) is a veteran or an active duty member of the U.S. Armed Forces; (ii) is a graduate or professional student; (iii) is married; (iv) is a ward of the court or was a ward of the court until age 18; (v) has no adoptive or legal guardian when both parents are deceased; (vi) has legal dependents other than a spouse; or (vii) is able to present clear and convincing evidence that he is financially self-sufficient.~~ "Dependent student" includes unemancipated minors.~~

~~"Domicile" means the present, fixed home of an individual to which he returns following temporary absences and at which he intends to stay indefinitely. No individual may have more than one domicile at a time. Domicile, once established, ~~shall is~~ not be affected by (i) mere transient or temporary physical presence ~~in another jurisdiction~~ outside the Commonwealth or (ii) the establishment and maintenance of a place of residence ~~in another jurisdiction~~ outside the Commonwealth for the purpose of maintaining a joint household with an active duty United States military spouse.~~

~~"Domiciliary intent" means present intent to remain indefinitely.~~

~~"Emancipated minor" means a minor student ~~under the age of 18 on the date of the alleged entitlement whose parents or guardians have surrendered the right to his care, custody and earnings and who no longer claim him as a dependent for tax purposes~~ who has been~~

emancipated pursuant to Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1 or the applicable laws of any other jurisdiction.

~~"Full-time employment~~ Employed full time" means ~~employment~~ employed in a position resulting in, at least, an annual earned income reported for tax purposes equivalent to 50 work weeks of 40 hours at minimum wage.

"Independent student" means ~~one a student~~ whose parents have surrendered the right to his care, custody, and earnings; ~~do not claim him as a dependent on federal or state income tax returns;~~ and have ceased to provide him with substantial financial support. "Independent student" includes emancipated minors.

~~"Special arrangement contract" means a contract between a Virginia employer or the authorities controlling a federal installation or agency located in Virginia and a public institution of higher education for reduced rate tuition charges as described in subsection F of § 23-7.4:2.~~

"Substantial financial support" means ~~financial support in an~~ any amount which equals or exceeds that required to qualify the individual of financial support received by a student that qualifies him to be listed as a dependent on federal and state income tax returns.

"Surviving spouse" means the spouse of a military service member who, while serving as an active duty member in the ~~United States~~ Armed Forces of the United States, Reserves of the Armed Forces of the United States, ~~Armed Forces Reserves, or Virginia National Guard, or Virginia National Guard Reserve,~~ during military operations against terrorism, on a peacekeeping mission, or as a result of a terrorist act, or in any armed conflict ~~subsequent to December 6, 1941, was killed in action, is~~ became missing in action, or ~~is~~ became a prisoner of war.

"Unemancipated minor" means a minor student ~~under the age of 18 on the date of the alleged entitlement who is under the legal control of and is financially supported by either of his parents, legal guardian or other person having legal custody~~ who has not been emancipated pursuant to Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1 or the applicable laws of any other jurisdiction.

"Veteran" means an individual who has served ~~in the~~ on active ~~military, naval or air service~~ duty in the Armed Forces of the United States and who was discharged or released ~~therefrom~~ from such service under conditions other than dishonorable.

"Virginia employer" means (i) any employing unit organized under the laws of ~~Virginia~~ the Commonwealth or having income from ~~Virginia~~ sources in the Commonwealth regardless of its organizational structure; or (ii) any public or nonprofit organization authorized to operate in ~~Virginia~~ the Commonwealth.

**Drafting note: Existing § 23-7.4 is divided into seven sections, proposed §§ 23.1-500 through 23.1-505 and 23.1-509. Proposed § 23.1-500 updates definitions from subsection A of existing § 23-7.4. The definition of "dependent student" is updated to include unemancipated minors, a defined term. The definition of "independent student" is updated to include emancipated minors, a defined term. A portion of the definition of "dependent**

student" is stricken here and incorporated into proposed § 23.1-501. The definition of "special arrangement contract" is removed as unnecessary given the context of the term's use. "Is" is stricken twice and replaced with "became" in the definition of "surviving spouse" to clarify that such individuals need not currently be missing in action or prisoners of war. A reference to "Virginia National Guard Reserve" is removed as obsolete because such entity does not exist. Technical changes are made.

§ 23.1-501. Presumption of dependency for certain students.

It shall be presumed that a student under the age of 24 on the date of the alleged entitlement receives substantial financial support from his parent or legal guardian and is therefore the dependent of his parent or legal guardian unless the student (i) is a veteran or an active duty member of the Armed Forces of the United States, (ii) is a graduate or professional student, (iii) is married, (iv) is a ward of the court or was a ward of the court until age 18, (v) has no adoptive parent or legal guardian and each of the student's parents is deceased, (vi) has legal dependents other than a spouse, or (vii) is able to present clear and convincing evidence that he is financially self-sufficient.

**Drafting note: Proposed § 23.1-501 incorporates the portion of the definition of "dependent student" in existing § 23-7.4 that relates to the presumption of dependency. Technical changes are made.**

§ 23.1-502. Eligibility for in-state tuition charges; domicile; domiciliary intent.

~~B. A. To become~~ ~~be~~ eligible for in-state tuition ~~at public institutions of higher education,~~ an independent student ~~or, in the case of a dependent student, the individual through whom he claims eligibility,~~ shall establish by clear and convincing evidence ~~that~~ (i) domicile in the Commonwealth for a period of at least one year immediately succeeding the establishment of domiciliary intent pursuant to subsection B and immediately prior to the date of the alleged entitlement, ~~he was domiciled in Virginia and had abandoned~~ and (ii) the abandonment of any previous domicile, if such existed. No institution of higher education shall give weight to any evidence that such student or individual presents in support of his claim for domicile or the abandonment of any previous domicile unless such evidence has existed for a period of at least one year immediately prior to the date of the alleged entitlement.

~~To become eligible for in-state tuition, a dependent student or unemancipated minor shall establish by clear and convincing evidence that for a period of at least one year prior to the date of the alleged entitlement, the person through whom he claims eligibility was domiciled in Virginia and had abandoned any previous domicile, if such existed. If the person individual through whom the dependent student or unemancipated minor established such~~ establishes domicile and eligibility for in-state tuition charges ~~abandons his Virginia domicile in the Commonwealth, the dependent such student or unemancipated minor shall be~~ is entitled to such in-state tuition charges for one year from the date of such abandonment.

B. To establish domicile, an independent student or, in the case of a dependent student, the individual through whom he claims eligibility, shall establish by clear and convincing evidence domiciliary intent. In determining domiciliary intent, ~~all of institutions of higher education shall consider the totality of the circumstances, including the following applicable factors shall be considered:~~ continuous residence for at least one year prior to the date of alleged entitlement, except in the event of the establishment and maintenance of a place of residence ~~in another jurisdiction outside the Commonwealth~~ for the purpose of maintaining a joint household with an active duty United States military spouse; state to which income taxes are filed or paid; driver's license; motor vehicle registration; voter registration; employment; property ownership; sources of financial support; military records; a written offer and acceptance of employment following graduation; and any other social or economic relationships ~~with~~ within and outside the Commonwealth ~~and other jurisdictions.~~

**Drafting note: Proposed § 23.1-502 incorporates the basic requirements for eligibility for in-state tuition charges in the first three paragraphs of subsection B of existing § 23-7.4. Technical changes are made.**

§ 23.1-503. Determination of domicile; rules; presumptions.

~~Domiciliary status-A. Students shall not ordinarily be conferred~~ establish domicile by the performance of acts ~~which that~~ that are auxiliary to fulfilling educational objectives or are required or routinely performed by temporary residents of the Commonwealth. ~~Mere~~ Students shall not establish domicile by mere physical presence or residence primarily for educational purposes shall not confer domiciliary status. ~~A matriculating student who has entered an institution and is classified as an out of state student shall be required to rebut by clear and convincing evidence the presumption that he is in the Commonwealth for the purpose of attending school and not as a bona fide domiciliary.~~

~~Those factors presented in support of entitlement to in-state tuition shall have existed for the one year period prior to the date of the alleged entitlement. However, in determining the domiciliary intent of active duty military personnel residing in the Commonwealth, retired military personnel residing in the Commonwealth at the time of their retirement, surviving spouses, or veterans, or the domiciliary intent of their dependent spouse or children who claim domicile through them, who voluntarily elect to establish Virginia as their permanent residence for domiciliary purposes, the requirement of one year shall be waived.~~

~~C. B. A married person individual~~ may establish domicile in the same manner as an unmarried person individual.

~~An emancipated minor may establish domicile in the same manner as any other independent student.~~ C. A nonmilitary student whose parent or spouse is a member of the armed forces Armed Forces of the United States may establish domicile in the same manner as any other student.

~~D. Any alien holding an immigration visa or classified as a political refugee shall also~~ may establish eligibility for in-state tuition domicile in the same manner as any other student. However, absent congressional intent to the contrary, any ~~person~~ individual holding a student ~~visa or other~~ another temporary visa ~~shall~~ does not have the capacity to intend to remain in ~~Virginia~~ the Commonwealth indefinitely and, ~~is~~ therefore, ~~shall be~~ ineligible for Virginia to ~~establish~~ domicile and for receive in-state tuition charges.

E. The domicile of a dependent student shall be rebuttably presumed to be the domicile of the parent or legal guardian (i) claiming him as an exemption on federal or state income tax returns currently and for the tax year prior to the date of the alleged entitlement or (ii) providing him with substantial financial support. The spouse of an active duty military service member, if such spouse has established domicile and claimed the dependent student on federal or state income tax returns, shall is not be subject to minimum income tests or requirements.

~~For the purposes of this section, the~~ F. The domicile of an unemancipated minor or a dependent student 18 years of age or older may be ~~either~~ either the domicile of either the parent with whom he resides, the parent who claims the student as a dependent for federal or Virginia income tax purposes for the tax year prior to the date of the alleged entitlement and is currently so claiming the student, or the parent who provides the student with substantial financial support. If there is no surviving parent or the whereabouts of the parents are unknown, then the domicile of an unemancipated minor shall be the domicile of the legal guardian of such unemancipated minor unless ~~there are~~ circumstances indicate that such guardianship was created primarily for the purpose of ~~conferring a Virginia~~ establishing domicile on the unemancipated ~~minor.~~

G. Continuously enrolled non-Virginia students shall be presumed to be in the Commonwealth for educational purposes unless they rebut such presumption with clear and convincing evidence of domicile.

~~D. It is incumbent on the student to apply for change in domiciliary status on becoming eligible for such change. Changes in domiciliary status~~ H. A non-Virginia student is not eligible for reclassification as a Virginia student unless he applies for and is approved for such reclassification. Any such reclassification shall only be granted prospectively from the date such application is received.

I. A student who knowingly provides erroneous information in an attempt to evade payment of out-of-state ~~fees~~ tuition charges shall be charged out-of-state tuition ~~fees~~ for each term, semester, or quarter attended and may be subject to dismissal from the institution. All disputes ~~related~~ relating to the veracity of information provided to establish ~~Virginia~~ domicile shall be in the Commonwealth are appealable ~~through the due process procedure required by § 23-7.4:3~~ as set forth in § 23.1-510.

**Drafting note: Proposed § 23.1-503 incorporates the special rules and presumptions relating to domicile in the fourth paragraph of subsection B and all of subsections C and D of existing § 23-7.4. The second sentence of the fifth paragraph of subsection B of existing §**

**23-7.4 relating to the determination of domicile for certain active duty and retired military personnel is shown as stricken and relocated to proposed § 23.1-504.**

§ 23.1-504. Determination of domicile; exception; certain active duty and retired military personnel, etc.

In determining the domicile of (i) active duty military personnel residing in the Commonwealth, retired military personnel residing in the Commonwealth at the time of their retirement, surviving spouses, or veterans who voluntarily elect to establish the Commonwealth as their permanent residence for the purpose of domicile or (ii) a dependent spouse or dependent child who claims domicile through an individual listed in clause (i), institutions of higher education shall waive the one-year requirement set forth in subsection B of § 23.1-502.

**Drafting note: Proposed § 23.1-504 incorporates the second sentence of the fifth paragraph of subsection B of existing § 23-7.4 relating to the determination of domicile for certain active duty and retired military personnel and others. Technical changes are made.**

§ 23.1-505. Determination of domicile; exception; dependents of certain active duty military personnel, etc.

A. For the purposes of this section:

"Date of alleged entitlement" means the date of admission or acceptance for dependents currently residing in the Commonwealth or the final add/drop date for dependents of members newly transferred to the Commonwealth.

"Temporarily mobilized" means activated for service for 180 days or more.

"Unaccompanied orders" means orders that assign active duty military personnel or activated or temporarily mobilized reserve or guard members an unaccompanied tour listed in Appendix Q of the Joint Federal Travel Regulations.

~~E. B. Notwithstanding § 23.1-502 or any other provision of law to the contrary, all dependents, as defined by 37 U.S.C. § 401, of active duty military personnel; or activated or temporarily mobilized reservists or guard members; (i) assigned to a permanent duty station or workplace geographically located in Virginia in the Commonwealth, the District of Columbia, or in a state contiguous to Virginia or the District of Columbia, the Commonwealth who reside in Virginia the Commonwealth; (ii) assigned unaccompanied orders and immediately prior to receiving such unaccompanied orders were assigned to a permanent duty station or workplace geographically located in Virginia the Commonwealth, or in the District of Columbia, or a state contiguous to Virginia or the District of Columbia, the Commonwealth and resided in Virginia the Commonwealth; or (iii) assigned unaccompanied orders with Virginia the Commonwealth listed as the designated place move shall be deemed to be domiciled in Virginia for purposes of eligibility for in-state tuition the Commonwealth and shall be are eligible to receive in-state tuition in Virginia in accordance with this section.~~

C. All such dependents shall be afforded the same educational benefits as any other individual receiving who is eligible for in-state tuition pursuant to this section § 23.1-502. Such



~~dependents are eligible for such benefits and, including in-state tuition status shall continue so, for as long as they are continuously enrolled in an a public institution of higher education or private institution of higher education in Virginia or are transferring have transferred between Virginia public institutions of higher education or private institutions of higher education or from an undergraduate degree program to a graduate degree program at a public institution of higher education or private institution of higher education, regardless of any change of duty station or residence of the military service member.~~

~~For the purpose of this subsection:~~

~~"Date of alleged entitlement" means the date of admission or acceptance for dependents currently residing in Virginia or the final add/drop date for dependents of members newly transferred to Virginia.~~

~~"Temporarily mobilized" means activated for service for six months or more.~~

~~"Unaccompanied orders" means orders that assign the active duty military personnel, or activated or temporarily mobilized reservists or guard members, an unaccompanied tour listed in Appendix Q of the Joint Federal Travel Regulations.~~

~~F. After August 1, 2006, for students who enroll at a public, baccalaureate degree-granting, institution of higher education in Virginia and who have established Virginia domicile and eligibility for in-state tuition in compliance with this section, the entitlement to in-state tuition shall be modified to require the assessment of a surcharge, as defined herein, for each semester that the student continues to be enrolled after such student has completed 125 percent of the credit hours needed to satisfy the degree requirements for a specified undergraduate program, hereinafter referred to as the "credit hour threshold."~~

~~In calculating the 125 percent credit hour threshold, the following courses and credit hours shall be excluded: (i) remedial courses; (ii) transfer credits from another college or university that do not meet degree requirements for general education courses or the student's chosen program of study; (iii) advanced placement or international baccalaureate credits that were obtained while in high school or another secondary school program; and (iv) dual enrollment, college level credits obtained by the student prior to receiving a high school diploma.~~

~~The relevant public institution of higher education may waive the surcharge assessment for students who exceed the 125 percent credit hour threshold in accordance with the guidelines and criteria established by the State Council of Higher Education for Virginia. Waiver criteria may include, but shall not be limited to, illness or disability and active service in the armed forces of the United States.~~

~~For the purpose of this subsection, "surcharge" shall mean an amount calculated to equal 100 percent of the average cost of the student's education at the relevant institution less tuition and mandatory educational and general fee charges assessed to a student meeting Virginia domiciliary status who has not exceeded the 125 percent credit hour threshold.~~

**Drafting note: Proposed § 23.1-505 incorporates the provisions of subsection E of existing § 23-7.4. Technical changes are made, including moving definitions to the beginning of the proposed section and removing the definition of "date of alleged entitlement" because such term is not used in this proposed section. Subsection F of existing § 23-7.4 is stricken here and relocated as proposed § 23.1-509.**

~~§ 23-7.4:2 23.1-506. Eligibility for in-state or reduced tuition for; exception; certain out-of-state and high school students not domiciled in Virginia; tuition grants and in-state tuition for members of the National Guard.~~

~~A. Students who live outside the Commonwealth and have Notwithstanding § 23.1-502 or any other provision of law to the contrary, the following students are eligible for in-state tuition charges regardless of domicile:~~

~~1. Any non-Virginia student who resides outside the Commonwealth and has been employed full time inside Virginia in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement for in-state tuition shall be eligible for in-state tuition charges if such student has paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Students Such student shall continue to be eligible for in-state tuition charges for so long as the student is employed full time in the Commonwealth and the student pays Virginia income taxes on all taxable income earned in the Commonwealth.~~

~~2. Any non-Virginia student who resides outside the Commonwealth and is claimed as dependents a dependent for federal and Virginia income tax purposes who live outside the Commonwealth shall become eligible for in-state tuition charges if the nonresident-parents parent claiming them the student as dependents have a dependent has been employed full time inside Virginia in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement and paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Such students student shall continue to be eligible for in-state tuition charges for so long as they or their his qualifying parent is employed full time in Virginia the Commonwealth, paying pays Virginia income taxes on all taxable income earned in the Commonwealth, and claims the student is claimed as a dependent for Virginia and federal income tax purposes.~~

~~3. Any active duty member, activated guard or reserve member, or guard or reserve member mobilized or on temporary active orders for 180 days or more who resides in the Commonwealth.~~

~~4. Any veteran who resides in the Commonwealth.~~

~~5. Any surviving spouse who resides in the Commonwealth.~~

~~6. Following completion of active duty service, any non-Virginia student who established domicile before being called to active duty in the National Guard of another state if during such active duty he maintained at least one of the following in the Commonwealth: a driver's license,~~

motor vehicle registration, voter registration, employment, property ownership, or sources of financial support.

~~Any out of state students~~ non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as ~~in-state students~~ a Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

~~B. Any person who (i) is a member of the National Guard of the Commonwealth of Virginia and has a minimum remaining obligation of two years, (ii) has satisfactorily completed required initial active duty service, (iii) is satisfactorily performing duty in accordance with regulations of the National Guard, and (iv) is enrolled in any state institution of higher education, any private, accredited, and nonprofit institution of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education, any course or program offered by any such institution or any public career and technical education school shall be eligible for a grant in the amount of the difference between the full cost of tuition and any other educational benefits for which he is eligible as a member of the National Guard. Application for a grant shall be made to the Department of Military Affairs. Grants shall be awarded from funds available for the purpose by such Department.~~

~~Notwithstanding the foregoing requirement that a member of the National Guard have a minimum of two years remaining on his service obligation, if a member is activated or deployed for federal military service, an additional day shall be added to the member's eligibility for the grant for each day of active federal service up to 365 days. Additional credit, or credit for state duty, may be given at the discretion of the Adjutant General.~~

~~In addition, any person who met the requirements for in-state tuition prior to being called to active duty in the National Guard of another state shall be eligible for in-state tuition following completion of active duty service if during active duty that person maintained one or more of the following in Virginia rather than in another state or jurisdiction: a driver's license, motor vehicle registration, voter registration, employment, property ownership, or sources of financial support. Any out of state students granted in-state tuition pursuant to this subsection shall be counted as in-state students for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.~~

~~C. Notwithstanding the provisions of § 23-7.4 23.1-502 or any other provision of the law to the contrary, the governing board of any state public institution of higher education ~~or the governing board of the Virginia Community College System~~ may charge the same in-state tuition as is charged to any person domiciled in Virginia pursuant to the provisions of § 23-7.4 to the following students regardless of domicile:~~

1. ~~Any person~~ non-Virginia student enrolled in one of the institution's programs designated by the ~~State Council of Higher Education who is domiciled in and~~ who (i) is entitled to reduced tuition charges ~~in~~ at the institutions of higher education in any other state ~~which that~~

is a party to the Southern Regional Education Compact ~~which~~ and that has similar reciprocal provisions for ~~persons domiciled in~~ Virginia students and (ii) is domiciled in such other state;

2. Any non-Virginia student from a foreign country who is enrolled in a foreign exchange program approved by the ~~state~~ institution of higher education during the same period ~~that an exchange in which a Virginia student from the same state such~~ institution, ~~who is entitled to in-state tuition pursuant to § 23-7.4,~~ is attending the such foreign institution as an exchange student; and

3. Any high school or magnet school student, not otherwise qualified for in-state tuition, who is enrolled in courses specifically designed as part of the high school or magnet school curriculum in a comprehensive community college for which he may, upon successful completion, receive high school and ~~community~~ college credit pursuant to a dual enrollment agreement between the high school or magnet school and the comprehensive community college.

~~Any out-of-state students~~ non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as ~~out-of-state students~~ a non-Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

~~D.C.~~ The governing board of the Virginia Community College System State Board shall charge in-state tuition to any ~~person~~ non-Virginia student enrolled ~~in one of the System's institutions at a comprehensive community college who lives~~ resides in another state within a 30-mile radius of a ~~Virginia public~~ institution, ~~is domiciled in,~~ of higher education in the Commonwealth, is domiciled in such other state, and is entitled to in-state tuition charges ~~in~~ at the institutions of higher ~~learning~~ education in any state ~~which~~ that is contiguous to Virginia the Commonwealth and ~~which~~ that has similar reciprocal provisions for ~~persons domiciled in~~ Virginia students.

~~Any out-of-state students~~ non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as ~~in-state students~~ a Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

**Drafting note: Proposed § 23.1-506 incorporates the provisions of existing § 23-7.4:2 relating to permissive and mandatory in-state tuition for certain out-of-state and high school students. Subdivisions A 3, 4, and 5 incorporate the provisions of subsections G, H, and I of existing § 23-7.4:2 with technical changes. Subdivision A 6 incorporates the provisions of the third paragraph of subsection B of existing § 23-7.4:2 with technical changes. The provisions of the first two paragraphs of subsection B of existing § 23-7.4:2 are stricken and relocated as proposed § 23.1-609. Technical changes are made.**

§ 23.1-507. University of Virginia's College at Wise; reduced rate tuition charges for certain students.

~~E. A.~~ The board of the University of Virginia's College at Wise and the board of visitors of the University of Virginia may charge reduced rate tuition to any person student enrolled at the University of Virginia's College at Wise who ~~lives~~ resides in Kentucky within a 50-mile

radius of the University of Virginia's College at Wise, is domiciled in Kentucky, and is entitled to in-state tuition charges ~~in~~ at the institutions of higher ~~learning~~ education in Kentucky; if Kentucky has similar reciprocal provisions for ~~persons domiciled in~~ Virginia students.

~~In addition, the board of the University of Virginia's College at Wise and the~~ B. The board of visitors of the University of Virginia may charge reduced rate tuition to any ~~person~~ student enrolled at the University of Virginia's College at Wise who ~~lives~~ resides in Tennessee within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in Tennessee, and is entitled to in-state tuition charges ~~in~~ at the institutions of higher ~~learning~~ education in Tennessee; if Tennessee has similar reciprocal provisions for ~~persons domiciled in~~ Virginia students.

C. The board of visitors of the University of ~~Virginia's College at Wise and its partners or associates offering programs jointly at a regional off-campus center~~ Virginia may ~~also~~ charge reduced rate tuition to any ~~person~~ student enrolled in ~~such joint~~ programs offered jointly by its partners or associates and the University of Virginia's College at Wise at a regional off-campus center who ~~lives~~ resides in Tennessee within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in Tennessee, and is entitled to in-state tuition charges ~~in~~ at the institutions of higher ~~learning~~ education in Tennessee; if Tennessee has similar reciprocal provisions for ~~persons domiciled in~~ Virginia students. Any such respective partners or associates shall ~~establish and charge separately~~ separate tuition ~~rates~~ charges for their independent classes or programs at such regional off-campus centers.

D. ~~Any out-of-state students~~ non-Virginia student granted ~~in-state~~ reduced rate tuition pursuant to this ~~subsection~~ section shall be counted as ~~out-of-state students~~ a non-Virginia student for the purposes of determining admissions, enrollment, and tuition and fee revenue policies.

**Drafting note: Proposed § 23.1-507 incorporates the provisions of subsection E of existing § 23-7.4:2 relating to reduced tuition for certain non-Virginia students at the University of Virginia's College at Wise. References to the board of the University of Virginia's College at Wise are removed because such board does not have the authority to set tuition rates. Technical changes are made.**

§ 23.1-508. Special arrangement contracts; reduced rate tuition charges.

~~F.~~ A. Public institutions of higher education may enter into special arrangement contracts with ~~Virginia~~ employers in the Commonwealth or authorities controlling federal installations or agencies located in ~~Virginia~~. ~~The special arrangement contracts shall be~~ the Commonwealth for the purpose of providing reduced rate tuition charges for the employees of ~~the Virginia~~ such employers or federal personnel authorities who are non-Virginia students at such institutions when the such employers or federal authorities are assuming assume the liability for paying, to the extent permitted by federal law, the tuition charges for ~~the such~~ employees or personnel in

~~question and the employees or personnel are classified by the requirements of this section as out-of-state.~~

~~Special B.~~ Such special arrangement contracts with Virginia employers or federal installations or agencies may be (i) for group instruction in facilities provided by the employer or federal authority or in the institution's facilities or (ii) on a student-by-student basis for specific employment-related programs.

~~C.~~ Special arrangement contracts ~~shall be~~ are valid for a period not to exceed two years and shall be reviewed for legal sufficiency by the Office of the Attorney General prior to signing. ~~All rates~~ tuition charges agreed to by the public institutions shall be at least equal to in-state tuition and shall ~~only~~ be granted only by the institution with which the employer or the federal authorities have a valid contract for students for whom the employer or federal ~~authorities are~~ authority is paying the tuition charges.

~~D.~~ All special arrangement contracts with authorities controlling federal installations or agencies shall include a specific number of students to be ~~served at~~ charged reduced tuition rates.

~~E.~~ Nothing in this ~~subsection~~ section shall change the ~~domiciliary status~~ domicile of any student for the purposes of enrollment reporting or calculating the proportions of general funds and tuition and fees contributed to the cost of education.

~~G.~~ Any active duty members, activated guard or reservist members, or guard or reservist members mobilized or on temporary active orders for six months or more, who reside in Virginia, shall be eligible for in-state tuition charges. Any out-of-state students granted in-state tuition pursuant to this subsection shall be counted as in-state students for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

~~H.~~ Notwithstanding any other provision of law, veterans residing within the Commonwealth shall be eligible for in-state tuition charges. Any students granted in-state tuition pursuant to this subsection shall be counted as in-state students for the purpose of determining college admissions, enrollment, and tuition and fee revenue policies.

~~I.~~ Notwithstanding any other provision of law, surviving spouses, as that term is defined in § 23-7.4, residing within the Commonwealth shall be eligible for in-state tuition charges. Any students granted in-state tuition pursuant to this subsection shall be counted as in-state students for the purpose of determining college admissions, enrollment, and tuition and fee revenue policies.

**Drafting note: Proposed § 23.1-508 incorporates the provisions of subsection F of existing § 23-7.4:2 with technical changes. Subsections G, H, and I of existing § 23-7.4:2 are stricken and relocated as subdivisions A 3, 4, and 5 of proposed § 23.1-506 with technical changes.**

§ 23.1-509. In-state tuition; surcharge.

A. For the purpose of this section:

"Credit hour threshold" means 125 percent of the credit hours needed to satisfy the degree requirements for a specified undergraduate program.

"Surcharge" means an amount equal to 100 percent of the average cost of a student's education at the baccalaureate public institution of higher education that the student attends less tuition and mandatory educational and general fee charges assessed to a Virginia student who has not exceeded the credit hour threshold.

B. Virginia students who enroll for the first time at baccalaureate public institutions of higher education after August 1, 2006, shall be assessed a surcharge for each semester beginning in which the student continues to be enrolled after such student has reached the credit hour threshold.

C. In calculating the credit hour threshold, the following courses and credit hours shall be excluded: (i) remedial courses; (ii) transfer credits from another institution of higher education that do not meet degree requirements for general education courses or the student's chosen program of study; (iii) advanced placement or international baccalaureate credits that were obtained while in high school or another secondary school program; and (iv) dual enrollment, college-level credits obtained by the student prior to receiving a high school diploma.

D. The relevant baccalaureate public institution of higher education may waive the surcharge in accordance with guidelines and criteria established by the Council, which may include illness, disability, and active service in the Armed Forces of the United States.

**Drafting note: Proposed § 23.1-509 incorporates the provisions of subsection F of existing § 23-7.4. Technical changes are made.**

~~§ 23-7.4:3~~ 23.1-510. Determinations of eligibility; appeals and guidelines.

~~A. Each public institution of higher education shall establish an appeals process for those students who are aggrieved by decisions regarding eligibility for in-state or reduced-out-of-state rate tuition charges pursuant to §§ 23-7.4 and 23-7.4:2 this chapter. The Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to these administrative reviews.~~

~~An initial determination shall be made.~~ B. Each appeals process shall include an initial determination, an intermediate review of the initial determination, and a final administrative review. The final administrative decision shall be in writing. A copy of this decision shall be sent to the student. Either the intermediate review or the final administrative review shall be conducted by an appeals committee consisting of an odd number of members. No person individual who serves at one level of this appeals process shall be is eligible to serve at any other level of this review appeals process. All such due process procedures shall be in writing and shall include time limitations in order to provide for orderly and timely resolutions of all disputes.

C. Any party aggrieved by a final administrative decision shall have has the right to review in the circuit court for the jurisdiction in which the relevant institution is located. A

petition for review of the final administrative decision shall be filed within ~~thirty~~ 30 days of receiving the written decision. In any such action, the institution shall forward the record to the court, whose function ~~shall be~~ is only to determine whether the decision reached by the institution could reasonably be said, on the basis of the record, not to be arbitrary, capricious, or otherwise contrary to law.

~~B.~~ D. To ensure the application of uniform criteria in administering this section and determining eligibility for in-state tuition charges, the ~~State Council of Higher Education~~ shall issue and ~~from time to time~~ revise domicile guidelines, ~~including domiciliary status questions~~ to be incorporated by all ~~state~~ public institutions of higher education in their admissions applications. ~~These~~ Such guidelines ~~shall be~~ are not be subject to the Administrative Process Act (§ 2.2-4000 et seq.). The Council shall consult with the Office of the Attorney General and provide opportunity for public comment prior to issuing any such guidelines.

E. An advisory committee, composed of at least ~~ten~~ 10 representatives of public institutions of higher education and private institutions of higher education, shall be appointed by the Council each year to cooperate with the Council in developing the guidelines for determining eligibility or revisions ~~thereof~~ of such guidelines. ~~The Council shall consult with the Office of the Attorney General and provide opportunity for public comment prior to issuing any such guidelines.~~

**Drafting note: Technical changes are made, including striking the superfluous phrase "from time to time" in subsection D per Code Commission policy.**

~~§ 23-7.4:4.~~

**Drafting note: Repealed by Acts 2002, c. 84.**

~~§ 23-9.2:3.01.~~

**Drafting note: Repealed by Acts 2002, c. 84.**

#### ~~CHAPTER 1.2.~~

#### ~~PARTICIPATION IN FEDERAL FINANCIAL ASSISTANCE PROGRAMS.~~

~~§§ 23-9.15 through 23-9.21.~~

**Drafting note: Repealed by Acts 1977, c. 676.**

#### ~~CHAPTER 2.~~

#### ~~AID TO PERSONS DENIED ADMISSION.~~

~~§§ 23-10 through 23-13.~~

**Drafting note: Repealed by Acts 1971, Ex. Sess., c. 102.**



CHAPTER 6.  
FINANCIAL ASSISTANCE.

**Drafting note: Provisions of existing Title 23 related to financial assistance are consolidated in proposed Chapter 6 and organized as seven articles. Technical changes are made.**

Article 1.  
General Provisions.

**Drafting note: Provisions relating to financial assistance generally are consolidated in proposed Article 1 of Chapter 6, and technical changes are made.**

~~§ 23-7.1:02~~ 23.1-600. Participation in ~~or~~ and eligibility for state-supported financial aid programs.

A. Participation in and eligibility for state-supported financial aid or other higher education programs designed to promote greater racial diversity in ~~state-supported~~ public institutions of higher education shall not be restricted on the basis of race or ethnic origin ~~and any person.~~ Any individual who is a member of any federally recognized minority ~~shall be is~~ eligible for and may participate in such programs; if such individual meets all other qualifications for admission to the relevant institution and the specific program ~~are met.~~

B. ~~Persons~~ Individuals who have completed a program of home school instruction in accordance with § 22.1-254.1 and ~~persons~~ individuals who have been excused from school attendance pursuant to subsection B of § 22.1-254 shall be deemed to have met the high school graduation requirements for purposes of eligibility for any state-supported financial aid or other higher education programs. When a high school grade point average, class rank, or other academic criteria ~~is~~ are specified as a condition of participating in a program, the ~~State~~ Council of ~~Higher Education for Virginia~~ shall develop empirical alternative equivalent measures that may be required for such programs.

~~§ 23-7.4:5~~ 23.1-601. ~~Grant~~ Comprehensive community colleges; grants for tuition and fees for certain individuals.

A. ~~The~~ Each comprehensive community college shall provide a grant for the payment of tuition or fees, except fees established for the purpose of paying for course materials, such as laboratory fees, ~~shall be provided for a person who is a bona fide domiciliary of Virginia, as defined in § 23-7.4, and~~ for any Virginia student who:

1. a. Has received a high school diploma or has passed a high school equivalency examination approved by the Board of Education and was in foster care or in the custody of the Department of Social Services or is considered a special needs adoption at the time such diploma or certificate was awarded; ~~or was~~

b. Was in foster care when he turned 18 and subsequently received a high school diploma or passed a high school equivalency examination approved by the Board of Education;

2. Is enrolled or has been accepted for enrollment as a full-time or part-time student, taking a minimum of six credit hours per semester, in a degree or certificate program of at least one academic year in length in a ~~public two-year institution of higher education in the Commonwealth~~ comprehensive community college;

3. Has not been enrolled in postsecondary education as a full-time student for more than five years ~~and/or~~ or does not have a ~~prior~~ bachelor's degree;

4. Maintains the required grade point average established by the State Board ~~for Community Colleges~~;

5. Has submitted applications for federal student financial aid programs for which he may be eligible; ~~and~~

6. Demonstrates financial need; ~~and meets~~

7. Meets any additional financial need requirements established by the State Board ~~for Community Colleges~~ for the purposes of such grant.

B. The State Board ~~for Community Colleges~~, in consultation with the ~~State Council of Higher Education~~ and the Department of Social Services, shall establish regulations governing such grants. The regulations shall include, ~~but shall not be limited to,~~ provisions addressing renewals of grants; financial need; the calculation of grant amounts; after consideration of any additional financial resources or aid the student ~~may hold;~~ holds, the minimum grade point average required to retain such grant; and procedures for the repayment of tuition and fees for failure to meet the requirements imposed by this section.

**Drafting note: Technical changes are made, including the use of terms defined title-wide pursuant to § 23.1-100 such as "comprehensive community college," "Council," "Virginia student," and "State Board."**

~~§ 23-7.4:6. Expired.~~

**Drafting note: Expired pursuant to Acts 2009, c. 447, cl. 3, effective July 1, 2012.**

~~§ 23-9.2:1.~~

**Drafting note: Repealed by Acts 1980, c. 229.**

~~§ 23-9.2:2.~~

**Drafting note: Repealed by Acts 1972, c. 697.**

~~§ 23-9.2:4~~ 23.1-602. Payments to institutions of higher education for certain courses taken by law-enforcement officers.

A. The ~~State~~ Department of Criminal Justice Services ~~is hereby authorized and directed to~~ shall enter into contracts to make payments to public institutions of higher education and accredited private institutions of higher education within this Commonwealth whose primary campus is within the Commonwealth for tuition, books, and mandatory fees for ~~law-enforcement officers~~ any law-enforcement officer of the Commonwealth, or its political subdivisions, departments, or authorities; ~~or of any county, city or town thereof~~ locality of the Commonwealth

~~who (i) is enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which that leads to a degree or certificate in an area related relating to law enforcement or an area suitable for law-enforcement officers. No payments shall be made pursuant to this section to any institution of higher education operating within this Commonwealth whose primary campus is outside this Commonwealth. Assistance under this section may be granted only on behalf of an applicant who and (ii) enters into an agreement to continue to serve as a law-enforcement officer in Virginia the Commonwealth upon completion of his course of study for a period at least as long as the length of the course of study undertaken and paid for under the provisions of this section; and, in the event that he does not complete such service is not completed, to repay the full amount of such payments on the terms and in the manner that the State Department of Criminal Justice Services may prescribe prescribes.~~

~~B. Any person receiving individual who receives the benefit of funds expended pursuant to this section shall be required to make reimbursement of reimburse such funds to the Department of Criminal Justice Services if he fails to satisfactorily complete the course or courses for which the funds were expended.~~

~~Any reimbursement of money advanced under the provisions of this section shall be returned to the State The Department of Criminal Justice Services and used shall use such reimbursed funds in accordance with the purposes of this section.~~

**Drafting note: Technical changes are made, including removing "State" in two instances in subsection A when used in conjunction with "Department of Criminal Justice Services" and changing a reference to "county, city or town" to "locality" pursuant to § 1-221, which states that throughout the Code "locality" means a county, city, or town.**

~~§ 23-31.1 23.1-603. State cadets; Mary Baldwin College and Virginia Polytechnic Institute and State University; financial assistance awards.~~

~~From funds appropriated by the Commonwealth to Mary Baldwin College for the Virginia Women's Institute for Leadership and to Virginia Polytechnic Institute and State University, their respective boards of visitors each such institution's governing board may, in their discretion, provide for financial assistance awards to students designated as state cadets, on terms and conditions comparable to the provisions of §§ 23-105 through 23-107 § 23.1-2506.~~

**Drafting note: Technical changes are made, including replacing a reference to "boards of visitors" with the more general "governing board"; Mary Baldwin College has an advisory board of visitors but refers to its governing board as a board of trustees.**

~~§ 23-32 23.1-604. Investment of funds donated for scholarships.~~

~~Whenever A. When any person shall deposit deposits moneys in the state treasury, or bequeath money bequeaths moneys to be so deposited in, or devise devises or bequeath bequeaths property to be sold and the proceeds to be so deposited, in the state treasury for the benefit of any of the educational institutions in the Commonwealth, to institution of higher education in such an amount that the interest thereof will be on such moneys is sufficient to~~

~~educate and maintain thereat one or more cadets or students~~ cover the costs of tuition, mandatory fees, and other necessary expenses for a cadet or student enrolled in such institution, the fund moneys shall be invested in securities that are legal investments under the laws of the Commonwealth for public funds in the name and for the benefit of the such institution.

~~§ 23-33. Donations irrevocable; right of nomination by donor.~~

~~B. Such donation shall be~~ is irrevocable, but the donor, or his heirs, or their the guardian, if they be of any heir who is under twenty-one 21 years of age, shall have the right to old may nominate and place in such institution one or more cadets or students, according to the regulations aforesaid any cadet or student.

~~§ 23-34. Selection when donor fails to nominate.~~

~~C. If such donor, or his heirs, or such guardian, shall fail for~~ fails to nominate a cadet or student within one year to nominate as aforesaid of such donation, the governing board of visitors, trustees, or corporate authorities of the institution may appropriate the income of such fund to the education and maintenance of such moneys to cover tuition, mandatory fees, and other necessary expenses for indigent cadets or Virginia students, to be selected by them from the Commonwealth at large or cadets.

**Drafting note: The provisions of existing §§ 23-32, 23-33, and 23-34 are logically combined as proposed subsections A, B, and C of § 23.1-604. The reference to "regulations aforesaid" in proposed subsection B is stricken because there are no such aforesaid regulations. Technical changes are made.**

~~§ 23-108 23.1-605. Commissioned officers may become students; waiver of tuition and mandatory fees.~~

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

**Drafting note: Technical changes are made, including updating the "organized militia and Governor's military staff of the Commonwealth" to the Virginia National Guard or the Virginia Defense Force.**

~~§ 23-38 23.1-606. Service in armed forces discharges obligation to render services to Commonwealth in consideration of scholarship~~ Armed Forces of the United States; discharge of scholarship service obligations.

~~Service~~ Any length of service by any person individual in any of the armed forces Armed Forces of the United States as an officer, private, or nurse, or in any other capacity, regardless of length of service, in time of war or other declared national emergency, is a complete and final discharge of any obligation of such person individual to serve the Commonwealth as a teacher in

the public schools; or in any other capacity, including any such obligation ~~which~~ that has been reduced or computed into terms of a monetary obligation in lieu of such service, arising by virtue of any statute or of any contract entered into between such ~~person~~ individual and any ~~state-owned or state-supported~~ public institution of higher learning, education in consideration of any state scholarship awarded to or received by such ~~person~~ individual as a student in such institution; ~~provided,~~ that such service is terminated by an honorable or medical discharge; ~~provided, further, that and~~ such ~~person~~ shall have individual entered such service ~~with the armed forces~~ within four years after leaving such ~~state-owned or state-operated~~ institution.

**Drafting note: Technical changes.**

~~§ 23-8.2:1~~ 23.1-607. Compensation of cooperating teachers.

A. As used in this section, "cooperating teacher" means an individual licensed by the Board of Education who meets the criteria established by the relevant institution of higher education and is engaged in supervising and evaluating one or more student teachers.

B. In addition to the provisions of § 22.1-290.1 relating to compensation of certain licensed teachers while engaged in supervising and evaluating student teachers, any institution of higher education engaged in educating students to be teachers may, from such funds as may be available for such purpose, develop and implement a program to compensate ~~public school~~ public school or private school ~~private school~~ teachers who agree to be cooperating teachers ~~as defined in this section~~. Such compensation programs may provide for payment in the form of money or ~~in the form of~~ authorization to enroll; without charge; for a designated number of credit hours in the school, department, or other unit of the ~~relevant~~ institution of higher education ~~in~~ at which the student teacher being supervised is enrolled.

~~For the purposes of this section, "cooperating teacher" means an individual licensed by the Board of Education who meets the criteria established by the relevant institution of higher education and is engaged in supervising and evaluating one or more student teachers.~~

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

~~§ 23-7.4:1~~ 23.1-608. ~~Waiver of tuition and certain charges and fees for eligible children and spouses of certain military service members, eligible children and spouses of certain public safety personnel, and certain foreign students~~ Virginia Military Survivors and Dependents Education Program and Fund; tuition and fee waivers.

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

"Domicile" has the same meaning as provided in § 23.1-500.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became

a prisoner of war, or of a veteran who, as a direct result of such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of the Department of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.

~~There is hereby established the~~ B. The Virginia Military Survivors and Dependents Education Program. ~~Qualified (the Program) is established for the purpose of waiving tuition and mandatory fees at a public institution of higher education or Eastern Virginia Medical School for~~ qualified survivors and dependents of military service members, who have been admitted to any public such institution of higher education or other public accredited postsecondary institution granting a degree, diploma, or certificate in the Commonwealth of Virginia, upon certification to and meet the requirements of subsection B, as certified by the Commissioner of the Department of Veterans Services of eligibility under this subsection, shall be admitted free of tuition and all required fees.

~~The Virginia Military Survivors and Dependents Education Program shall be implemented pursuant to the following:~~

~~1. For the purposes of this subsection, "qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 of a military service member who, while serving as an active duty member in the United States Armed Forces, United States Armed Forces Reserves, the Virginia National Guard, or Virginia National Guard Reserve, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict subsequent to December 6, 1941, was killed or is missing in action or is a prisoner of war, or of a veteran who, due to such service, has been rated by the United States Department of Veterans Affairs as totally and permanently disabled or at least 90% disabled, and has been discharged or released under conditions other than dishonorable. However, the Commissioner of the Department of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.~~

~~2. Such qualified~~ C. Admitted qualified survivors and dependents shall be are eligible for the benefits conferred by this subsection a waiver of tuition and mandatory fees pursuant to this section if the military service member who was killed, is became missing in action, is became a prisoner of war, or is disabled (i) was a bona fide domiciliary of Virginia established domicile (a) at the time of entering such active military service or called to active duty as a member of the Armed Forces Reserves of the Armed Forces of the United States or Virginia National Guard Reserve; (ii) is and has been a bona fide domiciliary of Virginia (b) for at least five years immediately prior to, or has had a physical presence in Virginia the Commonwealth for at least five years immediately prior to, the date on which the admission application was submitted by or on behalf of such qualified survivor or dependent for admission to such institution of higher

~~education or other public accredited postsecondary institution; (iii) if deceased, was a bona fide domiciliary of Virginia or Eastern Virginia Medical School or (c) on the date of his death and had been a bona fide domiciliary of Virginia for at least five years immediately prior to his death or had a physical presence in Virginia the Commonwealth on the date of his death and has had a physical presence in Virginia the Commonwealth for at least five years immediately prior to his death; (iv) (ii) in the case of a qualified child, is deceased and the surviving parent had been, at some time previous to marrying the deceased parent, a bona fide domiciliary of Virginia established domicile for at least five years or is and has been a bona fide domiciliary of Virginia, or established domicile or had a physical presence in the Commonwealth for at least five years immediately prior to or has had a physical presence in Virginia for at least five years immediately prior to the date on which the admission application was submitted by or on behalf of such child; or (v) (iii) in the case of a qualified spouse, is deceased and the surviving spouse had been, at some time previous to marrying the deceased spouse, a bona fide domiciliary of Virginia for established domicile at least five years or is and has been a bona fide domiciliary of Virginia for at least five years or has had a physical presence in Virginia had a physical presence in the Commonwealth for at least five years prior to the date on which the admission application was submitted by such qualified spouse.~~

~~3-D. From such funds as may be appropriated and from such gifts, bequests, and any gifts, grants, or donations from public or private sources, there is hereby established the Virginia Military Survivors and Dependents Education Fund (the Fund) is established for the sole purpose of providing financial assistance, in an amount (i) up to \$2,000 or (ii) as provided in the appropriation act, for board and room charges, books and supplies, and other expenses at any public institution of higher education or other public accredited postsecondary institution granting a degree, diploma, or certificate in the Commonwealth of Virginia Eastern Virginia Medical School for the use and benefit of qualified survivors and dependents, provided that the maximum amount to be expended for each such survivor or dependent pursuant to this subsection shall not exceed, when combined with any other form of scholarship, grant, or waiver, the actual costs relating to the survivor's or dependent's educational expenses allowed under this subsection.~~

~~E. Each year, from the funds available in the Virginia Military Survivors and Dependents Education Fund, the State Council of Higher Education for Virginia and its member institutions each public institution of higher education shall determine the amount and the manner in which financial assistance shall be made available to beneficiaries and shall make that information available to the Commissioner of the Department of Veterans Services for distribution.~~

~~F. The State Council of Higher Education for Virginia shall be responsible for disbursing disburse to the institutions each public institution of higher education the funds appropriated or otherwise made available by the Commonwealth of Virginia to support the Virginia Military Survivors and Dependents Education Fund and shall report to the Commissioner of the Department of Veterans Services the beneficiaries' completion rate.~~

~~The maximum amount to be expended for each such survivor or dependent pursuant to this subsection shall not exceed, when combined with any other form of scholarship, grant, or waiver, the actual costs related to the survivor's or dependent's educational expenses allowed under this subsection.~~

~~4. G. The Commissioner of the Department of Veterans Services shall designate a senior-level official who shall be responsible for developing and implementing the agency's strategy for disseminating disseminate information about the Military Survivors and Dependents Education Program and Fund to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the United States U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of the Department of Veterans Services shall report annually include in the annual report submitted to the Governor and the General Assembly as to pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Program and Fund. The report shall also include the number of current beneficiaries, the educational institutions attended by beneficiaries, and the completion rate of the beneficiaries.~~

H. Each public institution of higher education and Eastern Virginia Medical School shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

**Drafting note: Proposed § 23.1-608 incorporates subsection A of existing § 23-7.4:1. Reporting requirements contained in proposed subsection G are recommended for repeal as duplicative of reports made by the Council. Proposed subsection H incorporates the provisions of part of subsection E of existing § 23-7.4:1. A reference to "Virginia National Guard Reserve" is removed as obsolete because such entity does not exist. Technical changes are made, including moving an existing definition to the beginning of the section and cross-referencing the definition of "domicile" from the definitions section in proposed Chapter 5 (§ 23.1-500 et seq.).**

§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee waivers.

~~B. A. (Effective until July 1, 2018) The surviving spouse and any child between the ages of 16 and 25 whose parent or whose spouse has been of an individual who was killed in the line of duty while employed or serving as a (i) law-enforcement officer, including as a campus police officer appointed under Chapter 17 Article 3 (§ 23-232 23.1-809 et seq.) of Chapter 8, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the Department of Alcoholic Beverage Control, state correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff; (ii) member of the Virginia National Guard while serving on official state duty or federal duty under Title 32 of the United States Code; or (iii) member of the Virginia Defense Force while serving on official state duty, and any person individual whose spouse was killed in the line of~~



duty while employed or serving in any of such occupations, ~~shall be~~ is entitled to ~~free~~ a waiver of undergraduate tuition and ~~the payment of required~~ mandatory fees at any public institution of higher education ~~or other public accredited postsecondary institution granting a degree, diploma, or certificate in Virginia~~ under the following conditions:

~~B.~~ A. (Effective July 1, 2018) The surviving spouse and any child between the ages of 16 and 25 ~~whose parent or whose spouse has been of an individual who was~~ killed in the line of duty while employed or serving as a (i) law-enforcement officer, including as a campus police officer appointed under ~~Chapter 17 Article 3~~ (§ ~~23-232 23.1-809~~ et seq.) of Chapter 8, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the Virginia Alcoholic Beverage Control Authority, state correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff; (ii) member of the Virginia National Guard while serving on official state duty or federal duty under Title 32 of the United States Code; or (iii) member of the Virginia Defense Force while serving on official state duty, and any ~~person~~ individual whose spouse was killed in the line of duty while employed or serving in any of such occupations, ~~shall be~~ is entitled to ~~free~~ a waiver of undergraduate tuition and ~~the payment of required~~ mandatory fees at any public institution of higher education ~~or other public accredited postsecondary institution granting a degree, diploma, or certificate in Virginia~~ under the following conditions:

1. (Effective until July 1, 2018) The chief executive officer of the ~~Alcoholic Beverage Control Board, emergency medical services agency, law enforcement agency, or other appropriate agency or the Superintendent of State Police~~ deceased individual's employer certifies that ~~the deceased parent or spouse~~ such individual was so employed ~~or serving as a law-enforcement officer, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, or member of a rescue squad or in any other capacity as specified in this section~~ and was killed in the line of duty while serving or living in the Commonwealth; and

1. (Effective July 1, 2018) The ~~Chief Executive Officer~~ chief executive officer of the ~~Virginia Alcoholic Beverage Control Authority, emergency medical services agency, law-enforcement agency, or other appropriate agency or the Superintendent of State Police~~ deceased individual's employer certifies that ~~the deceased parent or spouse~~ such individual was so employed ~~or serving as a law-enforcement officer, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, or member of a rescue squad or in any other capacity as specified in this section~~ and was killed in the line of duty while serving or living in the Commonwealth; and

2. The surviving spouse or child ~~or spouse shall have been offered admission to such public institution of higher education or other public accredited postsecondary institution. Any child or spouse who believes he is eligible shall apply to the public institution of higher education or other accredited postsecondary institution to which he has been admitted for the benefits provided by this subsection. The institution shall determine the eligibility of the applicant for these benefits and shall also ascertain that the recipients are in attendance and are~~

making is admitted to, enrolls at, and is in attendance at such institution and applies to such institution for the waiver. Waiver recipients who make satisfactory academic progress are eligible for renewal of such waiver.

~~The B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional charges and required mandatory educational and auxiliary fees, and books and supplies for the applicants shall be waived by the institution accepting the students.~~

~~C. For the purposes of subsection B, but shall not waive user fees; such as room and board charges, shall not be included in this authorization to waive tuition and fees. However, all required educational and auxiliary fees shall be waived along with tuition.~~

~~D. Tuition and required fees may be waived for a student from a foreign country enrolled in a public institution of higher education through a student exchange program approved by such institution, provided the number of foreign students does not exceed the number of students paying full tuition and required fees to the institution under the provisions of the exchange program for a given three-year period.~~

~~E. C. Each public institution of higher education and other public accredited postsecondary institution granting a degree, diploma, or certificate in Virginia shall include in its catalogue catalog or equivalent publication a statement describing the benefits provided by subsections A and B available pursuant to this section.~~

**Drafting note: Proposed § 23-609 incorporates the provisions of subsections B and C and part of subsection E of existing § 23-7.4:1. The stricken language in existing subsection E is relocated as subsection G of proposed § 23.1-608. Existing subsection D is stricken and relocated as proposed § 23.1-611.**

**Existing subsection B and subdivision B 1 are set out twice to reflect 2015 amendments by Chapters 38 and 730, effective July 1, 2018, which are identical and substituted "Virginia Alcoholic Beverage Control Authority" for "Department of Alcoholic Beverage Control" in subsection B; and substituted "Chief Executive Officer of the Virginia Alcoholic Beverage Control Authority" for "chief administrative officer of the Alcoholic Beverage Control Board" in subdivision B 1.**

**Technical changes are made.**

§ 23.1-610. Members of the National Guard; grants.

A. Any individual who (i) is a member of the Virginia National Guard and has a minimum remaining obligation of two years, (ii) has satisfactorily completed required initial active duty service, (iii) is satisfactorily performing duty in accordance with regulations of the National Guard, and (iv) is enrolled in any course or program at any public institution of higher education or accredited nonprofit private institution of higher education whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education is eligible for a grant in the amount of the difference between the full cost of tuition and any other educational benefits for which he is eligible as a member of the National Guard.

Application for a grant shall be made to the Department of Military Affairs. Grants shall be awarded from funds made available for the purpose by the Department of Military Affairs.

B. Notwithstanding the requirement in subsection A that a member of the Virginia National Guard have a minimum of two years remaining on his service obligation, if a member is activated or deployed for federal military service, an additional day shall be added to the member's eligibility for the grant for each day of active federal service, up to 365 days. Additional credit or credit for state duty may be given at the discretion of the Adjutant General.

**Drafting note: Proposed § 23.1-610 incorporates the provisions of the first two paragraphs of subsection B of existing § 23-7.4:2. Technical changes are made.**

§ 23.1-611. Students from foreign countries; student exchange programs; tuition and fee waivers.

~~D. Tuition and required mandatory fees may be waived for a student from a foreign country enrolled in a public institution of higher education through a student exchange program approved by such institution, provided that the number of foreign students from a foreign country for whom tuition and mandatory fees has been waived does not exceed during any three-year period the number of students paying from a foreign country who are enrolled through such student exchange program and who pay full tuition and required mandatory fees to the institution under the provisions of the exchange program for a given three-year period.~~

**Drafting note: Proposed § 23.1-611 incorporates the provisions of subsection D of existing § 23-7.4:1. Technical changes are made.**

#### ~~CHAPTER 4.~~

#### ~~COLLEGE AND UNIVERSITY SCHOLARSHIPS.~~

#### ~~Article 2.~~

#### ~~Scholarships.~~

**Drafting note: Provisions of Title 23 relating to scholarships are consolidated in proposed Article 2 of Chapter 6, and technical changes are made.**

~~§ 23-34~~ 23.1-612. Unfunded scholarships.

~~A. The corporate authorities of the University of Virginia, the University of Virginia's College at Wise, Virginia Military Institute, Virginia Polytechnic Institute and State University, The College of William and Mary, Christopher Newport University, George Mason University, Longwood University, the University of Mary Washington, James Madison University, Virginia Commonwealth University, Radford University, Old Dominion University, the Virginia Community College System, Virginia State University, Norfolk State University, and Richard Bland College may establish scholarships, hereafter to be designated as unfunded scholarships, in their respective institutions under such regulations and conditions as they may prescribe, but governing board of each public institution of higher education may establish unfunded~~

scholarships that are subject to such regulations and conditions as the governing board establishes and the following limitations and restrictions:

1. All such scholarships shall be applied exclusively to the remission, in whole or in part, of tuition and ~~required~~ mandatory fees.

2. ~~The respective corporate authorities~~ governing board shall determine the number of such scholarships annually awarded to undergraduate Virginia students and non-Virginia students.

3. ~~The total value of all such scholarships annually awarded by an institution to undergraduate Virginia students shall not exceed in any year the amount arrived at by multiplying of the applicable figure for sum of undergraduate tuition and required mandatory fees multiplied by 20 percent of the enrollment of undergraduate Virginia students in undergraduate studies in the institution during the preceding academic year.~~

4. ~~The total value of all such scholarships annually awarded by an institution to undergraduate non-Virginia undergraduate students shall not exceed in any year the amount of the applicable, per capita out-of-state tuition differential paid by undergraduate non-Virginia undergraduate students for tuition and required mandatory fees multiplied by 20 percent of the enrollment of undergraduate non-Virginia students in undergraduate studies in the institution during the preceding academic year.~~

5. All such scholarships awarded to undergraduate students shall be awarded only to ~~undergraduate~~ students in the first four years of undergraduate work and shall be awarded and renewed on a selective basis to students of character and ability who are in need of financial assistance. For purposes of determining need under this section, each governing board shall use a nationally recognized needs-analysis system approved by the State Council of Higher Education shall be used.

~~3-6.~~ The respective corporate authorities governing board of each public institution of higher education shall determine the number of such scholarships annually awarded to graduate students or teachers serving as clinical faculty pursuant to § 22.1-290.1. The total value of all such scholarships annually awarded to such graduate students and clinical faculty shall not exceed in any year the amount arrived at by multiplying of the applicable figure for sum of graduate tuition and required mandatory fees multiplied by the number of teachers serving as clinical faculty pursuant to § 22.1-290.1 and graduate students who are employed as teaching assistants, graduate assistants, or research assistants with significant academic or academic support responsibilities and who are paid a stipend of at least \$2,000 in the particular academic year and such clinical faculty. All graduate unfunded scholarships awarded to graduate students or teachers serving as clinical faculty shall be awarded and renewed on a selective basis to such graduate students and clinical faculty of character and ability.

~~4. A scholarship awarded under this program~~ 7. An unfunded scholarship shall entitle the holder to the following award, as appropriate:

a. ~~A Virginia~~ An undergraduate Virginia student may receive an annual remission of an amount not to exceed the cost of tuition and mandatory fees ~~required to be paid by the student~~;

b. ~~A non-Virginia~~ An undergraduate non-Virginia student may receive an annual remission not to exceed the amount of the out-of-state tuition differential required to be paid by the student for tuition and mandatory fees;

c. A qualified graduate student may receive an annual remission of an amount not to exceed the cost of tuition and mandatory fees ~~required to be paid by the student~~; and

d. A teacher serving as clinical faculty member may receive an award as determined by the governing ~~body~~ board of the institution.

~~5-8.~~ Notwithstanding the limitations on the awards of unfunded scholarships to undergraduate students pursuant to subdivision A-4 ~~of this section~~ 7, an institution may award ~~additional~~ unfunded scholarships to visiting foreign exchange students; ~~however, as long as the~~ number of such awards in any fiscal year ~~shall~~ does not exceed one quarter of one percent of the total institutional headcount enrollment.

B. No public institution named herein of higher education shall remit any tuition or ~~required~~ mandatory fees ~~or any special fees or charges~~ to any student at such institution except as authorized in this section. Each such institution named herein shall make a report to the ~~State Council of Higher Education~~, upon request, showing the number and value of scholarships awarded under this section according to each student classification.

C. Nothing in this section shall be construed to prevent or limit in any way the admission of ~~certain students, known as state cadets,~~ at the Virginia Military Institute or to affect the remission of tuition ~~or required,~~ mandatory fees, or other charges to such state cadets as permitted under existing law.

D. Nothing in this section shall be construed to affect or limit in any way the control of the governing ~~bodies~~ boards of the respective institutions over (i) any other scholarships; ~~or over,~~ (ii) any gifts or donations made to such institutions for scholarships or other special purposes; ~~or over,~~ (iii) any funds provided by the federal government or otherwise for the purpose of career and technical education or vocational rehabilitation in ~~this the~~ the Commonwealth; ~~or over~~ (iv) any funds derived from endowment or appropriations from the federal government for instruction in agriculture and mechanic arts ~~in land grant colleges at land-grant universities~~.

E. Nothing in this section shall be construed to prevent the governing ~~bodies of the~~ respective institutions board of any public institution of higher education from fixing a ~~reasonably lower~~ tuition charge for Virginia students reasonably lower than that for non-Virginia students.

F. Nothing in this section or any other provision of law shall prohibit the awarding of 10 full tuition unfunded scholarships each year by Old Dominion University under the terms and conditions provided for in a deed conveying certain property in Norfolk known as the Old Larchmont School made July 5, 1930, between the City of Norfolk and The College of William and Mary in Virginia.

G. Nothing in this section shall be construed to limit other financial aid programs provided pursuant to state law.

**Drafting note: Technical changes.**

~~§ 23-35.23.1-613.~~ Alumni scholarships.

~~The society of alumni association of any public institution aforesaid of higher education may provide for and maintain a scholarship therein, fund by annual contributions, under such regulations criteria as may be prescribed as aforesaid.~~

**Drafting note: Technical changes are made, including replacing "society of alumni" with preferred "alumni association."**

~~§ 23.35.1 through 23-35.8.~~

**Drafting note: Repealed by Acts 1994, c. 867.**

~~§ 23-35.9 23.1-614.~~ Nursing scholarships; Advisory Committee.

A. As used in this section:

"Graduate nursing program" means a program at a school of nursing that leads to a master's degree or doctorate in nursing or a field relating to nursing activities.

"Undergraduate nursing program" means a program at a school of nursing that leads to an associate degree, diploma, or baccalaureate degree in nursing.

B. Annual nursing scholarships are hereby established for part-time and full-time Virginia students enrolled in undergraduate and graduate nursing programs or first-year Virginia students at the beginning of their first academic year who present to the advisory committee established pursuant to subsection D a notice of intention to pursue an undergraduate nursing program. For the purposes of §§ 23-35.9 through 23-35.13, undergraduate nursing programs are defined as programs leading to an associate degree, diploma, or baccalaureate degree in nursing; graduate nursing programs are herein defined as those programs offering masters and doctoral degrees in nursing or related to nursing activities.

C. Undergraduate nursing scholarships shall not exceed \$2,000 annually. Graduate nursing scholarships shall not exceed \$4,000 annually. No scholarship shall be less than \$150 annually. Scholarship funds shall be paid directly to the recipient.

~~These awards~~D. Each nursing scholarship shall be made by the Advisory Committee to the State Board of Health and the recipients shall be required to attend a school of professional nursing in this Commonwealth if such schools are available and the student can receive admission thereto. This section shall not be construed to prohibit such scholarship from being available to any first year college student at the beginning of the first college year who presents to the Advisory Committee a notice of intention to pursue an undergraduate nursing program as defined for the purposes of this section.

~~The Advisory Committee shall be an advisory committee appointed by the State Board of Health. The Committee shall consist that consists of eight members, four of whom shall be~~

deans or directors of schools of nursing or their designees; ~~two of whom shall be past recipients of nursing scholarships awarded pursuant to this title; and section~~, two of whom shall have experience in the administration of student financial aid programs, and at least two of whom shall not have served as members of the advisory committee during the previous two years. Appointments shall be for two-year terms. No member of the ~~Committee shall be~~ advisory committee is eligible to serve more than two ~~successive consecutive two-year terms in addition to the portion of immediately succeeding~~ any unexpired term for which such member was appointed. ~~Following initial appointments, the State Board of Health shall schedule appointments to the Advisory Committee in such a manner that at least two persons who have not served during the previous two years are appointed to the Committee.~~

~~§ 23-35.10. Nursing scholarships; recipients to be bona fide residents; basis of awards.~~

~~Each applicant for such scholarship must be a bona fide resident of the Commonwealth pursuant to § 23-7.4 when such scholarship is awarded. E.~~ Awards shall be made upon such basis, competitive or otherwise, as determined by the ~~Advisory Committee~~ advisory committee, with due regard for scholastic attainments, character, need, and adaptability of the applicant for the service contemplated in such award. No award shall be made if the applicant fails to possess the requisite qualifications. With due consideration of the number of applications and the qualifications of all such applicants, the ~~Advisory Committee will~~ advisory committee shall, ~~so far as practical to the extent that it is practicable~~, award an equal number of scholarships among the various congressional districts within the Commonwealth.

~~§ 23-35.11. Nursing scholarships; contract to be signed before award.~~

~~F.~~ Before any such scholarship is awarded, the applicant ~~must sign~~ shall agree in a signed written contract, ~~under the terms of which the applicant agrees to pursue a nursing program until completion and thereupon to complete a nursing program and, upon completion, to promptly begin and thereafter continuously engage continuously in nursing work in the Commonwealth in a region with a critical shortage of nurses for one month for each \$100 of scholarship awarded pursuant to § 23-35.9. The requirement for continuous engagement in nursing work may be waived by the Committee~~ advisory committee if the scholarship recipient requests leave to pursue an undergraduate or graduate degree in nursing or ~~related~~ relating to nursing activities. The contract shall contain such other provisions as ~~are~~ the State Board of Health determines to be necessary, in the opinion of the State Board of Health, to accomplish the purposes of the scholarship.

~~§ 23-35.12. Nursing scholarships; scholarship may be from year to year.~~

~~G.~~ Each ~~said~~ scholarship shall be awarded for a single award year, ~~but the same student may, after making satisfactory progress toward the completion of his training in the school, receive such award for any succeeding year or years; however, no student shall receive any such scholarship for more than a total of five years and may be renewed annually for up to four additional award years upon a showing of satisfactory progress toward completion of the relevant nursing program.~~

~~§ 23-35.13. Nursing scholarships; how payments made.~~

~~The funds making up each scholarship shall be paid to the recipient. No recipient shall receive for any such scholarship less than \$150.~~

**Drafting note: The provisions of existing §§ 23-35.9 through 23-35.13 on nursing scholarships are logically combined into this single proposed section. Technical changes are made, including moving definitions to the beginning of the section.**

~~§ 23.36, 23-36.1.~~

**Drafting note: Repealed by Acts 1950, p. 1292.**

~~§ 23-36.2. Nursing scholarships at the Medical College of Virginia and the University of Virginia.~~

~~The governing board of the Medical College of Virginia may establish thirteen annual nursing scholarships which thirteen scholarships hereby authorized shall be of the annual value of \$150 each, and the governing board of the University of Virginia may establish fifteen annual nursing scholarships, which fifteen scholarships hereby authorized shall be of the annual value of \$100 each, and shall be awarded and paid subject to the conditions and restrictions set out in the following subsections:~~

~~(1) Each applicant for any such scholarship must be a bona fide resident of the Commonwealth of Virginia when such scholarship is awarded. The awards shall be made upon such basis, competitive or otherwise, as may be determined by the president or other proper officer of the school with due regard to the scholastic attainments, character, and adaptability of the applicant for the service contemplated in such award; provided, that no award shall be made if the applicant fails to possess the requisite qualifications.~~

~~(2) Before any such scholarship is awarded the applicant shall sign written contract under the terms of which he agrees to pursue the nursing course of the school awarding the scholarship until completion and thereupon to promptly begin and thereafter engage continuously in nursing work in the Commonwealth of Virginia, for a period of years equal in number to the years that he has been or shall be a beneficiary of any such scholarship or scholarships. The contract shall provide that if the applicant shall fail to comply with the provisions thereof or any of them he shall repay to the school all amounts received by him as a beneficiary of such awards, such repayment to be upon such terms and conditions as may be determined by the school. Such contract shall contain such other provisions as may be necessary, in the opinion of the president or other proper officer of the school, to accomplish the purposes of the scholarships.~~

~~(3) As further evidence of the promise of such recipient to make such repayment, as to each scholarship awarded him in the event he shall fail or refuse to fulfill the conditions and requirements herein specified as to such scholarships, he shall, when such scholarship is awarded, be required to execute and deliver to the school awarding the scholarship a note in a principal sum equal to the amount of such scholarship with interest at not less than two nor more than four per centum, which note shall be accepted by the school upon the condition that such~~



~~note, and any other similar notes so given, shall be cancelled by the school upon the basis of one note for each year in which he shall continuously engage in nursing work in the Commonwealth of Virginia; provided, however, that no recipient of any such scholarship shall be permitted to plead the statute of limitations or interpose a plea of infancy in the event of an action being brought against him on any such note.~~

~~(4) All money repaid by any such recipient shall be placed in a special fund which shall be used for nursing scholarships in accordance with the provisions of this section.~~

~~(5) Each such scholarship shall be awarded for a single year, but the same student shall, after making satisfactory progress towards completion of his training in the school, receive such award for any succeeding year or years, provided no student shall receive any such scholarship for more than a total of three years.~~

~~(6) The funds making up each such scholarship shall be paid to the recipient thereof, or applied to the payment of his expenses, at such medical school, in such amounts and at such times during such school year as may be determined by the president or other proper officer of the school; provided, however, that no recipient shall receive for any such scholarship less than \$100.~~

**Drafting note: Existing § 23-36.2 is recommended for repeal as obsolete because neither the Medical College of Virginia nor the University of Virginia currently operate such scholarship programs.**

~~§ 23-37.~~

**Drafting note: Repealed by Acts 1979, c. 730.**

~~§ 23-37.1. Scholarships for dental hygienists; established.~~

~~There are established twelve annual scholarships of \$500 each. These awards shall be made by the State Board of Health and the recipients shall be allowed to attend any accredited school of dental hygiene in this Commonwealth.~~

**Drafting note: Existing §§ 23-37.1 through 23-37.5 are recommended for repeal as obsolete because such scholarship program is neither funded in the general appropriation act nor operated by the State Board of Health.**

~~§ 23-37.2. Scholarships for dental hygienists; qualifications of applicants; how awarded.~~

~~Each applicant for such scholarship must be a bona fide resident of the Commonwealth of Virginia when such scholarship is awarded. Awards shall be made upon such basis, competitive or otherwise, as determined by the State Board of Health, with due regard for scholastic attainments, character and adaptability of the applicant for the service contemplated in such award; provided no award shall be made if the applicant fails to possess the requisite qualifications.~~

**Drafting note: Repeal of obsolete existing § 23-37.2 is recommended.**

~~§ 23-37.3. Scholarships for dental hygienists; contracts to be signed by applicants.~~

~~Before any such scholarship is awarded, the applicant must sign a written contract, under the terms of which the applicant agrees to pursue the dental hygiene course of the school awarding the scholarship until completion, and thereupon to promptly begin and thereafter engage continuously in dental hygiene work in the Commonwealth of Virginia for a period of years equal in number to the years the applicant has been a beneficiary of such scholarship or scholarships. The contract shall contain such other provisions as are necessary, in the opinion of the State Board of Health, to accomplish the purposes of the scholarship.~~

**Drafting note: Repeal of obsolete existing § 23-37.3 is recommended.**

~~§ 23-37.4. Scholarships for dental hygienists; duration.~~

~~Each said scholarship shall be awarded for a single year, but the same student shall, after making satisfactory progress toward the completion of the student's training in the school, receive such award for any succeeding year or years, providing no student shall receive any such scholarship for more than a total of three years.~~

**Drafting note: Repeal of obsolete existing § 23-37.4 is recommended.**

~~§ 23-37.5. Scholarships for dental hygienists; how payments made.~~

~~The funds making up such scholarship shall be paid to the recipient thereof or applied toward the payment of the student's expenses at the school in such a manner and at such a time during the school year as determined by the director or other proper officer of the school of dental hygiene attended, provided no recipient shall receive for any such scholarship less than \$500.~~

**Drafting note: Repeal of obsolete existing § 23-37.5 is recommended.**

~~§ 23-38.1.~~

**Drafting note: Repealed by Acts 1964, Ex. Sess., c. 8.**

~~§ 23-38.2. Virginia Behavioral Health and Developmental Services Scholarship Fund.~~

~~(a) There is hereby established a fund, to be known as the Virginia Behavioral Health and Developmental Services Scholarship Fund, which shall consist of funds appropriated to it from time to time by the General Assembly and which shall be administered by the Department of Behavioral Health and Developmental Services, for the purpose of providing scholarships for study in various professions and skills that deal with the treatment, training and care of individuals with mental illness and intellectual disability.~~

~~(b) The State Board of Behavioral Health and Developmental Services shall adopt the necessary rules and regulations, not inconsistent with other laws, for the implementation of this section. Such rules and regulations shall provide:~~

~~(1) That scholarships be awarded for a period no longer than one year, but that certain scholarships may be reawarded not more than two times;~~

~~(2) That persons who receive such scholarships agree to serve in state employment upon completion of training for a period at least as long as the length of training provided by the scholarship, and that if they do not fulfill this agreement they shall repay to the Commonwealth the amount of the scholarship with interest;~~

~~(3) That priorities be given for training in professions and skills where shortages exist and are anticipated in state hospitals and training centers; and~~

~~(4) That priorities be given to citizens of the Commonwealth.~~

~~(e) The Commissioner of Behavioral Health and Developmental Services is hereby authorized to receive gifts, donations, bequests, and federal grants to the Virginia Behavioral Health and Developmental Services Scholarship Fund.~~

**Drafting note: Existing § 23-38.2 is recommended for repeal as obsolete because such scholarship program is neither funded in the general appropriation act nor operated by the Department of Behavioral Health and Developmental Services.**

~~§ 23-38.3 23.1-615. Soil scientist scholarships; governing body of Virginia Polytechnic Institute and State University authorized to establish.~~

~~A. The governing board of Virginia Polytechnic Institute and State University is authorized to Board of Visitors may establish twenty up to 20 annual soil scientist scholarships to be awarded from the Commonwealth at large, each of the value of the University fee of for Virginia students in an amount equal to tuition and mandatory fees at Virginia Polytechnic Institute and State University. The awarding and payment of such scholarships shall be subject to the conditions and restrictions hereinafter set out in §§ 23-38.4 to 23-38.10.~~

~~§ 23-38.4. Soil scientist scholarships; recipients to be bona fide residents; basis of awards.~~

~~Each applicant for a scholarship must be a bona fide resident of the Commonwealth of Virginia before such scholarship may be awarded to him. The B. Each scholarship award shall be made upon such basis, competitive or otherwise, as is determined by the president or other proper officer of the institution of higher education which (institution) that the applicant plans to attend, hereinafter referred to as "school," with due regard to the scholastic attainments achievements, character, and adaptability of the applicant to the service contemplated under such award; provided, that no. No award shall be made unless the applicant possesses the requisite qualifications.~~

~~§ 23-38.6. Soil scientist scholarships; scholarship may be from year to year.~~

~~C. Each such scholarship shall be awarded for a single award year, but the same student shall, after making satisfactory progress toward completion of his training in the school, receive such award for any succeeding year or years, provided no student shall receive any such scholarship for more than a total of four years and may be renewed annually for up to three additional award years upon a showing of satisfactory progress.~~

~~§ 23-38.5. Soil scientist scholarships; contract to be signed before award.~~

D. Before any such scholarship is awarded, the applicant shall ~~sign~~ agree in a signed written contract, ~~under the terms of which the applicant agrees to pursue the agronomy course soil science at the school institution at which the scholarship is awarded;~~ until his graduation; and ~~that,~~ upon graduating ~~he will,~~ to promptly begin and ~~thereafter~~ engage continuously as a soil scientist as an employee of the Commonwealth of Virginia for a period of as many years equal in number to the years which he has been as he was a beneficiary of such scholarship; ~~provided,~~ unless no such suitable vacancy exists as an employee of the Commonwealth of Virginia ~~then,~~ in which case the obligation of such contract ~~may~~ shall be discharged by being continuously engaged continuously in Virginia the Commonwealth as a soil scientist as an employee of a local, Virginia state, or federal government agency for a period of as many years, equal in number to the years which he has been as he was a beneficiary of such scholarship. The contract shall contain such other provisions ~~as are~~ Virginia Polytechnic Institute and State University deems necessary ~~in the opinion of Virginia Polytechnic Institute and State University~~ to accomplish the purposes of the scholarship. In the event ~~that~~ the holder of any awarded soil scientist scholarship ~~awarded~~ dies while receiving instruction under such a scholarship, any balance unpaid and agreed to be repaid by the holder ~~thereof~~ of such scholarship shall be deemed paid, and no liability shall be attached to his estate.

~~§ 23-38.9. Soil scientist scholarships; relief from obligation of contract.~~

~~The~~ E. Such contract shall ~~have~~ contain a clause under which the ~~holder may~~ applicant shall be relieved of his obligation to serve the Commonwealth as a soil scientist, for a period equal to that during which he was a beneficiary of such scholarship, at any time ~~the holder that he~~ (i) fails to maintain a scholastic standard at least equal to the standard required of the general student body ~~in at such school, institution~~ or ~~if the holder, at any time,~~ (ii) becomes permanently disabled ~~so as and is not to be able to engage in the profession of soil scientist. In such case, the contract shall provide that, upon certificate of certification by a faculty committee, the holder shall be relieved of his obligation to serve the Commonwealth as a soil scientist for a period equal to that during which he has been a beneficiary of such scholarship.~~ Any applicant, ~~upon being so relieved from the obligations imposed by such contract,~~ shall arrange to reimburse the Commonwealth for the amount ~~he has~~ received on account of such scholarship plus interest on such amount computed at the prevailing rate charged on student loans at the ~~school~~ institution attended by the applicant. ~~Provided, however, if such applicant, or any~~ Any applicant who ~~for any reason repays all or any part of the amount received of such scholarships, after reimbursing such amount plus interest to the Commonwealth, later~~ so reimburses the Commonwealth and subsequently fulfills the terms of his contract by completing his studies and serving the Commonwealth as a soil scientist for a period equal to that during which he received such scholarship, ~~such applicant shall have~~ be reimbursed ~~to him,~~ from the general fund of the state treasury; the amount of the scholarship and interest previously repaid to the Commonwealth. This reimbursement shall be made on any contract made under the provisions of this ~~section~~ subsection.

~~§ 23-38.10. Soil scientist scholarships; disposition of funds repaid.~~

~~F. All funds repaid by any applicant in pursuance of the provisions of § 23-38.9, or otherwise, pursuant to subsection E shall be paid into the state treasury and shall become a part of the general fund. The governing board of the school institution attended by the applicant shall collect such payments and shall pay all moneys so received into the state treasury promptly. If any applicant fails to abide by the terms of such contract, such fact shall be communicated to the Attorney General by the proper officer of the school institution or by the employing state agency, respectively. The Attorney General shall take such action thereon as he deems proper.~~

~~§ 23-38.7. Soil scientist scholarships; how payments made.~~

~~G. The funds making up each scholarship shall be paid to the recipient thereof or applied toward the payment of his expenses at the school relevant institution in such a manner and at such a time during the school academic year as determined by the president or other proper officer of the school attended determines.~~

~~H. There is hereby appropriated to Virginia Polytechnic Institute and State University from the general fund of the state treasury the sum of \$8,000 each year of the biennium for carrying out the purpose of §§ 23-38.3 to 23-38.10 this section.~~

**Drafting note: The provisions of existing §§ 23-38.3 through 23-38.10, exclusive of relating to soil scientist scholarships are logically combined in this single proposed section. Technical changes are made.**

~~§ 23-38.8. Soil scientist scholarships; military service.~~

~~The contract shall provide that the applicant will not obligate himself for more than the minimum military service required by virtue of either being drafted into such service or voluntarily enlisting therein in lieu of being drafted. It shall further provide that on termination of the minimum period of obligatory military service, he shall promptly begin the discharge of his obligation by compliance with the conditions set forth in § 23-38.5.~~

**Drafting note: Existing § 23-38.8 is recommended for repeal at the request of the Office of the Attorney General on behalf of the Virginia Department of Veterans Services. Such provision presents a potential conflict with the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. § 4301 et seq.).**

~~§ 23-38.10:1.~~

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

CHAPTER 4.4:3.

STEPHEN J. WRIGHT SCHOLARS PROGRAM.

**Drafting note: Existing Chapter 4.4:3 (§ 23-38.53:11) is incorporated into proposed Article 2 of Chapter 6.**

~~§ 23-38.53:11~~ 23.1-616. Stephen J. Wright Scholars Program established.

The Graduate Student Recruitment Program and the Southern Regional Education Board Minority Doctoral Program, ~~currently established only~~ in the general appropriation act, are ~~hereby~~ renamed and established as the Stephen J. Wright Scholars Program for the purpose of fostering scholarship among the Commonwealth's graduate students, and retaining ~~Virginia's the~~ Commonwealth's outstanding and promising young adults through awards based on scholarship and achievement.

**Drafting note: Technical changes.**

~~CHAPTER 4.01.~~  
~~STUDENT LOAN FUNDS.~~

Article 3.

Student Loan Funds.

**Drafting note: Chapter 4.01 (§ 23-38.10:2 et seq.) is reorganized as proposed Article 3 of Chapter 6, and technical changes are made.**

~~§ 23-38.10:2~~ 23.1-617. Definitions.

As used in this ~~chapter~~ article:

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

2. "Fund" means a student loan fund.

3. "Institution" means a ~~state~~ public institution of higher education ~~which that~~ has established a student loan fund from appropriations from the general fund of the state treasury for fellowships, scholarships, and loans.

4. "Student" means a medical student, dental student, intern, resident, or undergraduate student who is entitled to reduced rate tuition charges pursuant to ~~the provisions of § 23-7.4~~ Chapter 5 (§ 23.1-500 et seq.).

**Drafting note: "Council" is defined title-wide and as such, the definition in this proposed section is removed. Technical changes are made.**

~~§ 23-38.10:3~~ 23.1-618. Loans to students.

A. Any institution may make loans from its ~~student loan~~ fund only to needy students who might be unable to attend such institution without such loans and who are duly admitted into degree or certificate programs at the institution. Such loans shall be made upon such terms and according to such rules as may be prescribed by the governing board of the institution.

B. In any one academic year, no student ~~may~~ shall receive a loan ~~or loans~~ from the fund of an institution ~~which that~~ would result in ~~that such~~ student owing a net outstanding amount at the end of that year in excess of the tuition and ~~required~~ mandatory fees charged by the institution.

C. The rate of interest charged on loans to students from a fund ~~shall be~~ is three ~~per centum per annum~~ percent annually.

**Drafting note: Technical changes.**

~~§ 23-38.10:4 23.1-619.~~ Collection of loans.

~~An~~ Each institution shall make every effort to collect each loan made from its ~~student loan~~ fund. ~~Institutions shall follow the provisions of~~ and comply with the Virginia Debt Collection Act (§ 2.2-4801 et seq.) with regard to the collection of ~~student~~ such loans.

**Drafting note: Technical changes.**

~~§ 23-38.10:5.~~

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

~~§ 23-38.10:6 23.1-620.~~ Biennial audits.

The Auditor of Public Accounts shall at least biennially audit and exhibit the account of ~~student loan funds at~~ the fund of each institution.

**Drafting note: Technical changes.**

~~§ 23-38.10:7 23.1-621.~~ Additional student loan funds.

A. ~~Whenever the student loan~~ an institution's fund at an institution is inadequate to carry out fully the purpose for which the fund was established, the governing board and ~~president~~ chief executive officer of such institution, with the prior written consent and approval of the Governor ~~first obtained~~, are authorized, for the purpose of providing an additional ~~student loan~~ fund, to borrow from such sources and on such terms as may be approved by the Governor an amount not to exceed \$25,000; ~~and to~~ provide for such extensions or renewals of such loans as may be necessary. Such additional ~~student loan~~ fund shall be used only in making loans to students as provided in this ~~chapter~~ article and for no other purpose ~~whatsoever~~.

B. The repayments and interest accretions to the additional ~~student loan~~ fund shall be used insofar as may be necessary to repay the indebtedness of the institution created by the governing board and ~~president~~ chief executive officer in establishing ~~the such~~ additional ~~student loan~~ fund.

C. Such additional amounts may be borrowed as may be deemed necessary by the governing board and ~~president~~ chief executive officer of the institution, with the Governor's approval, but in no event ~~may shall~~ the amount of the additional ~~student loan~~ fund, including cash, notes receivable, and all amounts ~~heretofore~~ borrowed and not repaid exceed \$50,000.

D. Accounts shall be kept and reports rendered for each such additional ~~student loan~~ fund in all respects as required by this ~~chapter~~ article for ~~student loan fund~~ funds created by appropriations from the general fund of the state treasury; and the Auditor of Public Accounts shall biennially exhibit in his report the amount of the additional ~~student loan~~ fund at each institution.

**Drafting note: Technical changes.**

~~CHAPTER 4.02.~~  
~~TWO-YEAR COLLEGE TRANSFER GRANT PROGRAM.~~

Article 4.

Two-Year College Transfer Grant Program.

**Drafting note: Existing Chapter 4.02 (§ 23-38.10:8 et seq.) is reorganized as proposed Article 4 of Chapter 6, and technical changes are made.**

~~§ 23-38.10:8 23.1-622.~~ Definitions.

As used in this ~~chapter~~ article:

"~~Accredited institution~~" means ~~any institution approved to confer degrees pursuant to Chapter 21.1 (§ 23-276.1 et seq.) of this title.~~

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

"Eligible institution" means a baccalaureate public institution of higher education or nonprofit private institution of higher education whose primary purpose is to provide undergraduate collegiate education and not to provide religious training or theological education.

"Grant" means the amount of financial assistance awarded under this ~~chapter~~ article whether disbursed by warrant directly to an eligible institution of higher education or directly to a Virginia student.

"~~Institution of higher education~~" means ~~a four year public or private nonprofit educational institution within the Commonwealth whose primary purpose is to provide undergraduate collegiate education and not to provide religious training or theological education.~~

"~~Student~~" means ~~an undergraduate student who is entitled to in-state tuition charges pursuant to the provisions of § 23-7.4.~~

"Program" means the Two-Year College Transfer Grant Program.

**Drafting note: The definition of "accredited institution" is stricken because that term is not used in this proposed article and the definition of "Council" is stricken because that term is defined title-wide in § 23.1-100. The term "institution of higher education" is replaced with "eligible institution" and the definition of "Program" is created for the sake of clarity.**

~~§ 23-38.10:9 23.1-623.~~ ~~Two-Year College Transfer Grant Program created; State Council of Higher Education for Virginia to promulgate regulations.~~

~~There is hereby created the A.~~ The Two-Year College Transfer Grant Program is created to provide financial assistance to eligible students, beginning with the first-time entering freshman class of the fall 2007 academic year, for the costs of attending a public or private an eligible institution of higher education in Virginia. Funds may be paid to any ~~institutions of higher education~~ eligible institution on behalf of students who have been awarded financial assistance pursuant to ~~§ 23-38.10:10 23.1-624.~~



B. The Council shall ~~promulgate~~ adopt regulations for the implementation of the provisions of this ~~chapter~~ article and the disbursement of funds consistent ~~therewith and with the provisions of this article that are~~ appropriate to the administration of the ~~program~~ Program.

**Drafting note: Technical changes.**

§ ~~23-38.10:10~~ 23.1-624. Eligibility criteria.

~~A. Under this program, grants shall~~ Grants shall be made under the Program to or on behalf of ~~eligible Virginia domiciles students~~ who (i) maintained a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent while enrolled in an associate degree program at an associate-degree-granting public institution of higher education, (ii) have received an associate degree at a Virginia two-year an associate-degree-granting public institution of higher education, ~~(ii)~~ (iii) have enrolled in a Virginia four-year public or private an eligible institution of higher education by the fall or spring following the award of ~~the such~~ such associate degree, ~~(iii)~~ (iv) have applied for financial aid, and ~~(iv)~~ (v) have demonstrated financial need, defined by as an Expected Family Contribution (EFC) of no more than \$8,000 as calculated by the federal government using the family's financial information reported on the Free Application for Federal Student Aid (FAFSA) form. ~~Only students who maintained a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent while enrolled in an associate degree program at a Virginia two-year public institution of higher education shall be eligible to receive a grant under this chapter.~~

B. Eligibility for a ~~higher education~~ grant under this program shall be the Program is limited to three academic years ~~or 70 credit hours and.~~ Grants under the Program shall be used only for undergraduate ~~collegiate work~~ coursework in educational programs other than those providing religious training or theological education.

C. To remain eligible for a grant ~~under this program~~ the Program, a student ~~must~~ shall continue to demonstrate financial need, as defined in ~~this section~~ subsection A, maintain a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent, and make satisfactory academic progress ~~towards~~ toward a degree.

~~C.-D.~~ D. Individuals who have failed to meet the federal requirement to register for the Selective Service ~~shall~~ are not ~~be~~ eligible to receive grants pursuant to this ~~chapter~~ article. However, ~~a person~~ an individual who has failed to register for the Selective Service shall not be denied a right, privilege, or benefit under this section if (i) the requirement to so register has terminated or become inapplicable to the ~~person~~ individual and (ii) the ~~person~~ individual shows by a preponderance of the evidence that the failure to register was not a knowing and willful failure to register.

**Drafting note: Technical changes.**

§ ~~23-38.10:11~~ 23.1-625. Amount of award.

The amount of the grant for an eligible student shall be provided in accordance with the general appropriation act and shall be fixed at \$1,000 per academic year. An additional \$1,000

per academic year shall be provided to ~~those~~ eligible students pursuing undergraduate-collegiate work coursework in engineering, mathematics, nursing, teaching, or science.

**Drafting note: Technical changes.**

~~§ 23-38.10:12~~ 23.1-626. Determination of domicile.

For the purposes of determining ~~the~~ a student's eligibility ~~of a student for a two-year college transfer for a grant,~~ domicile shall be determined by the enrolling institution, shall determine domicile as provided in ~~§ 23-7.4,~~ 23.1-502 and the ~~State Council of Higher Education's Council's~~ domicile guidelines for domiciliary status determinations.

**Drafting note: Technical changes.**

~~§ 23-38.10:13~~ 23.1-627. State financial aid eligibility.

~~The institutions of higher education~~ A. Eligible institutions shall reduce a student's state financial aid eligibility by the amount of the grant awarded pursuant to this ~~chapter~~ article.

~~Tuition assistance received by a student under this program~~ B. Grants shall not be reduced by ~~the~~ the virtue of an eligible student's receipt of any other financial aid from any other source ~~by such student. However, a student shall not receive a grant pursuant to this chapter that, when added to~~ except when the total of the grant and such other financial aid received by that student, would enable the student to receive total financial assistance in excess of the estimated cost to the student of attending the institution in which he is enrolled.

**Drafting note: Technical changes.**

#### CHAPTER 4.1.

#### TUITION ASSISTANCE GRANT ACT.

#### Article 1.

#### General Provisions.

#### Article 5.

#### Tuition Assistance Grant Act.

**Drafting note: Existing Chapter 4.1 (§ 23-38.11 et seq.) is reorganized as proposed Article 5 of Chapter 6, and technical changes are made.**

~~§ 23-38.11~~. Short title.

This chapter may be cited as the "~~Tuition Assistance Grant Act.~~"

**Drafting note: Existing § 23-38.11 is recommended for repeal because of the Code-wide application of § 1-244, which states that the caption of a subtitle, chapter, or article serves as a short title citation.**

~~§ 23-38.12~~ 23.1-628. ~~Program of tuition assistance established~~ Tuition Assistance Grant Program.

There is hereby established, from funds provided by law, a program of tuition assistance in the form of grants, as hereinafter provided, A. As used in this section:

"Eligible institution" means a nonprofit private institution of higher education whose primary purpose is to provide collegiate, graduate, or professional education and not to provide religious training or theological education.

"Grant" means a Tuition Assistance Grant.

"Principal place of business" means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the institution as a whole primarily exercise that function, considering the following factors: (i) the state in which the primary executive and administrative offices of the institution are located; (ii) the state in which the principal office of the chief executive officer of the institution is located; (iii) the state in which the board of trustees or similar governing board of the institution conducts a majority of its meetings; and (iv) the state from which the overall operations of the institution are directed.

"Program" means the Tuition Assistance Grant Program.

B. From such funds as may be provided for such purpose, the Tuition Assistance Grant Program is established to provide Tuition Assistance Grants to or on behalf of bona fide residents of Virginia students who attend private nonprofit institutions of collegiate education in the Commonwealth whose primary purpose is to provide collegiate, graduate, or professional education and not to provide religious training or theological education eligible institutions.

C. Eligible institutions not admitted to this program before on or after January 1, 2011, shall also (i) be formed, chartered, established, or incorporated within the Commonwealth; (ii) have their principal place of business within the Commonwealth; (iii) conduct their primary educational activity within the Commonwealth; and (iv) be accredited by a nationally recognized regional accrediting agency. Individuals who have failed to meet the federal requirement to register for the Selective Service shall not be eligible to receive these grants. However, a person who has failed to register for the Selective Service shall not be denied a right, privilege, or benefit under this section if: (a) the requirement to so register has terminated or become inapplicable to the person and (b) the person shows by a preponderance of the evidence that the failure to register was not a knowing and willful failure to register. The State Council of Higher Education shall be assisted in enforcing this provision by the private institutions of higher education whose students benefit from this program.

For the purposes of this section, the "principal place of business" of a nonprofit institution of collegiate education means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the institution as a whole primarily exercise that function, considering the following factors: (1) the state in which the primary executive and administrative offices of the institution are located; (2) the state in which the principal office of the chief executive officer of the institution is located; (3) the state in which the board of trustees, or similar governing person or persons, of the institution conducts a majority of its meetings; and (4) the state from which the overall operations of the institution are directed.

**Drafting note: The provisions of proposed subsection C relating to Selective Service registration are stricken and logically relocated to proposed § 23.1-632. Technical changes are made, including moving the defined term "principal place of business" to the beginning of the proposed section and providing article-wide references for "eligible institutions," "grants," and "Program."**

~~§ 23-38.13 23.1-629. State Council of Higher Education designated as administering agency; power to define certain terms.~~

~~The State Council of Higher Education is hereby designated as the administering agency for the program established by this chapter, Program and authorized to promulgate may adopt regulations consistent ~~therewith~~ with this article and appropriate to the administration of the ~~program~~ Program. The ~~administering agency shall have the power to~~ Council may define by regulation such terms used in this article as, but not limited to, "full-time," "undergraduate," "graduate," "professional," ~~"successful academic year," and~~ "financial aid," ~~"meritorious extenuating circumstances," and "incapacity" as used in this chapter.~~~~

**Drafting note: Technical changes are made, including removing the Council's power to define "successful academic year," "meritorious extenuating circumstances," and "incapacity" because those terms are not used in proposed Article 4. The phrase "but not limited to" after "including" is stricken per § 1-218, which states: "'Includes' means includes, but not limited to."**

~~§ 23-38.14 23.1-630. Maximum amount of tuition assistance per student.~~

~~The annual amount of tuition assistance, in the form of a grant pursuant to this chapter, which shall be available annually to a bona fide resident of Virginia for a Virginia student attending a qualified private an eligible institution, as described in § 23-38.12, shall not exceed in ~~amount~~ the annual average appropriation per full-time equivalent student for the previous year from the general fund of the state treasury for operating costs at ~~two and four year~~ public institutions of ~~collegiate~~ higher education in Virginia.~~

**Drafting note: Technical changes are made, including using the defined term "public institution[s] of higher education," as appropriate.**

~~§ 23-38.15 23.1-631. To whom grants made Eligibility; duration.~~

~~Under this program, grants shall be made to or on behalf of eligible Virginia residents for the academic year for which they enroll and A. Virginia students who are obligated to pay tuition as full-time undergraduate, graduate, or professional students at a qualified private institution, as described in § 23-38.12 an eligible institution are eligible to receive a grant for the academic year for which they enroll.~~

~~§ 23-38.16. Duration of eligibility; grants to be used only for undergraduate, graduate, or professional work.~~

~~B. Eligibility for tuition assistance grants under this program shall be the Program is limited to a total of four academic years for undergraduate students, pharmacy students, and medical students; and a total of three academic years for graduate students and other professional school students, which years. The academic years for which grants are awarded need not be in succession.~~

~~Tuition grants~~ C. Grants under this program the Program shall be used only for undergraduate, graduate, or professional collegiate work in educational programs other than those providing religious training or theological education ~~of an indoctrinating nature.~~

**Drafting note: The provisions of existing §§ 23-38.15 and 23-38.16 are logically combined in this proposed section. Technical changes are made.**

§ 23.1-632. Eligibility; Selective Service registration.

Individuals who have failed to meet the federal requirement to register for the Selective Service are not eligible to receive grants. However, an individual who has failed to register for the Selective Service shall not be denied a right, privilege, or benefit under this section if (i) the requirement to so register has terminated or become inapplicable to the person and (ii) the individual shows by a preponderance of the evidence that the failure to register was not a knowing and willful failure to register. The Council shall be assisted in enforcing this provision by the eligible institutions whose students benefit from the Program.

**Drafting note: Proposed § 23.1-630 incorporates the provisions of existing § 23-38.12 relating to Selective Service registration. Technical changes are made.**

~~§ 23-38.17~~ 23.1-633. Receipt by student of other financial aid by students.

~~Tuition assistance received by a student under this program~~ Grants shall not be reduced by the virtue of the student's receipt by such student of any other financial aid from any other source, provided, however, that in no case shall a student receive a grant pursuant to this chapter which except when added to said the total of the grant and such other financial aid, would enable the student to receive total financial assistance in excess of the estimated cost to the student of attending the institution in which he is enrolled.

**Drafting note: Technical changes.**

~~§ 23-38.17:1~~ 23.1-634. Prompt crediting and expeditious refunding of funds.

~~Institutions~~ Each eligible institution acting as agents an agent for students receiving awards under this program the Program shall promptly credit disbursed funds to student accounts following the institution's verification of student eligibility by the relevant institution. These institutions shall also and expeditiously distribute any refunds due recipients.

**Drafting note: Technical changes.**

~~§ 23-38.18 23.1-635. Determination of bona fide residence domicile; Council oversight and reports.~~

~~A. For the purposes of determining the a student's eligibility of a student for a tuition assistance grant, domicile shall be determined by the enrolling institution, shall determine domicile as provided in ~~§ 23-7.4, 23.1-502~~ and the ~~State Council of Higher Education's Council's domicile guidelines for domiciliary status determinations~~.~~

~~B. In addition, in order to ensure consistency and fairness, the State Council of Higher Education shall (i) require all participating eligible institutions to file student-specific student-specific data, shall (ii) monitor the domiciliary status decisions of these such institutions regarding domicile, and shall (iii) make final decisions on any disputes between the such institutions and the grant recipients applicants.~~

~~C. The Council shall report to the Governor and the General Assembly, as the Council deems necessary, on issues related relating to domiciliary status determinations of domicile for students receiving tuition assistance applying for grants.~~

**Drafting note: Technical changes.**

~~§ 23-38.19.~~

**Drafting note: Repealed by Acts 2015, c. 709, cl. 2.**

~~Article 2.~~

~~Virginia Graduate and Undergraduate Assistance Program.~~

~~§ 23-38.19:1, § 23-38.19:2.~~

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

~~Article 3.~~

~~Virginia Undergraduate Career and Technical Incentive Scholarship Program.~~

~~§§ 23-38.19:3 through 23-38.19:5.~~

**Drafting note: Repealed by Acts 2004 c. 872, cl. 8, effective May 4, 2005.**

~~CHAPTER 4.2.~~

~~VIRGINIA GRANT AND LOAN COMMISSION.~~

~~§§ 23-38.20 through 23-38.29.~~

**Drafting note: Repealed by Acts 1973, cc. 24, 106.**

~~CHAPTER 4.3.~~

~~VIRGINIA STUDENT ASSISTANCE AUTHORITIES.~~

~~§§ 23-28.30 through 23-38.44:4.~~

**Drafting note: Repealed by Acts 1998, cc. 39 and 784.**

~~CHAPTER 4.4.~~

~~COLLEGE SCHOLARSHIP ASSISTANCE ACT.~~

~~§§ 23-38.45 through 23-38.53.~~

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

CHAPTER 4.4:1.

~~VIRGINIA SCHOLARS PROGRAM.~~

~~§§ 23-38.53:1 through 23-38.53:3.~~

**Drafting note: Repealed by Acts 2006, c. 50.**

CHAPTER 4.4:2.

~~VIRGINIA GUARANTEED ASSISTANCE PROGRAM AND FUND.~~

Article 6.

Virginia Guaranteed Assistance Program and Fund.

**Drafting note: Existing Chapter 4.4:2 (§ 23-38.53:4 et seq.) is reorganized as proposed Article 6 of Chapter 6, and technical changes are made.**

~~§ 23-38.53:4 23.1-636. State Virginia Guaranteed Assistance Program; Council of Higher Education to administer; promulgation of adopt regulations.~~

~~There is hereby created the A. The Virginia Guaranteed Assistance Program is created to provide financial assistance in the form of grants to eligible students for the costs of attending a public institution of higher education in Virginia. Funds may be paid to any public institution of higher education on behalf of students who have been awarded financial assistance grants pursuant to § 23-38.53:6 23.1-638.~~

~~B. The Council shall promulgate adopt regulations for the implementation of the provisions of this chapter article.~~

**Drafting note: Technical changes.**

~~§ 23-38.53:5 23.1-637. Virginia Guaranteed Assistance Fund created.~~

~~A. There is hereby created in the Department of the Treasury state treasury a special nonreverting fund which shall to be known as the Virginia Guaranteed Assistance Fund (the Fund). The Virginia Guaranteed Assistance Fund shall be established on the books of the Comptroller, and any funds. All moneys as may be appropriated by the General Assembly and any gifts, donations, grants, bequests, or other moneys as may be received for the purposes of the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in such the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may Moneys in the Fund shall be paid to any public institution of higher education on behalf of students who have been awarded financial assistance grants pursuant to the provisions of § 23-38.53:6 23.1-638. On and after July 1, 1995, any funds Any moneys remaining in the Fund shall be credited to the account of the State Council of Higher Education. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the director of the Council.~~

~~B. The Department of the Treasury shall administer and manage the Virginia Guaranteed Assistance Fund, subject to the authority of the State Council of Higher Education to provide for its disbursement, from such funds as are appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf. The Fund shall be disbursed for the purpose of making grants to be determined by the use of a needs analysis methodology approved by the Council. The first such awards shall be made after July 1, 1994. The Council shall award such grants to students who are enrolled in or accepted for enrollment in any public institution of higher education in Virginia.~~

**Drafting note: Obsolete references to the first awards being made on July 1, 1994 and the first disposition of moneys remaining in the fund on and after July 1, 1995 are stricken. The final sentence of existing § 23-38.53:5 is stricken as duplicative of the provisions of proposed § 23.1-638. Technical changes are made, including rearranging sentence order and otherwise conforming language to text recommended by the Department of the Treasury for special nonreverting funds.**

~~§ 23-38.53:6 23.1-638. Eligible students Eligibility; criteria for awarding amount of grants; renewals.~~

~~A. Only students who (i) are accepted for enrollment as dependent students at a public institution of higher education; (ii) are not receiving a Virginia Commonwealth Award; (iii) demonstrate financial need as determined by the Council according to the congressional methodology for determining financial need and eligibility for financial aid; and (iv) are either (a) Virginia students who (i) are domiciled residents of Virginia as defined by § 23-7.4 and who are graduates of graduated from a high school in the Commonwealth with a cumulative secondary school grade point average of at least 2.5 on a scale of 4.0 or its equivalent; or (ii) (b) are dependent children of active duty military personnel residing outside the Commonwealth pursuant to military orders and, claiming Virginia on their State of Legal Residence Certificate, and satisfying the domicile requirements for such active duty military personnel pursuant to subsection B of § 23-7.4, 23.1-504 and who are graduates of graduated from a high school inside within or outside the Commonwealth with a cumulative secondary school grade point average of at least 2.5 on a scale of 4.0 or its equivalent, and who (iii) are accepted for enrollment as dependent students in any public institution of higher education in Virginia, and (iv) are not receiving state discretionary aid and demonstrate financial need as defined by the State Council of Higher Education shall be are eligible to receive such awards.~~

~~B. The amount of the Guaranteed Assistance Program grant awarded students shall be determined annually by the State Council of Higher Education. Eligibility for such awards shall be determined according to the Congressional methodology for determining financial need and eligibility for financial aid.~~

~~C. All grants shall be awarded for one award year; but and may be renewed annually for no more than three subsequent award years of study if the recipient:~~



1. Maintains ~~at least a 2.0~~ cumulative grade point average of at least 2.0 on a scale of 4.0 or its equivalent;

2. Demonstrates continued financial need;

3. Makes satisfactory academic progress toward a degree, earning not less than the minimum number of hours of credit required for full-time standing in each academic period during enrollment at a public institution of higher education ~~in Virginia~~; and

4. Maintains continuous enrollment for not less than two semesters or three quarters in each successive ~~academic~~ award year; ~~unless granted~~ the Council grants the recipient an exception for cause by the State Council of Higher Education.

**Drafting note: The first sentence of subsection B of existing § 23-38.53:6 is recommended for repeal as obsolete because actual awards under the Virginia Guaranteed Assistance Program are not determined by the State Council of Higher Education for Virginia annually but are rather based on student need and vary by institution. Technical changes are made.**

~~§ 23-38.53:7.~~

**Drafting note: Repealed by Acts 1994, c. 789.**

~~§ 23-38.53:8.~~

**Drafting note: Repealed by Acts 2004, c. 872, cl. 10, effective May 4, 2005.**

~~§ 23-38.53:9.~~

**Drafting note: Repealed by Acts 2004, c. 872, cl. 2, effective July 1, 2004.**

~~§ 23-38.53:10.~~

**Drafting note: Repealed by Acts 2004, c. 872, cl. 10, effective May 4, 2005.**

#### ~~CHAPTER 4.4:4.~~

#### ~~ADVANTAGE VIRGINIA INCENTIVE PROGRAM.~~

~~§§ 23-38.53:12 through 23-38.53:20.~~

**Drafting note: Repealed by Acts 2014, c. 815, cl. 2.**

#### ~~CHAPTER 4.4:5.~~

#### ~~BROWN V. BOARD OF EDUCATION SCHOLARSHIP PROGRAM AND FUND.~~

~~§§ 23-38.53:21 through 23-38.53:24.~~

**Drafting note: Repealed by Acts 2005, cc. 753 and 834, effective March 26, 2005.**

CHAPTER 4.5.  
SENIOR CITIZENS HIGHER EDUCATION.

Article 7.

Senior Citizens Higher Education Act of 1974.

**Drafting note: Existing Chapter 4.5 (§ 23-38.54 et seq.) is reorganized as proposed Article 7 of Chapter 6, and technical changes are made.**

~~§ 23-38.54. Title of chapter.~~

~~This chapter may be cited as the "Senior Citizens Higher Education Act of 1974."~~

**Drafting note: Existing § 23-38.54 is recommended for repeal because of the Code-wide application of § 1-244, which states that the caption of a subtitle, chapter, or article serves as a short title citation.**

~~§ 23-38.55 23.1-639. Definitions.~~

~~For the purposes of A. As used in this chapter, the following words shall have the meanings ascribed to them by this section: article,~~

~~"Course" means any course of study offered in any state institution of higher education including the regular curriculum of any department, or school, or subdivision of any such institution or any special course given for any purpose, including, but not limited to, adult education.~~

~~"Senior "senior citizen" means any person individual who, before the beginning of any academic term, semester, or quarter in which such person he claims entitlement to the benefits of this chapter article, (i) has reached the age of 60 years of age, and (ii) has had his legal domicile been legally domiciled in this the Commonwealth for at least one year.~~

~~B. Nothing in this section shall be construed to exclude any other rules and requirements now or hereafter made applicable by any public institution of higher education for all other persons students besides senior citizens with respect to residency domicile in this the Commonwealth by a state institution of higher learning.~~

**Drafting note: The definition of "course" is stricken as inconsistent with the usage of the defined term throughout the proposed article. Technical changes are made.**

~~§ 23-38.56 23.1-640. Attendance at state institutions; conditions Senior citizens; registration and enrollment in courses.~~

~~A. Any senior citizen shall be permitted may, under subject to any regulations as may be prescribed by the State Council of Higher Education:~~

~~(i) To register 1. Register for and enroll in courses for academic credit as a full-time or part-time student for academic credit if such senior citizen he had a taxable individual income not exceeding \$23,850 for Virginia income tax purposes for the year preceding the award year in which enrollment is sought;~~

~~(ii) To register 2. Register for and audit up to three courses offered for academic credit in any one academic term, quarter, or semester for an unlimited number of academic terms, quarters, or semesters; and~~

~~(iii) To register 3. Register for and enroll in up to three courses not offered for academic credit in any state institution of higher education in this Commonwealth one academic term, quarter, or semester for an unlimited number of academic terms, quarters, or semesters.~~

~~Such B. No senior citizen who enrolls in or audits courses pursuant to subsection A shall pay no tuition or fees except fees established for the purpose of paying for course materials; such as laboratory fees, but shall be.~~

~~C. Senior citizens are subject to the admission requirements of the institution and a determination by the institution of its ability to offer the course or courses for which the senior citizen registers.~~

~~D. The State Council of Higher Education shall establish procedures to ensure that tuition-paying students are accommodated in courses before senior citizens participating in this program are enrolled enroll in or audit courses pursuant to subsection A. However, the state public institutions of higher education may make individual exceptions to these procedures when the for any senior citizen who has completed seventy five 75 percent of the requirements for a degree.~~

**Drafting note: Proposed subdivisions A 2 and 3 incorporate the provisions of existing § 23-38.58. Technical changes are made.**

~~§ 23-38.57.~~

**Drafting note: Repealed by Acts 1977, c. 281.**

~~§ 23-38.58. Courses; terms; number and limitations.~~

~~There shall be no limit to the number of terms, quarters or semesters in which a senior citizen who is not enrolled for academic credit may register for courses but he may register for no more than three courses in any one term, quarter or semester.~~

**Drafting note: Language in existing § 23-38.58 is relocated to subdivisions A 2 and 3 of proposed § 23.1-640.**

~~§ 23-38.59 23.1-641. Catalogue Catalog to include statement of benefits.~~

~~Each state public institution of higher learning education shall prominently include in its catalogue course catalog a statement of the benefits provided by this chapter article for senior citizens.~~

**Drafting note: Technical changes.**

~~§ 23-38.60 23.1-642. Determination of senior citizen status; forms.~~

~~The registrar or other admissions officer of an each public institution of higher learning education shall determine whether a person an individual is a senior citizen pursuant to the provisions of this chapter. Upon determination that a person qualifies as a senior citizen, the~~

~~registrar or other admissions officer article and may require such person senior citizens to execute appropriate forms to request the benefits provided by this chapter article.~~

**Drafting note: Technical changes.**

~~CHAPTER 4.6.~~

~~STATE EDUCATION ASSISTANCE AUTHORITY.~~

~~§§ 23-38.61 through 23-38.69:3.~~

**Drafting note: Repealed by Acts 1992, c. 630.**

~~CHAPTER 4.7.~~

~~VIRGINIA WORK STUDY PROGRAM.~~

~~§§ 23-38.70, 23-38.71.~~

**Drafting note: Repealed by Acts 2006, c. 51.**

~~CHAPTER 4.8.~~

~~VIRGINIA COLLEGE SAVINGS PROGRAM.~~

~~§§ 23-38.72 through 23-38.74.~~

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

~~CHAPTER 1.2.~~

~~PARTICIPATION IN FEDERAL FINANCIAL ASSISTANCE PROGRAMS.~~

~~§§ 23-9.15 through 23-9.21.~~

**Drafting note: Repealed by Acts 1977, c. 676.**

~~CHAPTER 2.~~

~~AID TO PERSONS DENIED ADMISSION.~~

~~§§ 23-10 through 23-13.~~

**Drafting note: Repealed by Acts 1971, Ex. Sess., c. 102.**

~~CHAPTER 4.9 7.~~

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

**Drafting note: Existing Chapter 4.9 (§ 23-38.75 et seq.) is reorganized as proposed Chapter 7, and technical changes are made.**

~~§ 23-38.75 23.1-700.~~ Definitions.

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

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

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

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

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

"Non-Virginia public and accredited nonprofit independent or private institutions of higher education" means public and accredited nonprofit independent or private institutions of higher education that are located outside the Commonwealth.

"Plan" means the Virginia College Savings Plan.

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

"Public institution of higher education" has the same meaning as provided in § 23.1-100.

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

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

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

"Savings trust agreement" means the agreement entered into by the ~~Board~~ board and a contributor ~~establishing that establishes~~ a savings trust account.

"Tuition" means the quarter, semester, or term charges imposed for undergraduate tuition by any ~~two-year or four-year~~ public institution of higher education ~~in the Commonwealth~~ and all mandatory fees required as a condition of enrollment of all students. ~~A~~ At the discretion of the board, a beneficiary may apply benefits under a prepaid tuition contract and distributions from a savings trust account toward graduate-level tuition and toward tuition costs at such eligible educational institutions, as that term is defined in 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of 1986, as amended, ~~as determined by the Board in its sole discretion.~~

**Drafting note: Technical changes.**

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

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

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

C. All other moneys of the Plan, including payments received pursuant to prepaid tuition contracts, bequests, endowments, grants from the United States government or its agencies or instrumentalities, and any other available public or private sources of funds, public or private, shall be first deposited in the state treasury in a special nonreverting fund (the Fund). Such moneys ~~then~~ shall then be deposited as soon as practicable in a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent ~~then~~ permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. ~~Benefits related~~ relating to prepaid tuition contracts and Plan operating expenses shall be paid from the Fund. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment of such funds shall remain in the Fund and be credited to it.

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

~~Appointments~~ E. Members appointed to the board shall be for serve terms of four years; except that appointments to fill vacancies. Vacancies occurring other than by expiration of a term shall be filled for the unexpired terms term. No person shall be member appointed to the board

~~shall serve for or during~~ more than two ~~successive consecutive~~ four-year terms, ~~but after the expiration of a term of three years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto;~~ however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

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

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

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

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

**Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Drafting note: Technical changes.**

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

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

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



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

**Drafting note: Technical changes.**

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

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

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

2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as defined in § ~~23-38.75~~ 23.1-700, at a fixed, guaranteed level for application at a ~~two-year or four-year~~ public institution of higher education ~~in the Commonwealth~~; (ii) contributions to college savings trust accounts established pursuant to this chapter on behalf of a qualified beneficiary in order to apply distributions from the account toward qualified higher education expenses at eligible educational institutions, ~~both~~ both such terms are defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law; and (iii) contributions to ABLE savings trust accounts established pursuant to this chapter on behalf of a qualified beneficiary in order to apply distributions from the account toward qualified disability expenses for an eligible individual, ~~both~~ both such terms are defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law. ~~In addition, the Board shall have the power and duty to:~~

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

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

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

~~4-6.~~ 6. Procure insurance as determined appropriate by the board (i) against any loss in connection with the Plan's property, assets, or activities and (ii) indemnifying ~~Board~~ board

members from personal loss or accountability from liability arising from any action or inaction as a ~~Board~~ board member;

~~5-7.~~ 7. Make arrangements with ~~two-year and four-year~~ public institutions ~~in the Commonwealth of higher education~~ to fulfill obligations under prepaid tuition contracts and ~~to~~ apply college savings trust account distributions, including, ~~but not limited to,~~ (i) payment from the Plan of the then actual in-state undergraduate tuition cost on behalf of a qualified beneficiary of a prepaid tuition contract to the institution ~~in~~ to which the beneficiary is admitted and at which the beneficiary is enrolled and (ii) application of such benefits towards graduate-level tuition and ~~towards~~ toward tuition costs at such eligible educational institutions, as that term is defined in 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of 1986, as amended, as determined by the Board in its sole discretion;

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

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

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

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

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

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

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

B. No act or undertaking of the ~~Board~~ board shall be deemed to constitute a debt of the Commonwealth or any political subdivision thereof, or a pledge of the full faith and credit of the

Commonwealth or of any political subdivision, ~~but shall be~~ of the Commonwealth, and all such acts and undertakings are payable solely from the Plan.

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

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

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

A. In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of the Plan, the ~~Board~~ board, and any person, investment manager, or committee to whom the ~~Board~~ board delegates any of its investment authority, shall act as trustee and shall exercise the judgment of care under the circumstances then prevailing, ~~which that~~ persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but to the permanent disposition of funds, considering the probable income ~~as well as~~ and the probable safety of their capital.

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

B. The assets of the Plan shall be preserved, invested, and expended solely pursuant to and for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the Commonwealth for any other purpose. Within the standard ~~prescribed~~ of care set forth in subsection A, the ~~Board~~ board and any person, investment manager, or committee to whom the ~~Board~~ board delegates any of its investment authority, ~~is authorized to~~ may acquire and retain ~~every any~~ every any kind of property and ~~every any~~ every any kind of investment, ~~specifically including but not limited to~~ (i) debentures and other corporate obligations of foreign or domestic corporations; (ii) common or preferred stocks traded on foreign or domestic stock exchanges; (iii) not less than all of the stock or 100 percent ownership of a corporation or other entity organized by the ~~Board~~

board under the laws of the Commonwealth for the purposes of acquiring and retaining real property that the ~~Board is authorized under this chapter to~~ board may acquire and retain under this chapter; and (iv) securities of any open-end or closed-end management type investment company or investment trust registered under the federal Investment Company Act of 1940, as amended, including ~~such~~ investment companies or investment trusts ~~which that~~, in turn, invest in the securities of such investment companies or investment trusts, ~~which that~~ persons of prudence, discretion, and intelligence acquire or retain for their own account. ~~Within the limitations of the foregoing standard, the Board~~ The board may retain property properly acquired; without time limitation and without regard to its suitability for original purchase. ~~This section shall not be construed to prohibit the investment of the Plan, by purchase or otherwise, in bonds, notes, or other obligations of the Commonwealth or its agencies and instrumentalities.~~

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

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

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

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

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

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

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

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

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

2. The terms and conditions under which purchasers shall remit payments, including the dates of such payments;
3. Provisions for late payment charges, defaults, withdrawals, refunds, and any penalties;
4. The name and date of birth of the qualified beneficiary on whose behalf the contract is made;
5. Terms and conditions for a substitution for the qualified beneficiary originally named;
6. Terms and conditions for termination of the contract, including any refunds, withdrawals, or transfers of tuition prepayments, and the name of the person ~~or persons~~ entitled to terminate the contract;
7. The time period during which the qualified beneficiary ~~must~~ is required to claim benefits from the Plan;
8. The number of credit hours or quarters, semesters, or terms contracted for by the purchaser;
9. All other rights and obligations of the purchaser and the trust; and
10. Any other terms and conditions ~~which that the Board~~ board deems necessary or appropriate, including those necessary to conform the contract with the requirements of Internal Revenue Code § 529, as amended, which specifies the requirements for qualified state tuition programs.

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

1. The maximum and minimum contribution allowed on behalf of each qualified beneficiary for the payment of qualified higher education expenses at eligible institutions, ~~both~~ as both such terms are defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law;
2. Provisions for withdrawals, refunds, transfers, and any penalties;
3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust account is opened;
4. Terms and conditions for a substitution for the qualified beneficiary originally named;
5. Terms and conditions for termination of the account, including any refunds, withdrawals, or transfers, and applicable penalties, and the name of the person ~~or persons~~ entitled to terminate the account;
6. The time period during which the qualified beneficiary ~~must~~ is required to use benefits from the savings trust account;
7. All other rights and obligations of the contributor and the Plan; and
8. Any other terms and conditions ~~which that the Board~~ board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

C. Each ABLE savings trust agreement made pursuant to this chapter shall include the following terms and provisions:

1. The maximum and minimum annual contribution and maximum account balance allowed on behalf of each qualified beneficiary for the payment of qualified disability expenses, as defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law;

2. Provisions for withdrawals, refunds, transfers, return of excess contributions, and any penalties;

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

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

5. Terms and conditions for termination of the account, including any transfers to the state upon the death of the qualified beneficiary, refunds, withdrawals, transfers, applicable penalties, and the name of the person ~~or persons~~ entitled to terminate the account;

6. The time period during which the qualified beneficiary ~~must~~ is required to use benefits from the savings trust account;

7. All other rights and obligations of the contributor and the Plan; and

8. Any other terms and conditions that the ~~Board~~ board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

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

E. All prepaid tuition contracts and savings trust agreements shall specifically provide that, if after a specified period of time the contract or savings trust agreement has not been terminated ~~nor~~ and the qualified beneficiary's rights have not been exercised, the ~~Board~~ board, after making reasonable effort to contact the purchaser or contributor and the qualified

beneficiary or their agents, shall report such unclaimed moneys to the State Treasurer pursuant to § 55-210.12.

F. Notwithstanding any provision of law to the contrary, money in the Plan ~~shall be~~ is exempt from creditor process ~~and shall~~ is not be liable to attachment, garnishment, or other process, ~~nor shall it~~ and shall not be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of any purchaser, contributor, or beneficiary, ~~provided, however, except~~ that the state of residence of the beneficiary of an ABLE savings trust account shall be a creditor of such account in the event of the death of the beneficiary.

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

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

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

~~§ 23-38.82.~~

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

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

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

**Drafting note: Technical changes.**

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

~~The Board~~ On or before December 15, the board shall post on its website and submit to the Governor, the Senate Committee on Finance, and the House Committees on Appropriations and Finance; an annual statement ~~on or before December 15~~ of the receipts, disbursements, and current investments of the Plan for the preceding year. The report shall set forth a complete operating and financial statement covering the operation of the Plan during the year and shall include a statement of projected receipts, disbursements, investments, and costs for the further operation of the Plan.

**Drafting note: Technical changes.**

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

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

**Drafting note: Technical changes.**

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

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

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

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

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

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

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

**Drafting note: Technical changes.**

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

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

**Drafting note: Technical changes.**

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

Insofar as the provisions of this chapter are inconsistent with the provisions of any other general, special, or local law, ~~general, special, or local~~, the provisions of this chapter shall ~~be~~ controlling control. This chapter ~~shall also constitute~~ constitutes full and complete authority, without regard to the provisions of any other law, ~~for the doing of performing~~ the acts ~~and things~~



~~herein authorized in this chapter and shall be liberally construed to effect the purposes hereof of this chapter.~~

**Drafting note: Technical changes.**

## CHAPTER 8.

### HEALTH AND CAMPUS SAFETY.

**Drafting note: Provisions of existing Chapters 1 (§ 23-1 et seq.) and 17 (§ 23-232 et seq.) relating to student health and campus safety are consolidated in proposed Chapter 8 with three articles: Article 1 (Student Health), Article 2 (Campus Safety; General Provisions), and existing Chapter 17 as Article 3 (Campus Safety; Campus Police Departments). Technical changes are made throughout for the sake of consistency and clarity.**

#### Article 1.

##### Student Health.

**Drafting note: Provisions of existing Chapter 1 (§ 23-1 et seq.) relating to student health are consolidated in proposed Article 1 of Chapter 8, and technical changes are made.**

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

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

B. ~~The health history shall include documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated. Prior to enrollment, all students for the first time in any baccalaureate public institution of higher education, each student shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the guidelines of the American College Health Association.~~

C. ~~In addition to the immunization requirements set forth in subsection B, all incoming full-time students, prior~~ Prior to enrollment for the first time in any baccalaureate public four-

year institution of higher education, each full-time student shall be vaccinated against—(i) meningococcal disease and—(ii) hepatitis B.

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

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

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

F. ~~Further, the State~~ The Council of Higher Education shall, in cooperation with the Board and Commissioner of Health, encourage private ~~colleges and universities~~ institutions of higher education to develop a procedure for providing information about the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine against meningococcal disease and hepatitis B.

**Drafting note: Technical changes.**

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

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

**Drafting note: Technical changes.**

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

A. The governing board of each public institution of higher education shall develop and implement policies that (i) advise students, faculty, and staff, including residence hall staff, of the proper procedures for identifying and addressing the needs of students exhibiting suicidal tendencies or behavior, and (ii) provide for training, where appropriate. Such policies shall require procedures for notifying the institution's student health or counseling center for the

purposes set forth in ~~subsection C subdivision B 4~~ of ~~§ 23-9.2:3~~ 23.1-1303 when a student exhibits suicidal tendencies or behavior.

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

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

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

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

## Article 2.

### Campus Safety; General Provisions.

**Drafting note: Provisions of existing Chapter 1 (§ 23-1 et seq.) relating to campus safety generally are consolidated in proposed Article 2 of Chapter 8, and technical changes are made.**

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

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

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

**Drafting note: An obsolete January 1, 2009 deadline for the original establishment of first warning notification and emergency broadcast systems is stricken, and technical changes are made.**

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

A. ~~The board of visitors or other governing body board~~ of each public institution of higher education shall develop, adopt, and keep current a written crisis and emergency management plan. The plan shall ~~include a provision that~~ (i) require the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund ~~shall to~~ be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01 and (ii) include current contact information for both agencies. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, ~~and the plan shall also contain current contact information for both agencies.~~

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

C. ~~In addition, the president and vice president~~ The chief executive officer of each public institution of higher education, ~~or in the case of the Virginia Military Institute, the superintendent,~~ shall annually (i) review the institution's crisis and emergency management plan; (ii) certify in writing to the Department of Emergency Management that ~~the president and vice president, or the superintendent, have he has~~ reviewed the plan; and (iii) make recommendations to the institution for appropriate changes to the plan.

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

**Drafting note: Technical changes.**

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

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

B. The ~~board of visitors or other governing body board~~ of each public institution of higher education shall determine a violence prevention committee structure on campus composed of individuals charged with education on and prevention of violence on campus. Each

violence prevention committee shall include representatives from student affairs, law enforcement, human resources, counseling services, residence life, and other constituencies as needed. ~~Such committee and shall also consult with legal counsel as needed. Once formed, each~~ Each violence prevention committee shall develop a clear statement of: (i) mission, (ii) membership, and (iii) leadership. Such statement shall be published and made available to the campus community.

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

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

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

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

**Drafting note: Technical changes.**

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

A. For purposes of this section:

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

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

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

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

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

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

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

C. Upon receipt of information pursuant to subsection B, the Title IX coordinator or his designee shall promptly report the information, including any personally identifiable information, to a review committee established pursuant to subsection D. Nothing in this section

shall prevent the Title IX coordinator or any other responsible employee from providing any information to law enforcement with the consent of the victim.

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

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

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

G. In cases in which the alleged act of sexual violence would constitute a felony violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, the representative of law enforcement on the review committee shall inform the other members of the review committee and shall within 24 hours consult with the attorney for the Commonwealth or other prosecutor responsible for prosecuting the alleged act of sexual violence and provide to him the information received by

the review committee without disclosing personally identifiable information, unless such information was disclosed pursuant to subsection F. In addition, if such consultation does not occur and any other member of the review committee individually concludes that the alleged act of sexual violence would constitute a felony violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, that member shall within 24 hours consult with the attorney for the Commonwealth or other prosecutor responsible for prosecuting the alleged act of sexual violence and provide to him the information received by the review committee without disclosing personally identifiable information, unless such information was disclosed pursuant to subsection F.

H. At the conclusion of the review, the Title IX coordinator and the law-enforcement representative shall each retain (i) the authority to proceed with any further investigation or adjudication allowed under state or federal law and (ii) independent records of the review team's considerations, which shall be maintained under applicable state and federal law.

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

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

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

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

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

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



**Drafting note: Technical changes.**

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

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

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

**Drafting note: Technical changes.**

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

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

**Drafting note: Technical changes.**

~~CHAPTER 17.~~

~~CAMPUS POLICE DEPARTMENTS.~~

Article 3.

Campus Safety; Campus Police Departments.

**Drafting note: Existing Chapter 17 (§ 23-232 et seq.) is logically reorganized as proposed Article 3 of Chapter 8, and technical changes are made.**

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

A. The governing board of each public institution of higher ~~learning named in § 23-14, hereafter sometimes referred to in this chapter as "institution," is authorized to~~ education may establish a campus police department and ~~to~~ employ campus police officers and auxiliary police forces upon appointment as provided in §§ ~~23-233~~ 23.1-811 and ~~23-233.1~~ 23.1-812. Such

employment ~~shall be~~ is governed by the Virginia Personnel Act, ~~as set forth in Chapter 29~~ (§ 2.2-2900 et seq.) ~~of Title 2.2~~, except that the governing ~~body~~ board of a public institution of higher education may direct that the employment of the chief of the campus police department is not governed by the Virginia Personnel Act.

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

**Drafting note: Technical changes.**

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

The governing board of each private institution of higher education ~~is authorized to~~ may establish, in compliance with the provisions of this ~~chapter article~~, a campus police department and ~~to~~ employ campus police officers upon appointment as provided in § ~~23-233~~ 23.1-812. Except as such provisions apply exclusively to public institutions of higher education or employees, the provisions of this ~~chapter article~~ shall apply to the appointment and employment of officers, and the operation, powers, duties, and jurisdiction of ~~private~~ campus police departments at private institutions of higher education, and such departments ~~shall be~~ are subject to and shall enjoy the benefits of this ~~chapter article~~. However, to be qualified to use the word "police" to describe the department or its officers, any private ~~college or university which~~ institution of higher education that establishes a campus police department shall require ~~that~~ each officer to comply with the training or other requirements for law-enforcement officers established by the Department of Criminal Justice Services pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1.

**Drafting note: Technical changes.**

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

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

**Drafting note: Technical changes.**

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

A. Prior to appointment as a campus police officer or member of an auxiliary police force, each ~~person~~ individual shall be investigated by the campus police department of the institution applying for the order of appointment or, if none has been established, by the police department of the ~~county, city or town~~ locality in which such institution is located. Such investigation shall determine whether the ~~person~~ individual is responsible, honest, and in all ways capable of performing the duties of a campus police officer.

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

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

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

**Drafting note: Technical changes are made, including (i) changing a reference in subsection A to "county, city or town" to "locality" pursuant to § 1-221, which states that throughout the Code "locality" means a county, city, or town; (ii) incorporating existing § 23-233, Appointment of officers, as proposed subsection B; and (iii) changing subsection B of § 23-236 to proposed subsection C. Necessary but missing references to members of auxiliary police forces are included.**

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

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

**Drafting note: Technical changes.**

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

~~A person~~ An individual appointed as a campus police officer or a member of an auxiliary police force shall exercise his powers only as long as he remains employed or activated, ~~as the case may be~~, by the institution named in the order of the appointment. The appointment order

entered by the circuit court shall automatically be revoked upon the termination of the ~~officer's~~ employment of the officer or member at the institution and may be revoked by the court for malfeasance, misfeasance, or nonfeasance. The institution shall notify the court upon termination of the ~~officer's~~ employment of the officer or member at the institution.

**Drafting note: Necessary but missing references to members of auxiliary police forces are included. Technical changes are made.**

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

A. As used in this section:

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

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

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

B. A campus police officer appointed as provided in ~~§ 23-233~~ 23.1-812 or a member of an auxiliary police force appointed and activated pursuant to ~~§ 23-233.1~~ § 23.1-811 and 23.1-812 shall be deemed police officers of localities who may exercise the powers and duties conferred by law upon such police officers of cities, towns, or counties, and shall be so deemed, including but not limited to the provisions of Chapters 5 (§ 19.2-52 et seq.), 7 (§ 19.2-71 et seq.), and 23 (§ 19.2-387 et seq.) of Title 19.2, (i) upon any property owned or controlled by the ~~relevant~~ institution of higher education or private institution of higher education, or, upon request, any property owned or controlled by another public institution of higher education or private institution of higher education, and upon the streets, sidewalks, and highways, immediately adjacent ~~thereto, to any such property;~~ to any such property; (ii) pursuant to a mutual aid agreement (a) as provided for in § 15.2-1727 or (b) between the governing board of a public institution of higher education or private institution of higher education and such other another public institution of higher education or private institution of higher education, public or private, in the Commonwealth or

~~an adjacent political subdivisions, subdivision;~~ (iii) in close pursuit of a person as provided in § 19.2-77~~;~~<sup>2</sup> and (iv) upon approval by the appropriate circuit court of a petition by the local governing body for concurrent jurisdiction in designated areas with the police officers of the ~~county, city, or town~~ locality in which the institution, its satellite campuses, or other properties are located. The local governing body may only petition the circuit court for such concurrent jurisdiction pursuant ~~only~~ to a request by the local law-enforcement agency ~~for concurrent jurisdiction~~.

~~B. All public or~~ C. Each public institution of higher education and private institutions ~~institution~~ of higher education that ~~have~~ establishes a campus police ~~forces~~ established in accordance with the provisions of force pursuant to this chapter article shall enter into and become a party to a mutual aid agreements agreement with ~~one or more of the following:~~ (i) an adjacent local law-enforcement agency or ~~(ii)~~ the Department of State Police, for the use of their regular and auxiliary joint forces, ~~both regular and auxiliary,~~ equipment, and materials when needed in the investigation of any felony criminal sexual assault or medically unattended death occurring on property owned or controlled by ~~the such~~ institution of higher education or any death resulting from an incident occurring on such property. Such mutual aid agreements shall include provisions requiring either the campus police force or the agency with which it has established a mutual aid agreement pursuant to this subsection, in the event that such police force or agency conducts an investigation that involves a felony criminal sexual assault as set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 occurring on campus, in or on a noncampus building or property, or on public property, to notify the local attorney for the Commonwealth of such investigation within 48 hours of beginning such investigation. ~~Such~~ No such notification provision shall ~~not~~ require a campus police force or the agency with which it has established a mutual aid agreement to disclose identifying information about the victim. ~~The provisions of~~ Nothing in this section ~~shall not prohibit~~ prohibits a campus police force or auxiliary police force from requesting assistance from any appropriate law-enforcement agency of the Commonwealth, ~~even though a~~ with which the institution has not entered into a mutual aid agreement has not been executed with that agency.

~~C. All public or~~ D. Each public institution of higher education and private institutions ~~institution~~ of higher education that (i) ~~do not have~~ has not established a campus police ~~forces~~ established in accordance with the provisions of force or auxiliary police force pursuant to this chapter article and (ii) ~~have~~ has a security ~~departments~~ department, ~~rely~~ relies on ~~municipal, county, local~~ or state police forces, or ~~contract~~ contracts for security services from private parties pursuant to § ~~23-238~~ 23.1-818 shall enter into and become a party to a memorandum of understanding with an adjacent local law-enforcement agency or the Department of State Police (the Department) to require either such local law-enforcement agency or the Department, in the event that such agency or the Department conducts an investigation that involves a felony criminal sexual assault as set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 occurring on campus, in or on a noncampus building or property, or on public property, to notify

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

D. For purposes of this section:

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

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

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

**Drafting note: Necessary but missing references to members of auxiliary police forces are included. Technical changes are made, including moving definitions to the beginning of the proposed section. The phrase "but not limited to" after "including" is stricken in subsection B per § 1-218, which states: "'Includes' means includes, but not limited to."**

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

A. The governing board of any public institution of higher education that leases, rents, or owns satellite campuses, public buildings, and other property located beyond the limits of such institution ~~shall have and~~ has and may exercise full police power over ~~these properties~~ such property and ~~over persons~~ individuals using ~~the same~~ such property. The governing board may prescribe ~~rules~~ policies and regulations for the operation and use of ~~these~~ such properties and ~~for the conduct of all persons~~ individuals using ~~them~~ such property and may provide appropriate administrative penalties for the violation of ~~these rules~~ such policies and regulations.

B. The general district court for the ~~county, city, or town~~ where locality in which violations of law or ~~approved~~ policies or regulations established by the governing board of the

institution pursuant to subsection A occurs ~~shall have~~ has jurisdiction ~~of over~~ all cases ~~arising within the county, city, or town~~ involving such violations.

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

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

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

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

B. ~~Criminal incident information shall include (i) the date, time, and general location of the alleged crime; (ii) a general description of injuries suffered or property damaged or stolen; and (iii) the name and address of any individual arrested as a result of felonies committed against persons or property or misdemeanors involving assault, battery, or moral turpitude reported to the campus police, except where unless such disclosure is prohibited by law; however, where. If the release of such information is likely to jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced such damage is no longer likely to occur from the release of such information.~~

**Drafting note: Technical changes.**

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

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

**Drafting note: Technical changes.**

CHAPTER 9.  
ACADEMIC POLICIES.

**Drafting note: Provisions in existing Chapters 1 (§ 23-1 et seq.) and 1.1 (§ 23-9.3 et seq.) relating to academic policies that apply to certain institutions of higher education in the Commonwealth are consolidated in proposed Chapter 9 with four articles: Article 1 (General Provisions), Article 2 (Programs of Instruction), Article 3 (Course Credit), and Article 4 (Articulation, Transfer, and Dual Enrollment). Technical changes are made throughout for the sake of consistency and clarity.**

Article 1.  
General Provisions.

**Drafting note: Provisions in existing Chapter 1 (§ 23-1 et seq.) relating to academic policies in general are consolidated in proposed Article 1 of Chapter 9, and technical changes are made.**

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

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

B. The registrar of each (i) private institution of higher education that is eligible to participate in the Tuition Assistance Grant Program or to receive project financing from the Virginia College Building Authority pursuant to ~~the Educational Facilities Authority Act of 1972~~ Article 2 (~~§ 23-30.39~~ 23.1-1220 et seq.) of Chapter 12 and (ii) public institution of higher education, or the other employee, office, or department of the institution that is responsible for maintaining student academic records, shall include a prominent notation on the academic transcript of each student who has been suspended for, has been permanently dismissed for, or withdraws from the institution while under investigation for an offense involving sexual violence under the institution's code, rules, or set of standards governing student conduct stating that such student was suspended for, was permanently dismissed for, or withdrew from the institution while under investigation for an offense involving sexual violence under the institution's code, rules, or set of standards. Such notation shall be substantially in the following form: "[Suspended, Dismissed, or Withdrew while under investigation] for a violation of [insert name of institution's code, rules, or set of standards]." Each such institution shall (a) notify each student that any such suspension, permanent dismissal, or withdrawal will be documented on the student's academic transcript and (b) adopt a procedure for removing such notation from the academic transcript of any student who is subsequently found not to have committed an offense involving sexual violence under the institution's code, rules, or set of standards governing student conduct. ~~For purposes of this section, "sexual violence" means physical sexual acts perpetrated against a person's will or against a person incapable of giving consent.~~



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

~~C.~~D. The provisions of this section shall apply only to a student who is taking or has taken a course at ~~a campus of~~ a public institution of higher education or private institution of higher education on a campus that is located in the Commonwealth; however, the provisions of this section shall not apply to any public institution of higher education established pursuant to Chapter ~~40~~ 25 (§ ~~23-92~~ 23.1-2500 et seq.).

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

## Article 2.

### Programs of Instruction.

**Drafting note: Academic policy provisions of existing Chapter 1 (§ 23-1 et seq.) relating to programs of instruction are consolidated in proposed Article 2 of Chapter 9, and technical changes are made.**

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

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

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

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

~~§ 23-9.2:3.6~~ 23.1-902. Education preparation programs offered by institutions of higher education.

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

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

C. ~~Candidates~~ Any candidate who fail fails to achieve the minimum score established by the Board of Education may be denied entrance into ~~the relevant~~ an education preparation program on the basis of such failure; ~~however, if enrolled in the program, they,~~ but any such candidate who gains entrance and enrolls in an education preparation program shall have the opportunity to address ~~any~~ all deficiencies.

**Drafting note: Technical changes.**

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

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

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

**Drafting note: The January 1, 2005, effective date for institutions to begin to include information on distance learning in its strategic plan is stricken as obsolete. Technical changes are made.**

### Article 3.

#### Course Credit.

**Drafting note: Academic policy provisions of existing Chapter 1 (§ 23-1 et seq.) relating to course credit are consolidated in proposed Article 3 of Chapter 9, and technical changes are made.**

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

A. The governing ~~boards~~ board of each public institution of higher education shall implement policies that provide students called to active military duty during an academic

semester with the opportunity to earn full course credit. Such policies shall ~~include~~ provide, as one option, that such students who have completed 75 percent of the course requirements at the time of activation and who meet other specified requirements receive full course credit.

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

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

**Drafting note: Technical changes.**

~~§ 23-9.2-3.8.~~

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

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

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

**Drafting note: Technical changes.**

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

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

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

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

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

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

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

Article 4.

Articulation, Transfer, and Dual Enrollment.

**Drafting note: Academic policy provisions of existing Chapters 1 (§ 23-1 et seq.) and 1.1 (§ 23-9.3 et seq.) relating to articulation, transfer, and dual enrollment are consolidated in proposed Article 4 of Chapter 9, and technical changes are made.**

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

A. ~~The governing board of visitors of each four-year baccalaureate public institution of higher education shall develop, consistent with the State Council of Higher Education Guidelines guidelines and the institution's six-year plan as set forth in § 23-38.87:17~~ 23.1-306, articulation, dual admissions, and guaranteed admissions agreements with ~~all institutions within the Virginia Community College System and any two-year~~ each associate-degree-granting public institution of higher education.

~~B. A Uniform Certificate of General Studies shall be developed by the State The Council of Higher Education, the Virginia Community College System, and the each public institutions institution of higher education shall develop a one-year uniform certificate of general studies program as set forth in subdivision 20 of § 23-9.6:1~~ 23.1-203. All credits earned in academic subject coursework by students attending ~~a two-year college~~ an associate-degree-granting public institution of higher education who complete ~~an approved the~~ one-year uniform certificate of general studies program ~~shall be~~ are transferrable to a ~~four-year~~ baccalaureate public institution of higher education in accordance with Council guidelines.

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

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

E. ~~Each institution within the Virginia Community College System comprehensive community college shall develop agreements for postsecondary degree attainment with the public high schools in the school divisions that they serve, such comprehensive community college serves~~ specifying the options for students to complete ~~an associate's~~ associate degree or a one-year Uniform Certificate of General Studies concurrent with a high school diploma. Such agreements shall specify the credit available for dual enrollment courses and Advanced Placement courses with qualifying exam scores of three or higher. ~~Agreements shall be~~

submitted by the institutions to the Chancellor of the Virginia Community College System and the Superintendent of Public Instruction by April 15, 2013.

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

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

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

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

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

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

**Drafting note: Technical changes.**

§ ~~23-7.4:7~~ 23.1-909. Combined cooperative degree program.

The Secretary of Education ~~(Secretary)~~ and the ~~Director~~ director of the ~~State Council of Higher Education for Virginia (Director)~~, in consultation with each two-year or four-year public ~~or~~ institution of higher education and nonprofit private, nonprofit institution of higher education ~~in the Commonwealth and the Virginia Community College System~~, shall develop a plan to establish and advertise a cooperative degree program whereby any undergraduate student

enrolled at any ~~two-year or four-year~~ public institution of higher education or nonprofit private; ~~nonprofit~~ institution of higher education ~~in the Commonwealth~~ may complete, through the use of online courses at any such institution, the course credit requirements to receive a degree at a tuition cost not to exceed \$4,000, or ~~such~~ the lowest cost that is achievable, per academic year.

No later than October 1, 2016, the Secretary of Education and the ~~Director~~ director of the Council shall report to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate Committee on Education and Health on the progress made ~~by the Secretary and Director~~ toward developing a cooperative degree program plan pursuant to this section.

**Drafting note: Technical changes.**

~~§ 23-8.~~

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

~~§ 23-9.2:3.4.~~

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

~~§ 23-9.2:6.~~

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

#### ~~CHAPTER 3.1.~~

#### ~~VIRGINIA COLLEGE BUILDING AUTHORITY.~~

~~§§ 23-30.1 through 23-30.22.~~

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

SUBTITLE III.  
MANAGEMENT AND FINANCING.

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

~~CHAPTER 4.10~~ 10.  
RESTRUCTURED HIGHER EDUCATION FINANCIAL AND ADMINISTRATIVE  
OPERATIONS ACT.

**Drafting note:** The organization of three subchapters in existing Chapter 4.10 (§ 23-38.88 et seq.) is reorganized as proposed Chapter 10 with four articles: Article 1 (Definitions), Article 2 (Financial and Administrative Standards, Authority, and Incentives), Article 3 (Restructured Financial and Administrative Authority; Memorandum of Understanding), and Article 4 (Restructured Financial and Administrative Authority; Covered Institutions; Management Agreements). Technical changes are made throughout for the sake of consistency and clarity.

~~SUBCHAPTER 1.~~  
~~GENERAL PROVISIONS.~~

**Drafting note:** Existing Subchapter 1 (§ 23-38.88 et seq.) of Chapter 4.10 is reorganized as proposed Articles 1 and 2 of Chapter 10.

Article 1.  
Definitions.

**Drafting note:** Proposed Article 1 of Chapter 10 consists of chapter-wide definitions.

~~§ 23-38.89~~ 23.1-1000. Definitions.

As used in this chapter, ~~the following terms have the following meanings,~~ unless the context requires ~~otherwise~~ a different meaning:

"Bonds, notes, or other obligations" means bonds, notes, commercial paper, bond anticipation notes, revenue certificates, capital leases, lease participation certificates, or other evidences of indebtedness or deferred purchase financing arrangements.

"Capital project" means the acquisition of any interest in land, including (i) capital leases and (ii) improvements on the acquired land, ~~either consisting of (a) new construction of at least~~

5,000 square feet ~~or more~~ or, (b) new construction costing ~~\$1 at least \$2 million or more~~, or (c) improvements or renovations costing ~~\$1 at least \$2 million or more~~, or capital leases.

"Covered ~~Employee~~ employee" means any ~~person~~ individual who is employed by a covered institution on either a salaried or wage basis.

"Covered institution" means, ~~on and after its effective date of the initial Management Agreement~~, a public institution of higher education ~~of the Commonwealth~~ that has entered into a management agreement with the Commonwealth to be governed by the provisions of ~~Subchapter 3 Article 4 (§ 23-38.91 23.1-1004 et seq.) of this chapter.~~

"Enabling ~~legislation~~ statutes" means ~~those chapters, other than this chapter, of Title 23, as amended, each chapter in Subtitle IV (§ 23.1-1300 et seq.), and in the case of the University of Virginia Medical Center §§ 2.2-2817.2, 2.2-2905, 51.1-126.3, and 51.1-1100, creating, continuing, or otherwise setting forth the powers, duties, purposes, and missions of the each individual public institutions~~ institution of higher education ~~of the Commonwealth, and as provided in §§ 2.2-2817.2, 2.2-2905, 51.1-126.3, and 51.1-1100 in the case of the University of Virginia Medical Center,~~ unless otherwise expressly provided in this ~~subchapter~~ chapter.

"Facilities" means all (i) real, personal, tangible, and intangible property or rights in property, real and personal, tangible and intangible, including ~~but not limited to~~ all facilities and (a) infrastructure suitable for supporting a covered institution's mission and ancillary activities and including any and all (b) structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities, ~~now or hereafter~~ held, possessed, owned, leased, operated, or used, in whole or in part, by a covered institution and (ii) rights in such property.

"Includes" has the same meaning as provided in § 1-218.

"Management agreement" means an agreement ~~required by subsection D of § 23-38.88~~ between the Commonwealth and a public institution of higher education seeking to become governed by ~~Subchapter 3 Article 4 (§ 23-38.91 23.1-1004 et seq.) of this chapter.~~

"Participating covered employee" includes (i) all salaried nonfaculty covered employees who were employed by the covered institution on the day prior to the effective date of the initial management agreement and elect pursuant to § 23.1-1022 to participate in and be governed by the program, plans, policies, and procedures established by the institution pursuant to Article 4 (§ 23.1-1004 et seq.); (ii) all salaried nonfaculty covered employees who are employed by the covered institution on or after the effective date of the initial management agreement; (iii) all nonsalaried nonfaculty covered employees of the covered institution without regard to when they were hired; (iv) all faculty covered employees of the covered institution without regard to when they were hired; and (v) all employees of the University of Virginia Medical Center without regard to when they were hired.

"Project" means (i) any research programs and any program, research facility, or educational facility of an a covered institution governed by Subchapter 3 (§ 23-38.91 et seq.) of



~~this chapter~~ or equipment necessary or convenient to or consistent with the purposes of such institution, whether or not owned by the institution, including, ~~without limitation,~~ (a) research, training, teaching, dormitory, and classroom facilities; and all related and supporting facilities; and equipment necessary or desirable in connection ~~therewith~~ with such facilities or incidental thereto; or equipment alone; and also including, without limitation, to such facilities; (b) office, parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational and athletic facilities; (c) hotels and related facilities; (d) power plants and equipment; (e) storage space; (f) hospitals; (g) nursing homes; (h) continuing care facilities; (i) self-care facilities; (j) health maintenance centers; (k) medical office facilities; (l) clinics; (m) outpatient clinics; (n) surgical centers; (o) alcohol, substance abuse, and drug treatment centers; ~~laboratories;~~ (p) sanitariums; (q) hospices; (r) facilities for the residence or care of the elderly, ~~the~~ handicapped, or ~~the~~ chronically ill; (s) residential facilities for nurses, interns, and physicians; (t) ~~other kinds of~~ facilities for the treatment of sick, disturbed, or infirm ~~persons or~~ individuals, the prevention of disease, or the maintenance of health; (u) colleges, schools, or divisions offering undergraduate, graduate, professional, or extension programs, or any combination of such programs, for such ~~branches of learning~~ courses of study as may be appropriate; (v) vehicles, mobile medical facilities, and other transportation equipment, ~~together with mobile medical facilities;~~ and (w) air transport equipment, including equipment necessary or desirable for the transportation of medical equipment, medical personnel, or patients; and (ii) all lands, buildings, improvements, approaches, and appurtenances necessary or desirable in connection with or incidental to any such program, facility, or equipment.

~~"Public institution of higher education" means a two-year or four-year public institution of higher education.~~

~~"Virginia Retirement System" means that includes any retirement system, or other authorized retirement system, established pursuant to or authorized by Title 51.1.~~

**Drafting note: This proposed section incorporates the definition of "participating covered employee" from subsection C of existing § 23-38.114. The definition of "public institution of higher education" is stricken as that term is now defined title-wide pursuant to proposed § 23.1-100. The definition of "capital project" is updated to reflect provisions of the general appropriation act relating to the costs of new construction, improvements, and renovation. Technical changes are made.**

## Article 2.

### Financial and Administrative Standards, Authority, and Incentives.

**Drafting note: Proposed Article 2 of Chapter 10 incorporates the provisions of existing §§ 2.2-5004, 2.2-5005, and 23-38.88 relating to financial and administrative standards, authority, and incentives for public institutions of higher education.**

~~§ 2.2-5004~~ 23.1-1001. Financial and administrative management standards for public institutions of higher education.

For purposes of this chapter:

~~"Public institution of higher education" means the same as that term is defined in § 23-38.89.~~

A. ~~Every~~ Each public institution of higher education ~~in the Commonwealth shall take all appropriate actions to~~ meet the following financial and administrative management standards:

1. An unqualified opinion from the Auditor of Public Accounts upon the audit of the public institution's financial statements;
2. No significant audit deficiencies attested to by the Auditor of Public Accounts;
3. Substantial compliance with all financial reporting standards approved by the State Comptroller;
4. Substantial attainment of accounts receivable standards approved by the State Comptroller, including, ~~but not limited to,~~ any standards for outstanding receivables and bad debts;
5. Substantial attainment of accounts payable standards approved by the State Comptroller including, ~~but not limited to,~~ any standards for accounts payable past due; and
6. ~~Such other~~ Other financial and administrative management standards ~~as established by the Governor may establish, or as may be or included in the general appropriation act currently in effect.~~

B. ~~Any~~ Each public institution of higher education that does not meet all of the financial management standards in subsection A, ~~including any established by the Governor, and such other financial management standards as may be included in the appropriation act currently in effect as determined in a~~ according to the written certification ~~by of~~ of the Auditor of Public Accounts pursuant to § 30-133.1 shall develop and implement a written plan of corrective action ~~for purposes of meeting to meet~~ such standards as soon as practicable. ~~The Chairman~~ chairman ~~or rector of the Board of Visitors or other governing body board~~ of the public institution of higher education shall promptly provide a copy of the completed written plan to the Auditor of Public Accounts and the Secretaries of Education, Finance, and Administration ~~promptly upon completion of the development of the written plan.~~

C. ~~In addition, any~~ Each public institution of higher education that does not meet all of the administrative management standards ~~specified~~ established by the Governor, and such standards currently in effect for such institutions ~~as determined in a~~ according to the written certification ~~by of~~ of the Auditor of Public Accounts pursuant to § 30-133.1 shall develop and implement a written plan of corrective action ~~for purposes of meeting to meet~~ such standards as soon as practical. ~~Copies~~ The chairman or rector of the ~~corrective action plan shall be provided to the same persons included under subsection B upon completion~~ governing board of the ~~development~~ public institution of higher education shall promptly provide a copy of the

completed written plan to the Auditor of Public Accounts and the Secretaries of Education, Finance, and Administration.

**Drafting note: Proposed § 23.1-1001 incorporates the provisions of existing § 2.2-5004. The definition of "public institution of higher education" is stricken because that term is defined for the title pursuant to proposed § 23.1-100. Technical changes are made.**

~~§ 23-38.88~~ 23.1-1002. Eligibility for restructured financial and administrative operational authority and financial benefits.

~~A. Public institutions~~ The state goals for each public institution of higher education are to:

1. Consistent with its institutional mission, provide access to higher education for all citizens throughout the Commonwealth, including underrepresented populations, and consistent with subdivision 4 of § 23.1-203 and in accordance with anticipated demand analysis, meet enrollment projections and degree estimates as agreed upon with the Council. Each such institution shall bear a measure of responsibility for ensuring that the statewide demand for enrollment is met;

2. Consistent with § 23.1-306, ensure that higher education remains affordable, regardless of individual or family income, and through a periodic assessment determine the impact of tuition and fee levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment of tuition, mandatory fees, and other necessary charges;

3. Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with its mission and assess regularly the extent to which the institution's curricula and degree programs address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific academic disciplines, professions, and geographic regions;

4. Ensure that the institution's academic programs and course offerings maintain high academic standards by undertaking a continuous review and improvement of academic programs, course availability, faculty productivity, and other relevant factors;

5. Improve student retention so that students progress from initial enrollment to a timely graduation and the number of degrees conferred increases as enrollment increases;

6. Consistent with its institutional mission, develop articulation agreements that have uniform application to all comprehensive community colleges and meet appropriate general education and program requirements at the baccalaureate institution of higher education, provide additional opportunities for associate degree graduates to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools;

7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and the area in which the institution is located, and for those institutions subject to a management agreement pursuant to Article 4 (§ 23.1-1004 et seq.), in areas with below-state average income levels and employment rates;

8. Consistent with its institutional mission, increase the level of externally funded research conducted at the institution and facilitate the transfer of technology from university research centers to private sector companies;

9. Work actively and cooperatively with public elementary and secondary school administrators, teachers, and students to improve student achievement, upgrade the knowledge and skills of teachers, and strengthen leadership skills of school administrators;

10. Prepare a six-year financial plan consistent with § 23.1-306;

11. Conduct the institution's business affairs in a manner that (i) helps maximize the operational efficiencies and economies of the institution and the Commonwealth and (ii) meets all financial and administrative management standards pursuant to § 23.1-1001 specified by the Governor and included in the current general appropriation act, which shall include best practices for electronic procurement and leveraged purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair and reasonable consideration of small, women-owned, and minority-owned business enterprises; and

12. Seek to ensure the safety and security of students on campus.

B. Each public institution of higher education shall be eligible for the following restructured financial and operational authority that meets the state goals set forth in subsection A on or after August 1, 2005, may:

1. To dispose Dispose of ~~their~~ its surplus materials at the location where the surplus materials are held and ~~to~~ retain any proceeds from such disposal as provided in subdivision B 14 of § 2.2-1124;

2. To have the option, as As provided in and pursuant to the conditions in subsection C of § 2.2-1132 ~~and pursuant to the conditions and provisions under such subsection, to~~ contract with a building official of the locality in which construction is taking place and for such official to perform any inspection and certifications required ~~for the purpose of complying~~ to comply with the Uniform Statewide Building Code (§ 36-97 et seq.) pursuant to subsection C of § 36-98.1;

3. For those each public institutions institution of higher education that ~~have~~ has in effect a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as set forth in the general appropriation act, as provided in subsection C of § 2.2-1132, ~~to~~ enter into contracts for specific construction projects without the preliminary review and approval of the Division of Engineering and Buildings of the Department of General Services, provided such institutions are in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and utilize the general terms and conditions for those forms of procurement approved by the Division of Engineering and Buildings and the Office of the Attorney General;

4. To acquire Acquire easements as provided in subdivision 4 of § 2.2-1149;

5. To enter Enter into an operating/income lease or capital lease pursuant to the conditions and provisions ~~provided~~ in subdivision 5 of § 2.2-1149;

~~6. To convey~~ Convey an easement pertaining to any property such institution owns or controls as provided in subsection C of § 2.2-1150;

7. In accordance with the conditions and provisions ~~of~~ in subdivision C 2 of § 2.2-1153, ~~to~~ sell surplus real property that is possessed and controlled by the institution and valued at less than \$5 million, ~~which is possessed and controlled by the institution;~~

8. For purposes of compliance with § 2.2-4310, ~~to~~ procure goods, services, and construction from a vendor that the institution has certified as a small, women-owned, ~~and or~~ minority-owned business enterprise pursuant to the conditions and provisions ~~provided~~ in § 2.2-1609;

~~9. To be~~ Be exempt from review of their budget request for information technology by the CIO as provided in subdivision A 4 of § 2.2-2007;

~~10. To be allowed to establish~~ Adopt policies for the designation of administrative and professional faculty positions at the institution pursuant to the conditions and provisions ~~provided~~ in subsection E of § 2.2-2901;

~~11. To receive the financial benefits described under § 2.2-5005 pursuant to the conditions and provisions of such section;~~

~~12. To be~~ Be exempt from reporting its purchases to the Secretary of Education, provided that all purchases, including sole source purchases, are placed through the Commonwealth's electronic procurement system using proper system codes for the methods of procurement; and

~~13. To utilize~~ 12. Utilize as methods of procurement a fixed price, design-build, or construction management contract notwithstanding the provisions of § 2.2-4306; and

~~14. The restructured financial and operational authority set forth in Article 2 (§ 23-38.90) and Article 3 (§ 23-38.91 et seq.).~~

~~No such authority shall be granted unless the institution meets the conditions set forth in this chapter.~~

~~B. The Board of Visitors of a public institution of higher education shall commit to the Governor and the General Assembly by August 1, 2005, through formal resolution adopted according to its own bylaws, to meeting the state goals specified below, and shall be responsible for ensuring that such goals are met, in addition to such other responsibilities as may be prescribed by law. Each such institution shall commit to the Governor and the General Assembly to:~~

~~1. Consistent with its institutional mission, provide access to higher education for all citizens throughout the Commonwealth, including underrepresented populations, and, consistent with subdivision 4 of § 23-9.6:1 and in accordance with anticipated demand analysis, meet enrollment projections and degree estimates as agreed upon with the State Council of Higher Education for Virginia. Each such institution shall bear a measure of responsibility for ensuring that the statewide demand for enrollment is met;~~

~~2. Consistent with § 23-38.87:17, ensure that higher education remains affordable, regardless of individual or family income, and through a periodic assessment, determine the~~

~~impact of tuition and fee levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment of tuition and fees;~~

~~3. Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with its mission and assess regularly the extent to which the institution's curricula and degree programs address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific academic disciplines, professions, and geographic regions;~~

~~4. Ensure that the institution's academic programs and course offerings maintain high academic standards, by undertaking a continuous review and improvement of academic programs, course availability, faculty productivity, and other relevant factors;~~

~~5. Improve student retention such that students progress from initial enrollment to a timely graduation, and that the number of degrees conferred increases as enrollment increases;~~

~~6. Consistent with its institutional mission, develop articulation agreements that have uniform application to all Virginia community colleges and meet appropriate general education and program requirements at the four-year institution, provide additional opportunities for associate degree graduates to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools;~~

~~7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and the area in which the institution is located, and for those institutions subject to a management agreement set forth in Article 3 (§ 23-38.91 et seq.), in areas that lag the Commonwealth in terms of income, employment, and other factors;~~

~~8. Consistent with its institutional mission, increase the level of externally funded research conducted at the institution and facilitate the transfer of technology from university research centers to private sector companies;~~

~~9. Work actively and cooperatively with elementary and secondary school administrators, teachers, and students in public schools and school divisions to improve student achievement, upgrade the knowledge and skills of teachers, and strengthen leadership skills of school administrators;~~

~~10. Prepare a six-year financial plan consistent with § 23-38.87:17;~~

~~11. Conduct the institution's business affairs in a manner that maximizes operational efficiencies and economies for the institution, contributes to maximum efficiencies and economies of state government as a whole, and meets the financial and administrative management standards as specified by the Governor pursuant to § 2.2-5004 and included in the appropriation act that is in effect, which shall include best practices for electronic procurement and leveraged purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair and reasonable consideration of small, women-owned, and minority-owned business enterprises; and~~

~~12. Seek to ensure the safety and security of the Commonwealth's students on college and university campuses.~~

~~Upon making such commitments to the Governor and the General Assembly by August 1, 2005, the public institution of higher education shall be allowed to exercise the restructured financial and operational authority set forth in subdivisions A 1 through A 13, subject to such conditions as may be provided under the enabling statutes granting the additional authority.~~

~~C. As provided in § 23-9.6:1.01, the State Council of Higher Education shall in consultation with the respective chairmen of the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health or their designees, representatives of public institutions of higher education, and such other state officials as may be designated by the Governor, develop objective measures of educational related performance and institutional performance benchmarks for such objective measures. At a minimum, the State Council shall develop such objective measures and institutional performance benchmarks for the goals and objectives set forth in subdivisions B 1 through B 10 and B 12. In addition, the Governor shall develop objective measures of financial and administrative management performance and related institutional performance benchmarks for the goals and objectives set forth in subdivision B 11.~~

~~As provided in subsection C of § 23-9.6:1.01, any public institution of higher education that has been certified during the fiscal year by the State Council of Higher Education for Virginia as meeting the institutional performance benchmarks in effect for the fiscal year as set forth in the general appropriation act shall be provided the financial benefits under § 2.2-5005. Such benefits shall first be provided as determined under such section. Objective criteria for measuring performance with regard to the state goals and objectives developed pursuant to subsection B, and benefits or consequences for meeting or not meeting those goals and objectives, shall be developed as provided in subdivision B 5 of § 23-38.87:20.~~

~~D. 1. The restructured financial and operational authority set forth in Article 3 (§ 23-38.91 et seq.) shall only be granted in accordance with the expressed terms of a management agreement between the public institution of higher education and the Commonwealth.~~

~~No restructured financial or operational authority set forth in Article 3 (§ 23-38.91 et seq.) shall be granted to a public institution of higher education unless such authority is expressly included in the management agreement. In addition, the only implied authority that shall be granted from entering into a management agreement is that implied authority that is actually necessary to carry out the expressed grant of restructured financial or operational authority. As a matter of law, the initial presumption shall be that any restructured financial or operational authority set forth in Article 3 (§ 23-38.91 et seq.) is not included in the management agreement. These requirements shall also apply to any other provision included in Article 3 (§ 23-38.91 et seq.).~~

~~2. No public institution of higher education shall enter into a management agreement unless:~~

~~a. (i) Its most current and unenhanced bond rating received from (a) Moody's Investors Service, Inc., (b) Standard & Poor's, Inc., or (c) Fitch Investor's Services, Inc. is at least AA-~~

~~(i.e., AA minus) or its equivalent, provided that such bond rating has been received within the last three years of the date that the initial agreement is entered into or (ii) the institution has (a) participated in decentralization pilot programs in the areas of finance and capital outlay, (b) demonstrated management competency in those two areas as evidenced by a written certification from the Cabinet Secretary or Secretaries designated by the Governor, (c) received additional operational authority under a memorandum of understanding pursuant to § 23-38.90 in at least one functional area, and (d) demonstrated management competency in that area for a period of at least two years. In submitting "The Budget Bill" for calendar year 2005 pursuant to subsection A of § 2.2-1509, the Governor shall include criteria for determining whether or not an institution has demonstrated the management competency required by clause (ii);~~

~~b. An absolute two-thirds, or more, of the institution's governing body shall have voted in the affirmative for a resolution expressing the sense of the body that the institution is qualified to be, and should be, governed by the provisions of Article 3 (§ 23-38.91 et seq.), which resolution shall be included in the initial management agreement;~~

~~c. The institution agrees to reimburse the Commonwealth for any additional costs to the Commonwealth in providing health or other group insurance benefits to employees, and in undertaking any risk management program, that are attributable to the institution's exercise of any restructured financial or operational authority set forth in Article 3 (§ 23-38.91 et seq.). The institution's agreement to reimburse the Commonwealth for such additional costs shall be expressly included in each management agreement with the institution. The Secretary of Finance and the Secretary of Administration, in consultation with the Virginia Retirement System and the affected institutions, shall establish procedures for determining any amounts to be paid by each institution and a mechanism for transferring the appropriate amounts directly and solely to the programs whose costs have been affected.~~

~~In developing management agreements, public institutions of higher education shall give consideration to potential future impacts of tuition increases on the Virginia College Savings Plan (§ 23-38.75) and shall discuss such potential impacts with parties participating in development of such agreements. The chief executive officer of the Virginia College Savings Plan shall provide to the institution and such parties the Plan's assumptions underlying the contract pricing of the program; and~~

~~d. Before executing a management agreement with the Commonwealth that affects insurance or benefit programs administered by the Virginia Retirement System, the Governor shall transmit a draft of the relevant provisions to the Board of Trustees of the Virginia Retirement System, which shall review the relevant provisions in order to ensure compliance with the applicable provisions of Title 51.1, administrative policies and procedures and federal regulations governing retirement plans. The Board shall advise the Governor and appropriate Cabinet Secretaries of any conflicts.~~



~~3. Each initial management agreement with an institution shall remain in effect for a period of three years. Subsequent management agreements with the institution shall remain in effect for a period of five years.~~

~~If an existing agreement is not renewed or a new agreement executed prior to the expiration of the three year or five year term, as applicable, the existing agreement shall remain in effect on a provisional basis for a period not to exceed one year. If, after the expiration of the provisional one year period, the management agreement has not been renewed or a new agreement executed, the institution shall no longer be granted any of the financial or operational authority set forth in Article 3 (§ 23-38.91 et seq.), unless and until such time as a new management agreement is entered into between the institution and the Commonwealth.~~

~~The Joint Legislative Audit and Review Commission, in cooperation with the Auditor of Public Accounts, shall conduct a review relating to the initial management agreement with each public institution of higher education. The review shall cover a period of at least the first 24 months from the effective date of the management agreement. The review shall include, but shall not be limited to, the degree of compliance with the expressed terms of the management agreement, the degree to which the institution has demonstrated its ability to manage successfully the administrative and financial operations of the institution without jeopardizing the financial integrity and stability of the institution, the degree to which the institution is meeting the objectives described in subsection B, and any related impact on students and employees of the institution from execution of the management agreement. The Joint Legislative Audit and Review Commission shall make a written report of its review no later than June 30 of the third year of the management agreement. The Joint Legislative Audit and Review Commission is authorized, but not required, to conduct a similar review of any management agreement entered into subsequent to the initial agreement.~~

~~4. The right and power by the Governor to void a management agreement shall be expressly included in each management agreement. The management agreement shall provide that if the Governor makes a written determination that a public institution of higher education that has entered into a management agreement with the Commonwealth is not in substantial compliance with the terms of the agreement or with the requirements of this chapter in general, (i) the Governor shall provide a copy of that written determination to the chairmen of the Board of Visitors or other governing body of the public institution of higher education and to the members of the General Assembly, and (ii) the institution shall develop and implement a plan of corrective action, satisfactory to the Governor, for purposes of coming into substantial compliance with the terms of the management agreement and with the requirements of this chapter, as soon as practicable, and shall provide a copy of such corrective action plan to the members of the General Assembly. If after a reasonable period of time after the corrective action plan has been implemented by the institution, the Governor determines that the institution is not yet in substantial compliance with the management agreement or the requirements of this chapter, the Governor may void the management agreement. Upon the Governor voiding a~~

~~management agreement, the affected public institution of higher education shall not be allowed to exercise any restructured financial or operational authority pursuant to the provisions of Article 3 (§ 23 38.91 et seq.) unless and until the institution enters into a subsequent management agreement with the Secretary or Secretaries designated by the Governor or the void management agreement is reinstated by the General Assembly.~~

~~5. A management agreement with a public institution of higher education shall not grant any of the restructured financial or operational authority set forth in Article 3 (§ 23 38.91 et seq.) to the Virginia Cooperative Extension and Agricultural Experiment Station, the University of Virginia College at Wise, or the Virginia Institute of Marine Sciences or to an affiliated entity of the institution unless such intent, as well as the degree of the restructured financial or operational authority to be granted, is expressly included in the management agreement.~~

~~6. Following the execution of each management agreement with a public institution of higher education and submission of that management agreement to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate Committee on Education and Health pursuant to § 23 38.97, the Governor shall include a recommendation for approval of the management agreement in "The Budget Bill" submitted pursuant to subsection A of § 2.2 1509 or in his gubernatorial amendments submitted pursuant to subsection E of § 2.2 1509 due by the December 20 that immediately follows the date of submission of the management agreement to such Committees. Following the General Assembly's consideration of whether to approve or disapprove the management agreement as recommended, if the management agreement is approved as part of the general appropriation act, it shall become effective on the effective date of such general appropriation act. However, no management agreement shall be entered into by a public institution of higher education and the Secretary or Secretaries designated by the Governor after November 15 of a calendar year.~~

~~E. A covered institution and the members of its governing body, officers, directors, employees, and agents shall be entitled to the same sovereign immunity to which they would be entitled if the institution were not governed by this chapter; provided further, that the Virginia Tort Claims Act (§ 8.01 195.1 et seq.) and its limitations on recoveries shall remain applicable with respect to institutions governed by this chapter.~~

~~§ 2.2 5005. Incentive performance benefits to certain public institutions of higher education.~~

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

~~"Fiscal year of implementation" means the first full fiscal year for which the financial and administrative management and educational-related performance benchmarks described under § 23-9.6:1.01 are effective, as provided in a general appropriation act.~~

~~Beginning with the fiscal year that immediately follows the fiscal year of implementation and for all fiscal years thereafter, each C. Each public institution of higher education that (i) has been certified during the fiscal year by the ~~State Council of Higher Education of Virginia~~~~

pursuant to ~~§ 23-9.6:1.01~~ 23.1-206 as having met the institutional performance benchmarks for public institutions of higher education and (ii) meets the ~~conditions prescribed~~ state goals set in subsection B of § 23-38.88, A shall receive the following financial benefits:

1. Interest on the tuition and fees and other nongeneral fund Educational and General Revenues deposited into the State Treasury by the ~~public institution of higher education~~, as provided in the general appropriation act. Such interest shall be paid from the general fund and shall be an appropriate and equitable amount as determined and certified in writing by the Secretary of Finance to the Comptroller by the end of each fiscal year; or as soon ~~thereafter~~ as practicable after the end of such fiscal year;

2. Any unexpended appropriations of the public institution of higher education at the ~~close end~~ of the fiscal year, which shall be reappropriated and allotted for expenditure by the institution in the immediately following fiscal year; ~~and~~

3. A pro rata amount of the rebate due to the Commonwealth on credit card purchases of \$5,000 or less made during the fiscal year. The amount to be paid to each institution shall equal a pro rata share based upon its total transactions of \$5,000 or less using the credit card that is approved for use by all state agencies as compared to all transactions of \$5,000 or less using such card by all state agencies. The Comptroller shall determine the public institution's pro rata share and, as provided in the general appropriation act, shall pay the institution by August 15, ~~or as soon thereafter as practicable~~, of the fiscal year immediately following the year of certification or as soon as practicable after August 15 of such fiscal year.

The payment to an institution of its pro rata share under this subdivision shall also be applicable to other rebate or refund programs in effect that are similar to that of the credit card rebate program described in this subdivision. The Secretary of Finance shall identify such other rebate or refund programs and shall determine the pro rata share to be paid to the ~~public institution of higher education~~; ~~and~~

4. A rebate of any transaction fees for the prior fiscal year paid for sole source procurements made by the institution in accordance with subsection E of § 2.2-4303; for using a vendor ~~who~~ that is not registered with the Department of General ~~Service's~~ Services' web-based electronic procurement program commonly known as "eVA<sub>2</sub>"; as provided in the general appropriation act. Such rebate shall be certified by the Department of General Services and paid to each public institution by August 15, ~~or as soon thereafter as practicable~~, of the fiscal year immediately following the year of certification or as soon as practicable after August 15 of such fiscal year.

**Drafting note: For the sake of clarity, proposed subsection A incorporates the provisions of existing subsection B of § 23-38.88, and proposed subsection B incorporates the provisions of existing subsection A of § 23-38.88. Existing subsection C of § 23-38.88 is stricken as duplicative of provisions of existing §§ 23-9.6:1.01 (proposed § 23.1-206) and 23-38.87:20 (proposed § 23.1-309). Existing subsections D and E of § 23-38.88, which relate to covered institutions, are stricken here and incorporated instead into proposed Article 4 on**

covered institutions. Proposed subsection C incorporates the provisions of existing § 2.2-5005. Existing subdivision A 11 of § 23-38.88 is stricken as duplicative of provisions of § 2.2-5004 (subsection C of proposed § 23.1-1001). Existing subdivision A 14 of § 23-38.88 is stricken here and incorporated instead into proposed subsection A of § 23.1-1003 and proposed subsection A of § 23.1-1004. Technical changes are made.

~~SUBCHAPTER 2.~~

~~FINANCIAL AND ADMINISTRATIVE MEMORANDA OF UNDERSTANDING.~~

Article 3.

Restructured Financial and Administrative Authority; Memorandum of Understanding.

**Drafting note: Existing Subchapter 2 (§ 23-90) of Chapter 4.10 is reorganized as proposed Article 3 of Chapter 10.**

~~§ 23-38.90~~ 23.1-1003. Memoranda of understanding.

~~Effective July 1, 2008, any~~ A. Each public institution of higher education that meets the state goals set forth in subsection A of § 23.1-1002 may enter into a memorandum of understanding with the appropriate Cabinet Secretary ~~or Secretaries~~, as designated by the Governor, ~~for additional~~ restructured operational authority in any operational area ~~or areas~~ adopted by the General Assembly in accordance with law, provided that the authority granted in the memorandum of understanding is consistent with that institution's ability to manage its operations in the particular area ~~or areas~~ and ~~provided that the following general criteria are met:~~

1. The institution ~~has received and maintained Council certification (i) is certified by the Council pursuant to § 23-9.6:1.01, 23.1-206 or (ii) upon the completion of the development of the objective criteria for measuring goals and objectives described in subdivision B 5 of § 23-38.87:20, pursuant to § 23-38.87:21~~ 23.1-310 for the most recent year that the Council has completed certification;

2. An absolute two-thirds or more of the institution's governing ~~body shall have~~ board has voted in the affirmative for a resolution expressing the sense of the ~~body~~ board that the institution is qualified to be, and should be, governed by memoranda of understanding ~~as provided in this chapter;~~

3. The institution ~~shall adopt~~ adopts at least one new measure for each area of operational authority for which a memorandum of understanding is requested. Each measure shall be developed in consultation with (i) the appropriate Cabinet Secretary. If the adopted measure is education-related, then it shall be developed in consultation with or (ii) the Secretary of Education and the Council if the measure is education-related. Any education-related measure ~~shall be approved by~~ is subject to the approval of the Council; and

4. The institution ~~shall post~~ posts on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Commonwealth's procurement opportunities on one website.

B. Within 15 days of receipt of a request from a public institution of higher education to enter into a memorandum of understanding ~~as provided in this section~~, the Cabinet Secretary ~~or Secretaries~~ receiving ~~that the~~ request shall notify the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance of the request. The Cabinet Secretary ~~or Secretaries~~ shall determine within 90 calendar days whether ~~or not~~ to enter into the requested memorandum of understanding; ~~or some variation thereof~~ a modified memorandum of understanding.

C. ~~If the determination is to enter~~ Cabinet Secretary enters into a memorandum of understanding with the public institution of higher education, ~~the Cabinet Secretary or Secretaries~~ he shall forward a copy of the governing ~~body's~~ board's resolution and a copy of the memorandum of understanding to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Each initial memorandum of understanding shall remain in effect for ~~a period of~~ three years. Subsequent memoranda of understanding shall remain in effect for ~~a period of~~ five years.

D. ~~If the determination is not to~~ Cabinet Secretary does not enter into a memorandum of understanding with the public institution of higher education, ~~the Cabinet Secretary or Secretaries~~ he shall notify the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance of the reasons for denying the institution's request. If an institution's request is denied, nothing in this section shall prohibit ~~the~~ a public institution of higher education from submitting a future request to enter into a memorandum of understanding pursuant to this section.

**Drafting note: The original July 1, 2008, effective date for existing § 23-38.90 is stricken as obsolete. Proposed subsection A of § 23.1-1003 incorporates the provisions of existing subdivision A 14 of § 23-38.88. Technical changes are made.**

### SUBCHAPTER 3.

#### ~~ALTERNATIVE AUTHORITY FOR COVERED INSTITUTIONS.~~

##### ~~Article 1.~~

~~Governance; Scope of Subchapter; Other Laws.~~

##### Article 4.

Restructured Financial and Administrative Authority; Covered Institutions; Management Agreements.

**Drafting note: Existing Subchapter 3 (§ 23-38.91 et seq.) and each of its seven articles are reorganized as proposed Article 4 of Chapter 10, and technical changes are made.**

~~§ 23-38.91 23.1-1004. Responsibility and accountability for management of institution; governance~~ Management agreement; eligibility and application.

A. ~~The Board of Visitors governing and administration of a public university or college of the Commonwealth~~ each public institutions of higher education that meets the state goals set

~~forth in subsection A of § 23.1-1002 and meets the requirements of this subchapter article to demonstrate the ability to manage successfully the administrative and financial operations of the institution without jeopardizing the financial integrity and stability of the institution may enter into negotiation negotiate with the Governor to develop a management agreement with the Commonwealth, as provided in this subchapter to exercise restructured financial and administrative authority. Consistent with the terms of the management agreement, the Board of Visitors shall assume full responsibility for management of the institution, subject to the requirements and conditions set forth in this subchapter, the general requirements for management agreements as provided in § 23-38.88, and the specific management agreement with the Commonwealth. The Board of Visitors shall be fully accountable for (a) the management of the institution of higher education as provided in this subchapter, (b) meeting the requirements of §§ 2.2-5004, 23-9.6:1.01, and 23-38.87:17 or, upon the completion of the development of the objective criteria for measuring goals and objectives described in subdivision B 5 of § 23-38.87:20, § 23-38.87:21, and (c) meeting such other provisions as may be set forth in the management agreement with the Commonwealth.~~

~~B. Each covered institution shall be governed and administered in the manner provided in this subchapter but subject to the expressed terms of the management agreement entered into pursuant to § 23-38.88, in the appropriation act, and in each such institution's enabling legislation. No public institution of higher education shall enter into a management agreement unless:~~

~~1. a. Its most current and unenhanced bond rating received from Moody's Investors Service, Inc., Standard & Poor's, Inc., or Fitch Investor's Services, Inc., is at least AA- (i.e., AA minus) or its equivalent, provided that such bond rating has been received within the last three years of the date that the initial management agreement is entered into; or~~

~~b. The institution has participated in decentralization pilot programs in the areas of finance and capital outlay, demonstrated management competency in those two areas as evidenced by a written certification from the Cabinet Secretary designated by the Governor, received restructured operational authority under a memorandum of understanding pursuant to Article 3 (§ 23.1-1003 et seq.) in at least one functional area, and demonstrated management competency in that area for a period of at least two years;~~

~~2. At least an absolute two-thirds of the institution's governing board has voted in the affirmative for a resolution in support of a request for restructured operational authority under a management agreement;~~

~~3. The institution submits to the Governor a written request for his approval of the management agreement that contains evidence that (i) the institution possesses the necessary administrative infrastructure, experience, and expertise to perform successfully its public educational mission as a covered institution; (ii) the institution is financially able to operate as a covered institution without jeopardizing the financial integrity and stability of the institution; (iii) the institution consistently meets the financial and administrative management standards~~

pursuant to § 23.1-1001; and (iv) the institution's governing board has adopted performance and accountability standards, in addition to any institutional performance benchmarks included in the general appropriation act and developed pursuant to § 23.1-206, against which its implementation of the restructured operational authority under the management agreement can be measured;

4. The institution provides a copy of the written request to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate Committee on Education and Health;

5. The institution agrees to reimburse the Commonwealth for any additional costs that the Commonwealth incurs to provide health or other group insurance benefits to employees and undertake any risk management program that are attributable to the institution's exercise of restructured operational authority. The Secretary of Finance and the Secretary of Administration, in consultation with the Virginia Retirement System and the affected institutions, shall establish procedures for determining any amounts to be paid by each institution and a mechanism for transferring the appropriate amounts directly and solely to the affected programs;

6. The institution considers potential future impacts of tuition increases on the Virginia College Savings Plan and discusses such potential impacts with parties participating in development of the management agreement. The chief executive officer of the Virginia College Savings Plan shall provide to the institution and such parties the Plan's assumptions underlying the contract pricing of the program; and

7. The Governor transmits a draft of any management agreement that affects insurance or benefit programs administered by the Virginia Retirement System to the Board of Trustees of the Virginia Retirement System, which shall review the relevant provisions of the management agreement to ensure compliance with the applicable provisions of Title 51.1, administrative policies and procedures, and federal regulations governing retirement plans and advise the Governor and appropriate Cabinet Secretaries of any conflicts.

**Drafting note: Proposed subsection A of § 23.1-1004 incorporates the provisions of existing subdivision A 14 of § 23-38.88. Proposed subsection B of § 23.1-1004 incorporates the provisions of existing subdivision D 2 of § 23-38.88 and existing subsection A of § 23-38.97. The second sentence of existing § 23-38.91 is stricken here and incorporated instead into proposed subsection L of § 23.1-1006. Existing subsection B of § 23-38.91 is stricken here and incorporated instead into proposed subsection C of § 23.1-1006. Technical changes are made.**

~~§ 23-38.97 23.1-1005.—Eligibility requirements and procedures; Approval of a management agreement.~~

~~A. Any public institution of higher education may initiate the process to be governed by this subchapter by complying with the following requirements:~~

~~1. An absolute two-thirds, or more, of the institution's governing body shall have voted in the affirmative for a resolution expressing the sense of the body that the institution is qualified to be, and should be, governed by this subchapter.~~

~~2. Following such affirmative vote by such governing body, the institution shall submit to the Governor a written request for his approval to be governed by this subchapter. A copy of such request shall be sent to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance and the Senate Committee on Education and Health. Such written request shall provide documentation substantiating that: (i) the institution possesses the necessary administrative infrastructure, experience, and expertise to perform successfully its public educational mission as a covered institution; (ii) the institution is financially able to operate as a covered institution without jeopardizing the financial integrity and stability of the institution; (iii) the institution consistently meets the financial and administrative management standards pursuant to § 2.2-5004; and (iv) the institution's governing body has adopted performance and accountability standards, in addition to any institutional performance benchmarks included in the general appropriation act and developed pursuant to § 23-9.6:1.01, against which its implementation of this additional authority can be measured.~~

~~B. If the Governor finds that the public institution of higher education meets the criteria set forth in subdivision A-2, § 23.1-1004, he shall authorize those Cabinet Secretaries he deems the appropriate Cabinet Secretary to enter into a management agreement, as described in § 23-38.88, with the governing body board of that such institution addressing such matters as that institution's in-state undergraduate student enrollment, its financial aid requirements and capabilities, and its tuition policy for in-state undergraduate students.~~

~~C. Any B. Each such management agreement, executed by the designated Cabinet Secretaries and governing body of the institution shall be submitted by no later than the succeeding November 15 of any given year to the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate Committee on Education and Health. The Governor shall include a recommendation for approval of the management agreement with the public institution of higher education in "The Budget Bill" submitted pursuant to subsection A of § 2.2-1509 or in his gubernatorial amendments submitted pursuant to subsection E of § 2.2-1509 due by the December 20 that immediately follows the date of submission of the management agreement to such Committees. ~~Following the~~~~

~~C. The General Assembly's consideration of whether Assembly shall consider whether to approve or disapprove the management agreement as recommended, if. If the management agreement is approved as part of the general appropriation act, it shall become effective on the effective date of such general appropriation act.~~

**Drafting note: Existing subsection A of § 23-38.97 is stricken here and incorporated instead into proposed subsection B of § 23.1-1004. A portion of existing subsection B of § 23-38.97 is stricken here and incorporated instead into proposed § 23.1-1006.**



~~§ 23-38.92~~ 23.1-1006. Scope of subchapter Management agreement; contents and scope.

~~A. Any public~~ Each covered institution of higher education that complies with the requirements of this ~~subchapter article~~ shall thereafter have the powers and authority set forth in this ~~subchapter article~~ that are expressly included in the management agreement.

~~B. Each management agreement described in § 23-38.88.~~ shall include:

1. A copy of the governing board's resolution in support of a request for restructured operational authority;

2. The institution's express agreement to reimburse the Commonwealth for any additional costs that the Commonwealth incurs to provide health or other group insurance benefits to employees and undertake any risk management program that are attributable to the institution's exercise of restructured operational authority;

3. The institution's undergraduate Virginia student enrollment, financial aid requirements and capabilities, and tuition policy for undergraduate Virginia students; and

4. A statement of the Governor's power to void the management agreement pursuant to subsection E of § 23.1-1007.

C. There is a presumption that restructured operational authority is not included in the management agreement, and such authority shall only be granted to a covered institution if it is expressly included in the management agreement. The only implied authority that is granted to a covered institution is that which is necessary to carry out the express grant of restructured operational authority. Each covered institution shall be governed and administered in the manner provided in (i) this article but subject to the expressed terms of the management agreement, (ii) the general appropriation act, and (iii) the institution's enabling statutes.

~~B. D.~~ Except as specifically made inapplicable under this subchapter and this article or the express terms of a management agreement described in § 23-38.88, the provisions of Title 2.2 relating generally to the operation, management, supervision, regulation, and control of public institutions of higher education shall be are applicable to covered institutions as provided by the express terms of the management agreement described in § 23-38.88.

~~C. E.~~ In the event of a conflict between any provision of Title 2.2 and any provision of this subchapter as expressed by the management agreement, the provisions of the management agreement shall control. In the event of a conflict between any provision of this subchapter article and an institution's enabling legislation statutes, the enabling legislation shall statutes control.

~~§ 23-38.96. Conflicts of interests.~~

F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) that are applicable to officers and employees of a state governmental agency shall continue to apply to the members of the governing body board and the Covered Employees covered employees of a covered institution.

G. A covered institution, its officers, directors, employees, and agents, and the members of its governing board are entitled to the same sovereign immunity to which they would be entitled if the institution were not governed by this article.

H. The Virginia Tort Claims Act (§ 8.01-195.1 et seq.) and its limitations on recoveries remain applicable to covered institutions.

I. A management agreement with a public institution of higher education shall not grant restructured operational authority to the Virginia Cooperative Extension Service and Agricultural Experiment Station Division, the University of Virginia's College at Wise, the Virginia Institute of Marine Science, or an affiliated entity of the institution unless the intent to grant such authority and the degree to which such authority is granted is expressly included in the management agreement.

§ 23-38.93. Educational policies of the Commonwealth; other requirements.

A. For purposes of §§ 2.2-5004, 23-1.01, 23-1.1, 23-2, 23-2.1, 23-2.1:1, 23-3, 23-4.2, 23-4.3, 23-4.4, 23-7.1:02, 23-7.4, 23-7.4:1, 23-7.4:2, 23-7.4:3, 23-7.5, 23-8.2:1, 23-9.1, 23-9.2, 23-9.2:3, 23-9.2:3.1 through 23-9.2:5, 23-9.6:1.01, Chapter 4.9 (§ 23-38.75 et seq.), and § 23-38.87:17, J. For purposes of § 23.1-101, § 23.1-102, § 23.1-103, § 23.1-104, § 23.1-107, Chapter 2 (§ 23.1-200 et seq.), § 23.1-306, § 23.1-402, § 23.1-403, § 23.1-404, Chapter 5 (§ 23.1-500 et seq.), Chapter 6 (§ 23.1-600 et seq.), Chapter 7 (§ 23.1-700 et seq.), § 23.1-800, § 23.1-801, § 23.1-901, § 23.1-1001, Chapter 11 (§ 23.1-1100 et seq.), Chapter 12 (§ 23.1-1200 et seq.), subsections G, H, and I of § 23.1-1300, § 23.1-1302, and subdivision B of § 23.1-1303, each covered institution shall remain a public institution of higher education of the Commonwealth following its conversion to a covered institution governed by this ~~chapter~~, article and shall retain the authority granted and any obligations required by such provisions. ~~In addition, each covered institution shall retain the authority, and any obligations related to the exercise of such authority, that is granted to institutions of higher education pursuant to Chapter 1.1 (§ 23-9.3 et seq.); Chapter 3 (§ 23-14 et seq.); Chapter 3.2 (§ 23-30.23 et seq.); Chapter 3.3 (§ 23-30.39 et seq.); Chapter 4 (§ 23-31 et seq.); Chapter 4.01 (§ 23-38.10:2 et seq.); Chapter 4.1 (§ 23-38.11 et seq.); Chapter 4.4 (§ 23-38.45 et seq.); Chapter 4.4:1 (§ 23-38.53:1 et seq.); Chapter 4.4:2 (§ 23-38.53:4 et seq.); Chapter 4.4:3 (§ 23-38.53:11); Chapter 4.4:4 (§ 23-38.53:12 et seq.); Chapter 4.5 (§ 23-38.54 et seq.); Chapter 4.7 (§ 23-38.70 et seq.); Chapter 4.8 (§ 23-38.72 et seq.); and Chapter 4.9 (§ 23-38.75 et seq.).~~

B-K. State government-owned or operated and state-owned teaching hospitals that are a part of a covered institution as of the ~~institution's~~ effective date of the covered institution's initial ~~Management Agreement~~ management agreement shall continue to be characterized as state government-owned or operated and state-owned teaching hospitals for purposes of payments under the ~~State Plan~~ state plan for ~~Medicaid Services~~ medical assistance services adopted pursuant to § 32.1-325 ~~et seq.~~, provided that the covered institution commits to serve indigent and medically indigent patients, ~~in which event~~. If such covered institution commits to serve indigent and medically indigent patients, the Commonwealth, through the Department of

Medical Assistance Services, shall, subject to the appropriation in the current general appropriation act-in-effect, continue to reimburse the full cost of the provision of care, treatment, health-related services, and educational services to indigent and medically indigent patients and continue to treat hospitals that were part of a covered institution and that were Type One Hospitals prior to the ~~institution's~~ effective date of the covered institution's initial Management Agreement management agreement as Type One Hospitals for purposes of such reimbursement.

L. Consistent with the terms of the management agreement, the governing board of each covered institution shall assume full responsibility for management of the institution, subject to the requirements and conditions set forth in this article and the management agreement and shall be fully accountable for meeting the requirements of §§ 23.1-206, 23.1-306, and 23.1-310 and such other provisions as may be set forth in the management agreement.

**Drafting note: Proposed subsections D and E incorporate the provisions of existing subsections B and C of § 23-38.92. Proposed subdivision B 3 incorporates a portion of existing subsection B of § 23-38.97. The remainder of proposed subsection B and subsections G, H, and I incorporate portions of existing subsections D and E of § 23-38.88. Proposed subsection C incorporates the provisions of the second paragraph of existing subdivision D 1 of § 23-38.88 and existing subsection B of § 23-38.91. Proposed subsection F incorporates the provisions of existing § 23-38.93. Proposed subsections J and K incorporate the provisions of existing § 23-38.96. Proposed subsection L incorporates the provisions of the second sentence of existing § 23-38.91. Technical changes are made.**

#### ~~Article 2.~~

##### ~~Eligibility Requirements and Procedures; Management Agreement.~~

**Drafting note: The article structure of existing Subchapter 3 of Chapter 4.10 is not retained in proposed Chapter 10.**

~~§ 23-38.94 23.1-1007. Audits Management agreement; duration and oversight.~~

A. Each initial management agreement shall remain in effect for a period of three years. Subsequent management agreements shall remain in effect for a period of five years.

B. If an existing management agreement is not renewed or a new management agreement is not executed prior to the expiration date, the existing agreement shall remain in effect on a provisional basis for a period not to exceed one year. If, after the expiration of the provisional one-year period, the management agreement has not been renewed or a new agreement has not been executed, the public institution of higher education shall not exercise such restructured operational authority until it enters into a new management agreement with the Commonwealth.

C. The Joint Legislative Audit and Review Commission, in cooperation with the Auditor of Public Accounts, shall review, for at least the first 24 months from the effective date of the management agreement, the level of compliance with the expressed terms of the management agreement, the degree to which the public institution of higher education has demonstrated its ability to manage successfully the administrative and financial operations of the institution

without jeopardizing the financial integrity and stability of the institution, the degree to which the institution is meeting the state goals set forth in subsection A of § 23.1-1002, and any impact that the management agreement has had on students and employees of the institution. The Joint Legislative Audit and Review Commission shall make a written report of its review no later than June 30 of the third year of the management agreement. The Joint Legislative Audit and Review Commission may conduct a similar review of any management agreement entered into subsequent to the initial agreement.

D. The Auditor of Public Accounts or his legally authorized representatives shall audit annually accounts of all covered institutions and shall distribute copies of each annual audit to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Pursuant to § 30-133, the Auditor of Public Accounts and his legally authorized representatives shall examine annually the accounts and books of each such institution; however, a, but no covered institution shall not be deemed to be a state or governmental agency, advisory agency, public body, or agency or instrumentality for purposes of Chapter 14 (§ 30-130 et seq.) of Title 30 except for those provisions in such chapter that relate to requirements for financial recordkeeping and bookkeeping. Each covered institution shall be is subject to periodic external review by the Joint Legislative and Audit Review Commission and such other reviews and audits as shall be are required by law.

E. If the Governor makes a written determination that the covered institution is not in substantial compliance with the terms of the management agreement or with the requirements of this chapter, he shall provide a copy of that written determination to the chairman or rector of the governing board of the covered institution and to the General Assembly, and the covered institution shall develop and implement a plan of corrective action. The covered institution shall provide a copy of such corrective action plan to the Governor and General Assembly. If the Governor determines that the covered institution is not yet in substantial compliance with the management agreement or the requirements of this chapter after a reasonable period of time following the implementation of the corrective action plan, the Governor may void the management agreement and the institution's status as a covered institution shall terminate and it shall not exercise such restructured operational authority until the institution enters into a subsequent management agreement with the Cabinet Secretary designated by the Governor or the voided management agreement is reinstated by the General Assembly.

§ 23-38.98. Revocation of management agreement.

F. An institution's status as a covered institution may be revoked by an act of the General Assembly (i) if the institution fails to meet the requirements of this subchapter, or (ii) if the institution fails to meet the requirements of the management agreement as provided in § 23-38.88. An institution's status as a covered institution shall terminate upon the Governor voiding the management agreement with the institution as provided under subdivision D 4 of § 23-38.88 article or the management agreement.

**Drafting note: Proposed subsections A, B, C, and E incorporate portions of existing subsection D of § 23-38.88. Proposed subsection D incorporates the provisions of existing § 23-38.94. The reference to periodic reviews by the Joint Legislative Audit and Review Commission in proposed subsection D is stricken as duplicative of language in proposed subsection C. Proposed subsection F incorporates the provisions of existing § 23-38.98. Technical changes are made.**

~~§ 23-38.95.~~

**Drafting note: Repealed by Acts 2013, c. 577, cl. 2.**

~~Article 3.~~

~~Powers and Authority Generally.~~

**Drafting note: The article structure of existing Subchapter 3 of Chapter 4.10 is not retained in proposed Chapter 10.**

~~§ 23-38.99 23.1-1008. Powers and Covered institutions; operational authority generally.~~

~~In addition to those powers granted in each covered institution's enabling legislation statutes and in the general appropriation act, a each covered institution, subject to the express provisions of the management agreement as provided in § 23-38.88, shall have, may exercise all the powers and authority necessary or convenient to carry out the purposes and provisions of this subchapter. The powers of the Board of Visitors of the institution shall include article and:~~

~~1. To make Make and execute contracts, guarantees, or any other instruments and agreements necessary or convenient for to the exercise of its powers, authority, and functions, including, without limitation, to make and execute contracts with persons to (i) operate and manage any or all of the covered institution's facilities or operations, and to (ii) incur liabilities and secure the obligations of any entity or individual; provided, however, that no covered institution may pledge the faith and credit of the Commonwealth or enter into an indemnification agreement or binding arbitration agreement contrary to the law of Virginia applicable to state agencies; state law;~~

~~2. To conduct Conduct or engage in any lawful business, activity, effort, or project consistent with the covered institution's purposes or necessary or convenient to the exercise of its powers and authority; and~~

~~3. To procure such Procure insurance, participate in such insurance plans, provide such self-insurance, continue participation in the Commonwealth's insurance or self-insurance plans, continue to participate participation in the Commonwealth's risk management programs, and continue participation in the Virginia Retirement System or other Commonwealth sponsored retirement plans subject to the conditions and provisions of Article 6 (§ 23-38.114 et seq.) of this subchapter, or in §§ 23.1-1020 through 23.1-1026, and any combination of the foregoing, as provided in this subchapter article. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the covered institution shall not be deemed a waiver or~~

relinquishment of any sovereign immunity to which the covered institution or its officers, directors, employees, or agents are otherwise entitled. ~~The fact that a covered institution is governed by this subchapter shall not disqualify it from participating~~ Covered institutions may participate in any Commonwealth or Virginia Retirement System insurance, self-insurance, or risk management program on the same terms and conditions applicable to other state agencies and other public institutions of higher education.

**Drafting note: Technical changes.**

~~§ 23-38.100~~ 23.1-1009. Operation of projects Covered institutions; operational authority; projects.

A. ~~A~~ Each covered institution may acquire, plan, design, construct, own, rent as landlord or tenant, operate, control, remove, renovate, enlarge, equip, and maintain, directly or through stock or nonstock corporations or other entities, any project ~~as defined in this subchapter~~. Such ~~projects~~ project may be owned or operated by the institution ~~or~~, other persons, or jointly by such institution and other persons, and may be operated within or ~~without~~ outside the Commonwealth, ~~so as long as their~~ (i) the operations of such project are necessary or desirable to assist the institution in carrying out its public purposes within the Commonwealth, and ~~so long as~~ (ii) any private benefit resulting to any such other private persons from any such project is merely incidental to the public benefit of such project.

B. ~~In~~ Each covered institution may continue, adopt, and enforce policies for the operation of any facility, including any veterinary facility or any, hospital, or other health care and related facilities facility owned or operated by a ~~covered~~ the institution, ~~such institution may continue in effect or adopt and enforce all policies necessary or desirable for such operation.~~ Any such policies pertaining to the operation of any veterinary facility, hospital, or other health care or related facilities facility may include, ~~without limitation, rules relating to the conditions under which the privilege of practicing any health profession or veterinary medicine may be available therein in the facility,~~ the admission and treatment of patients, the procedures for determining the qualification of patients for indigent care or other programs, and the protection of patients and employees, provided that such policies ~~shall do~~ do not discriminate on the basis of race, religion, color, sex, national origin, or any other factor prohibited by law.

**Drafting note: Technical changes.**

~~§ 23-38.101~~ 23.1-1010. Creation Covered institutions; operational authority; creation of entities; and participation in joint ventures.

A. ~~A~~ Each covered institution may ~~create~~:

1. Create or assist in the creation of; ~~may~~ own in whole or in part or otherwise control; ~~may~~ participate in or with any entities, public or private; and ~~may~~ purchase, receive, subscribe for, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise acquire or dispose of any (i) shares or obligations of, or other interests in, any ~~entities~~ entity organized for any purpose within or ~~without~~ outside the Commonwealth, and (ii) obligations of any person or corporation.

No part of the assets or net earnings of such institution shall inure to the benefit of, or be distributable to, any private individual; except that reasonable compensation may be paid for services rendered to or for such institution in furtherance of its public purposes; and benefits may be conferred that are in conformity with ~~said~~ its public purposes.

~~B. A covered institution may participate~~ 2. Participate in joint ventures with individuals, corporations, governmental bodies or agencies, partnerships, associations, insurers, or other entities to facilitate any activities or programs consistent with ~~the~~ its public purposes and the intent of this ~~subchapter~~ article.

~~C. A covered institution may create~~ 3. Create or continue the existence of one or more nonprofit entities for the purpose of soliciting, accepting, managing, and administering grants, and gifts and bequests, including endowment gifts and bequests; and gifts and bequests in trust.

~~D. 4.~~ In carrying out any activities authorized by this ~~subchapter~~ article, ~~a covered institution may~~ provide appropriate assistance, including (i) making loans from its funds, other than general fund appropriations or proceeds of bonds issued under Article X, Section 9(a), 9(b), or 9(c); of the Constitution of Virginia or under Article X, Section 9(d), ~~if such issuance is Commonwealth general fund supported~~, if such issuance is supported by general funds and (ii) providing the time of its employees to corporations, partnerships, associations, joint ventures, or other entities; ~~whether or not such corporations, partnerships, associations, joint ventures or other entities are owned or controlled in whole or in part; or~~ directly or indirectly; by such institution.

**Drafting note: Technical changes.**

~~§ 23-38.102 23.1-1011. Campus~~ Covered institutions; operational authority; campus police.

A. A covered institution may establish or continue to operate ~~or establish~~ a campus police department in accordance with the provisions of ~~Chapter 17 Article 3~~ (~~§ 23-232 23.1-809~~ et seq.), ~~as those provisions are modified by this subchapter of Chapter 8.~~ Campus police shall possess the powers provided in Article 3 of Chapter 17; provided however 8, except that a covered institution's employment of campus police ~~shall be~~ is governed by the provisions of this ~~subchapter~~ article rather than by Chapter 28 (§ 2.2-2800 et seq.) and Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

B. Campus police officers of a covered institution ~~shall be~~ are eligible to participate in the same state-sponsored retirement plans, ~~and~~ on the same terms and conditions, ~~that as~~ as campus police officers of other public institutions of higher education ~~are eligible to participate in.~~

**Drafting note: Technical changes.**

#### ~~Article 4.~~

#### ~~Institutional Management.~~

**Drafting note: The article structure of existing Subchapter 3 of Chapter 4.10 is not retained in proposed Chapter 10.**

~~§ 23-38.104~~ 23.1-1012. Financial Covered institutions; operational authority; financial operations of covered institutions generally.

A. ~~Subject to such accountability measures and audits as are provided in this subchapter or as may otherwise be specifically made applicable by other law to institutions governed by this subchapter and subject to the expressed terms of the management agreement described in § 23-38.88, a~~ Each covered institution may be permitted (i) ~~to~~ independently manage its operations and finances, including holding and investing its tuition, fees, research funds, auxiliary enterprise funds, and all other public funds; (ii) ~~to~~ create any ~~and all financial policies~~ policy deemed necessary to conduct its financial operations; (iii) ~~to~~ adopt the budget for the institution; and (iv) ~~to~~ control the expenditures of all moneys generated or received by the institution, including tuition, fees, and other nongeneral fund revenue sources.

B. Subject to the express terms of the management agreement ~~described in § 23-38.88, in managing its operations and finances, the Board of Visitors, the governing board of a~~ each covered institution ~~shall have~~ has the sole authority to establish tuition, fee mandatory fees, room, and board, and other necessary charges consistent with sum sufficient appropriation authority for all nongeneral funds as provided by the Governor and the General Assembly in the Commonwealth's biennial ~~appropriations authorization~~ appropriation act. ~~The Board of Visitors shall include the institution's commitment to provide need-based grant aid for middle- and lower-income Virginia students in a manner that encourages student enrollment and progression without respect to potential increases in tuition and fees. In the event that the institution retains any or all of the nongeneral funds are retained by the institution, the institution, it shall invest such funds consistent with an investment policy established by the Board of Visitors governing board and retain all income earned on such investments. In the event that the Commonwealth holds any or all of the nongeneral funds are held on behalf of the institution by the Commonwealth of Virginia, the institution shall receive a share of the income earned by the Commonwealth on the investment of such funds as provided in subsection C of § 2.2-5005~~ 23.1-1002.

C. The governing board of each covered institution shall include in its six-year plan pursuant to § 23.1-306 its commitment to providing need-based grant aid for middle-income and lower-income Virginia students in a manner that encourages student enrollment and progression without respect to potential increases in tuition and fees.

D. Each covered institution's management agreement ~~described in § 23-38.88~~ shall include the quantification of cost savings realized as a result of the ~~additional~~ restructured operational flexibility provided authority pursuant to this ~~subchapter~~ article.

~~D. A-E.~~ Each covered institution may enter into any contract ~~which the institution that it determines to be necessary or appropriate to place any bond or investment of the institution, in whole or in part, on the interest rate, cash flow, or other basis desired by the institution, which contract may include, without limitation, including~~ contracts commonly known as interest rate swap agreements, and futures or, and contracts providing for payments based on levels of, or



changes in, interest rates. ~~These~~ Each covered institution may enter into such contracts or arrangements may be entered into by the institution in connection with, or incidental to, or for the purpose of entering into, or maintaining any (i) agreement that secures bonds, notes, or other obligations or (ii) investment or contract providing for investment, otherwise authorized by law, including but not limited to § 23-38.105 23.1-1013. ~~These~~ Such contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the institution, after giving due consideration to the creditworthiness of the counterpart or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as that may be appropriate. Any money set aside and pledged to secure payments of bonds, notes, or other obligations or any of the contracts contract entered into pursuant to this section may be pledged to and used to service any of the contracts or agreements entered into pursuant to this section such contract.

§ 23-38.106. Records of financial transactions.

F. The governing body board of a each covered institution shall adopt a system of independent financial management that includes bookkeeping and accounting procedures that have been prescribed for governmental organizations by the Government Accounting Standards Board.

**Drafting note: Proposed subsection F incorporates the provisions of existing § 23-38.106. Technical changes are made.**

§ 23-38.105 23.1-1013. Investments Covered institutions; operational authority; financial operations; investment of operating funds.

A Each covered institution may invest its operating funds in any obligations or securities that are considered legal investments for public funds in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2. Such institution's governing body board shall adopt written investment guidelines which that provide that such investments shall be made solely in the interest of the covered institution and shall be undertaken with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

**Drafting note: Technical changes.**

§ 23-38.107 23.1-1014. Financing Covered institutions; operational authority; financial operations; financing and indebtedness.

A. A Each covered institution shall have the authority to may:

1. Borrow money and issue bonds, notes, or other obligations as provided in this subchapter article and to purchase such bonds, notes, or other obligations;
2. Seek financing from, incur, or assume indebtedness to, and enter into contractual commitments with, the Virginia Public Building Authority and the Virginia College Building Authority, which authorities are authorized to borrow money and make and issue negotiable

notes, bonds, notes, or other obligations ~~and other evidences of indebtedness~~ to provide such financing relating to facilities or any project; and

3. Seek financing from, incur, or assume indebtedness to, and enter into contractual commitments with, the Commonwealth as otherwise provided by law relating to the institution's facilities or any project.

B. Notwithstanding the provisions of this chapter, no covered institution ~~shall be deemed to be~~ is exempt from any requirement or covenant contained in any outstanding bonds, notes, or other ~~evidences of indebtedness obligations~~.

**Drafting note: Technical changes.**

~~§ 23-38.108 23.1-1015. Power~~ Covered institutions; operational authority; financial operations; power to issue bonds, notes, or other obligations.

A. Notwithstanding the provisions of ~~§ 23-29 23.1-1119, which shall be inapplicable to the exercise by a covered institution of the authority granted in this article,~~ a covered institution may (i) issue bonds, notes, or other obligations ~~from time to time~~ for any purpose that is consistent with its institutional mission, including, ~~without limitation,~~ to (a) finance or refinance any project, ~~to~~ (b) appropriately manage operational cash flows, ~~to~~ (c) provide for short-term financing, ~~to~~ (d) refund bonds, notes, or other obligations issued ~~therefore~~ by or on behalf of such institution, or otherwise, including bonds, notes, or other obligations or obligations not then subject to redemption, and ~~may~~ (ii) guarantee, assume, or otherwise agree to pay, in whole or in part, indebtedness issued by such institution or any affiliated entity for managing operational cash flows or resulting in the acquisition or construction of facilities for the benefit of such institution; ~~or the refinancing thereof; provided, however, that nothing.~~

B. Nothing in this ~~subchapter article~~ shall preclude a covered institution from participation in any financing program or bond issue established and implemented by the Commonwealth; or any agency ~~thereof of the Commonwealth,~~ including, ~~without limitation,~~ (i) any financing program or bond issue under Article X, Section ~~9(b) 9 (b) or 9(e) 9 (c)~~ of the Constitution of Virginia, ~~or~~ and (ii) any financing program or bond issue under Article X, Section ~~9(d) 9 (d)~~ of the Constitution of Virginia undertaken by the Treasury Board, the Virginia College Building Authority, or the Virginia Public Building Authority; if such institution is otherwise eligible ~~for and approved for such participation to participate~~ and is otherwise able to fulfill any requirements that may be imposed upon it ~~in relation to such~~ by virtue of its participation.

~~B-C.~~ Notwithstanding Article 8 (§ 2.2-2415 et seq.) of Chapter 24 of Title 2.2, Chapter ~~3 11~~ (§ ~~23-14 23.1-1100~~ et seq.) ~~of Title 23,~~ and § ~~23-65 23.1-2205,~~ each covered ~~institutions~~ institution may issue bonds, notes, or other obligations consistent with debt capacity and management policies and guidelines established by its ~~Board of Visitors governing board~~ without (i) obtaining the consent of any legislative body, elected official, commission, board, bureau, political subdivision, or agency of the Commonwealth ~~or of any political subdivision, and~~

~~without; (ii) any proceedings or conditions other than those specifically required by this subchapter. Bonds, notes, or other obligations may be issued for the benefit of covered institutions without article; (iii) the approval required by the provisions of Article 8 (§ 2.2-2415 et seq.) of Chapter 24 of Title 2.2. No bonds, notes, or other obligations issued under the authority of this article shall be subject to; or (iv) any review or approval procedure, rules, regulations, regulation or procedures procedure, including a review or approval procedure, adopted pursuant to Chapter 3 11 (§ 23-14 23.1-1100 et seq.) of Title 23.~~

~~C. A-D. Each~~ covered institution may issue such types of bonds, notes, or other obligations as it ~~may determine~~ determines are appropriate and consistent with debt capacity and management policies and guidelines established by its ~~Board of Visitors~~ governing board, including, ~~without limitation,~~ bonds, notes, or other obligations payable as to principal and interest from any one or more of the following sources: (i) its revenues generally; (ii) income and revenues derived from the operation, sale, or lease of a particular project ~~or projects~~, whether or not ~~they are~~ it is financed or refinanced from the proceeds of such bonds, notes, or other obligations; (iii) funds realized from the enforcement of security interests or other liens or obligations securing such bonds, notes, or other obligations; (iv) proceeds from the sale of bonds, notes, or other obligations; (v) payments under letters of credit, policies of municipal bond insurance, guarantees, or other credit enhancements; (vi) any reserve or sinking funds created to secure such payment; (vii) accounts receivable of such institution; or (viii) other available funds of such institution.

~~D. E.~~ Any bonds, notes, or other obligations may be ~~additionally~~ supported by any grant, contribution, or appropriation from a participating political subdivision, the covered institution, the Commonwealth ~~or,~~ any political subdivision, agency, or instrumentality ~~thereof of the Commonwealth,~~ any federal agency, or any unit, private corporation, partnership, association, or individual.

~~E. F.~~ Bonds, notes, or other obligations of a covered institution are ~~declared to be~~ for an essential public and governmental purpose.

~~F. G.~~ It ~~shall be~~ is lawful for any bank or trust company within or ~~without~~ outside the Commonwealth to serve as depository of the proceeds of bonds, notes, or other obligations ~~or of~~ other revenues of a covered institution ~~and to,~~ furnish indemnifying bonds, notes, or other obligations, or ~~to~~ pledge such securities as may be required by such institution, provided that any such deposits ~~shall be~~ are collateralized in accordance with the Security for Public Deposits Act (§ 2.2-4400 et seq.) in the case of a bank or savings institution or ~~in accordance with~~ Article 3 (§ 6.2-1047 et seq.) of Chapter 10 of Title 6.2 in the case of a trust company.

**Drafting note: Technical changes are made, including striking the superfluous phrase "from time to time" in subsection A as per Code Commission policy.**

Article 5.

~~Capital Projects; Procurement; Property Generally.~~

**Drafting note: The article structure of existing Subchapter 3 of Chapter 4.10 is not retained in proposed Chapter 10.**

~~§ 23-38.109 23.1-1016. Capital~~ Covered institutions; operational authority; financial operations; capital projects.

A. The governing board of each covered institution shall adopt policies for the review, approval, and implementation of all capital projects undertaken by the institution.

B. All capital projects of a covered institution, whether funded by an appropriation of the General Assembly or otherwise, shall be approved by ~~such the~~ the institution's governing body, and the governing body of each covered institution shall adopt policies for the review, approval, and implementation of all capital projects undertaken by the institution board.

~~B.-C.~~ Except as otherwise provided in subdivision ~~C~~ D 2, capital projects undertaken at a covered institution may be exempt from any capital outlay oversight performed or required by the Department of General Services, the Division of Engineering and Buildings, the Department of Planning and Budget, and any other state agency that supports the functions performed by ~~these such~~ such departments.

~~C.-D.~~ Capital projects undertaken at a covered institution ~~shall be~~ are subject to the institution's capital project policies adopted pursuant to subsection A, and:

1. Any capital project undertaken at a covered institution ~~shall be~~ that costs \$300,000 or more is subject to the environmental, historic preservation, and conservation requirements of state ~~statutes~~ law that are generally applicable to capital projects in the Commonwealth. ~~For purposes of this subdivision, "capital project" means a capital project as defined in § 23-38.89 costing \$300,000 or more; and~~

2. If the capital project is funded in whole or in part with a general fund appropriation for that purpose or proceeds from bonds issued under Article X, Section 9(a), 9(b), or 9(c) of the Constitution of Virginia, or under Article X, Section 9(d) of the Constitution of Virginia, if such issuance is ~~Commonwealth general fund supported by general funds, of the Constitution of Virginia~~, the project shall remain subject to ~~such the~~ pre-appropriation approvals as that are in effect ~~from time to time~~ within the executive and legislative branches of state government; but ~~such project~~ may nevertheless be exempt under the management agreement from any ~~and all~~ state post-appropriation review, approval, administrative, or other policy or procedure functions performed or required by the Department of General Services, the Division of Engineering and Buildings, the Department of Planning and Budget, and any other state agency that supports the functions performed by ~~these such~~ such departments, ~~subject to the terms of any management agreement.~~

3. If a covered institution constructs improvements on land; or renovates property; that was originally ~~was~~ acquired or constructed in whole or in part with a general fund appropriation

for that purpose or proceeds from bonds issued under Article X, Section 9\_(a), 9\_(b), or 9\_(c) of the Constitution of Virginia, or under Article X, Section 9\_(d), of the Constitution of Virginia if such issuance is ~~Commonwealth general fund supported, of the Constitution of Virginia, supported by general funds~~ and such improvements or renovations are undertaken entirely with funds not appropriated by the General Assembly, such improvements or renovations ~~must~~ shall be consistent with such institution's master plan approved by its governing ~~body~~ board and, if the cost of such improvements or renovations is reasonably expected to exceed \$2 million, the institution's decision to undertake such improvements or renovations shall be communicated to the Governor and to the Chairmen of the Senate Committee on Finance and the House Committee on Appropriations no later than 60 days prior to the (i) commencement of construction or renovation or (ii) issuance of bonds, notes, or other obligations to finance such construction or renovation.

~~D. A-E.~~ E. Each covered institution ~~shall have the authority to~~ may designate its own building official who ~~shall be~~ is a full-time employee ~~and who is hereby authorized to~~ and may determine the suitability for occupancy of, and ~~to~~ issue certifications for building occupancy for, all capital projects undertaken at ~~that such~~ institution, ~~and who, prior to issuing any such certification,~~ Such building official shall ensure:

1. Ensure that the Virginia Uniform Statewide Building Code (§ 36-97 et seq.) requirements are met for that capital project and that such project has been inspected by the State Fire Marshal or his designee prior to issuing any such certification. ~~When serving as the building official, such individual shall report;~~

2. Report directly and exclusively to the ~~Board of Visitors~~ governing board of the institution and ~~shall~~ be subject to review by the appropriate personnel in the Department of General Services. ~~The designated official shall be;~~

3. Be certified by the Department of Housing and Community Development to perform this function. ~~The individual employed or contracted to serve in such capacity shall have; and~~

4. Have adequate resources and staff who are certified by the Department of Housing and Community Development in accordance with § 36-137 for such purpose, and who shall review plans, specifications, and documents for compliance with codes and standards and perform required inspections of the work in progress and the completed project.

F. No individual licensed professional architect or engineer hired or contracted to perform ~~these~~ the functions set forth in subsection E shall also perform other code-related design, construction, facilities-related project management, or facilities management functions for the institution on the same project.

**Drafting note: Technical changes are made, including striking the superfluous phrase "from time to time" in proposed subdivision D 2 as per Code Commission policy.**

~~§ 23-38.110 23.1-1017. Procurement; discrimination prohibited; participation of small, women-owned, and minority-owned business enterprises~~ Covered institutions; operational authority; procurement.

A. Subject to the express provisions of the management agreement ~~described in § 23-38.88, each covered institutions~~ institution may be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for § 2.2-4342-~~(, which section~~ shall not be construed to require compliance with the prequalification application procedures of subsection B of § 2.2-4317);~~;~~ provided, however, that (i) any deviations from the Virginia Public Procurement Act ~~approved in a Management Agreement in the management agreement~~ shall be uniform across all covered institutions; and ~~provided further that~~ (ii) the governing ~~body~~ board of ~~a the~~ covered institution shall adopt, and the covered institution shall comply with, policies for the procurement of goods and services, including professional services, that shall (a) be based upon competitive principles ~~and shall,~~ (b) in each instance seek competition to the maximum practical degree. ~~The policies shall,~~ (c) implement a system of competitive negotiation for professional services pursuant to §§ 2.2-4303.1 and ~~subsections A, B, and C of § 2.2-4302.2, shall~~ (d) prohibit discrimination ~~because of~~ in the solicitation and award of contracts based on the bidder's or offeror's race, religion, color, sex or, national origin of the bidder or offeror in the solicitation or award of contracts, shall, age, or disability or on any other basis prohibited by state or federal law, (e) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354, ~~and shall~~ (f) consider the impact on correctional enterprises under § 53.1-47, and (g) provide that whenever solicitations are made seeking competitive procurement of goods or services, it shall be a priority of the institution to provide for fair and reasonable consideration of small, women-owned, and minority-owned businesses and to promote and encourage a diversity of suppliers.

B. Such policies may, ~~among other things,~~ (i) provide for consideration of the dollar amount of the intended procurement, the term of the anticipated contract, and the likely extent of competition; (ii) implement a prequalification procedure for contractors or products; and (iii) include provisions for cooperative arrangements with other covered institutions, other public or private educational institutions, or other public or private organizations or entities, including public-private partnerships, public bodies, charitable organizations, health care provider alliances or purchasing organizations or entities, state agencies or institutions of the Commonwealth or the ~~several other~~ states, the District of Columbia, the territories ~~and,~~ or the United States, and any combination ~~thereof~~ of such organizations and entities.

C. Nothing in this section shall preclude a covered institution from requesting and utilizing, and covered institutions are hereby encouraged to utilize, the assistance of the Virginia Information Technologies Agency ~~in for~~ information technology procurements and covered institutions are encouraged to utilize such assistance.

C. ~~In the solicitation and awarding of contracts, no covered institution shall discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state or federal law. The procurement policies of a covered~~

~~institution shall provide that, whenever solicitations are made seeking competitive procurement of goods or services, it shall be a priority of the institution to provide for fair and reasonable consideration of small, women owned, and minority owned businesses and to promote and encourage a diversity of suppliers. The~~ D. Each covered institution shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Commonwealth's procurement opportunities on one website.

~~D. E.~~ As part of any procurement provisions of a the management agreement, the governing board of a covered institution shall identify the public, educational, and operational interests served by any procurement rule or rules that deviate deviates from these procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

**Drafting note: Technical changes.**

~~§ 23-38.111 23.1-1018. Information Covered institutions; operational authority; information technology.~~

Subject to the terms of the management agreement, covered institutions each covered institution may be exempt from the provisions governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2; provided, however, that, if the governing body board of a such covered institution shall adopt, adopts and the covered institution shall comply complies with, (i) policies for the procurement of information technology goods and services, including professional services, that are consistent with the requirements of § 23-38.110 23.1-1017 and that include provisions addressing cooperative arrangements for such procurement as described in § 23-38.110, 23.1-1017 and shall adopt and comply with (ii) institutional policies and professional best practices regarding strategic planning for information technology, project management, security, budgeting, infrastructure, and ongoing operations.

**Drafting note: Technical changes.**

~~§ 23-38.112 23.1-1019. Acquisition, possession, operation, and disposition of Covered institutions; operational authority; property; acceptance of, grants, and loans.~~

A. Nothing in this subsection section shall limit or reduce the authority granted to a covered institution in §§ 23-38.109 and 23-38.113, which shall govern 23.1-1016 and 23.1-1028 concerning the planning, design, construction, and implementation of capital projects and leases by covered institutions. In order to continue its mission as a public institution of higher education:

1. A-B. Each covered institution may continue to hold, possess, operate, and dispose of any real, personal, tangible, or intangible property, real or personal, tangible or intangible, that such covered institution held, possessed, or operated prior to its the effective date of the its initial Management Agreement management agreement as follows:

~~a. If the property is~~ 1. For real property, including land, buildings, and any improvements to land or buildings, ~~and it was~~ acquired or constructed in whole or in part with general fund appropriations or proceeds from a general obligation bond issue under Article X, Section 9\_(a) or 9\_(b) of the Constitution of Virginia, the covered institution ~~(i)~~ shall (i) hold, possess, and operate such property in accordance with the institution's enabling ~~legislation statutes,~~ with this subchapter article, and ~~with~~ any policies adopted by the governing ~~body~~ board of the institution pursuant ~~thereto,~~ to this article and (ii) ~~shall~~ dispose of such property in accordance with general law applicable to state-owned property and ~~with~~ the institution's enabling ~~legislation statutes.~~

~~b. If the property is~~ 2. For real property, including land, buildings, and any improvements to land or buildings, ~~and it was~~ acquired or constructed either (i) entirely with nongeneral fund appropriations or proceeds from a nongeneral fund revenue bond issue under Article X, Section 9\_(c) or 9\_(d) of the Constitution of Virginia; or (ii) entirely with funds other than funds appropriated by the General Assembly or proceeds from a general obligation bond issue under Article X, Section 9\_(a) or 9\_(b) of the Constitution of Virginia, the covered institution shall hold, possess, operate, and dispose of such property in accordance with the institution's enabling ~~legislation statutes,~~ notwithstanding the approval requirements of subdivision B 1 of § 23-77.1, with 23.1-1301; ~~this subchapter,~~ article; and ~~with~~ any policies adopted by the governing ~~body~~ board of the institution pursuant ~~thereto~~ to this article.

~~e. If the property is~~ 3. For personal property, the covered institution shall hold, possess, operate, and dispose of such property in accordance with the institution's enabling ~~legislation statutes,~~ with this subchapter article, and ~~with~~ any policies adopted by the governing ~~body~~ board of the institution pursuant ~~thereto~~ to this article.

~~2. C.~~ After the effective date of the initial ~~Management Agreement as provided in § 23-38.88~~ management agreement, a covered institution may acquire any real property, construct improvements ~~thereon in accordance with § 23-38.109,~~ on real property pursuant to § 23.1-1016, and acquire any personal property, tangible or intangible, and hold, possess, operate, and dispose of such real and personal property as follows:

~~a. If the property is~~ 1. For real property, including land, buildings, and improvements to land ~~or~~ and buildings, ~~and it is~~ acquired or constructed with funds appropriated by the General Assembly for that purpose or with proceeds from a general obligation bond issue under Article X, Section 9\_(a) or 9\_(b) of the Constitution of Virginia, the covered institution ~~(i)~~ shall (i) hold, possess, and operate such property in accordance with the institution's enabling ~~legislation statutes,~~ with this subchapter article, and ~~with~~ any policies adopted by the governing ~~body~~ board of the institution pursuant ~~thereto~~ to this article, and (ii) ~~shall~~ dispose of such property in accordance with general law applicable to state-owned property and with the covered institution's enabling ~~legislation statutes.~~

~~b. If the property is~~ 2. For real property, including land, buildings, and improvements to land or buildings, ~~and the property is~~ acquired with any funds in the covered institution's possession; other than ~~any~~ funds appropriated by the General Assembly or proceeds from a



general obligation bond issue under Article X, Section 9\_(a) or 9\_(b) of the Constitution of Virginia, the institution shall hold, possess, operate, dispose of, and otherwise deal with such property, or any right, easement, estate, or interest ~~therein in such property~~, acquired by purchase, exchange, gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of law, or other means, in accordance with the covered institution's enabling ~~legislation~~ statutes, notwithstanding the approval requirements of subdivision B 1 of § 23-77.1, with 23.1-1301; this ~~subchapter, article~~; and with any policies adopted by the governing ~~body~~ board of the institution pursuant ~~thereto to this article~~.

~~e. If the property is~~ 3. For personal property, the institution shall hold, possess, operate, and dispose of such property in accordance with the institution's enabling ~~legislation~~ statutes, with this ~~subchapter~~ article, and with any policies adopted by the governing ~~body~~ board of the institution pursuant ~~thereto to this article~~.

~~3.~~ D. With the approval of the Governor or as otherwise provided by law, and consistent with ~~the provisions of subdivisions 1 and 2 of this subsection~~ subsections B and C, a covered institution may (i) sell, assign, encumber, mortgage, demolish, or otherwise dispose of any project ~~or~~, any other real, personal, tangible, or intangible property, ~~real or personal, tangible or intangible~~, or any right, easement, estate, or interest ~~therein~~ in any such project or property, or any deed of trust or mortgage lien interest owned by it, under its control or custody or in its possession, and may release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in property foreclosed by it; and ~~4. May~~ (ii) do any of the foregoing by public or private transaction.

~~B.~~ E. A covered institution may accept loans, grants, contributions, or other assistance from the federal government, the Commonwealth ~~or~~, any political subdivision ~~thereof~~ of the Commonwealth, or from any other public or private source to carry out its mission as a public institution of higher education ~~of the Commonwealth~~ and any of the purposes of this ~~subchapter~~ article. A covered institution may enter into any agreement or contract regarding ~~or relating to~~ the acceptance, use, or repayment of any such loan, grant, contribution, or assistance; and may enter into ~~such~~ other agreements with any such entity in furtherance of the purposes of this ~~subchapter~~ article.

~~Counties, cities, and towns are hereby authorized to~~ F. Localities may lend or donate money or other property to a covered institution for any of ~~its~~ the institution's purposes. Any local government making ~~the~~ a grant or loan may restrict the use of the grant or loan to a specific project, within or ~~without that~~ outside such locality.

~~C.~~ G. Notwithstanding ~~the provisions~~ any other provision of this chapter, no covered institution shall take action with regard to any real or personal property, ~~real or personal~~, if such action would be deemed to be in violation of any requirement or covenant contained in any outstanding bonds, notes, or other ~~evidences of indebtedness~~ obligations.

**Drafting note: Technical changes.**

Article 6.

Human Resources.

**Drafting note: The article structure of existing Subchapter 3 of Chapter 4.10 is not retained in proposed Chapter 10.**

~~§ 23-38.114 23.1-1020. General; definition Covered institutions; operational authority; human resources; covered employees generally.~~

~~A. Covered Employees are state employees of a covered institution of the Commonwealth of Virginia. Notwithstanding subsections B and C of this section, the state retirement system, state health insurance program, state workers' compensation coverage program, and state grievance procedure, as they may be amended from time to time, shall continue to apply to and govern all eligible Covered Employees. If, however, a covered institution has been or is permitted by law other than in this chapter to establish an alternative health insurance plan or an alternative faculty or University of Virginia Medical Center retirement plan or plans, such alternative health insurance or faculty or University of Virginia Medical Center retirement plan or plans shall apply to and govern the Covered Employees included in such plan or plans. Each Covered Employee covered employee shall continue to be a state employee who is governed by and be eligible to participate in the human resources and benefits programs which that governed him and in which he was eligible to participate immediately prior to the effective date of the initial Management Agreement management agreement for the covered institution by which he is employed unless and, including the state retirement system, state health insurance program, state workers' compensation coverage program, and state grievance procedure, until the covered institution establishes a human resources program or programs, plan, or procedure applicable to him is established by that covered institution pursuant to §§ 23-38.116, 23-38.118, 23-38.119 and 23-38.120 this article in any such human resources or benefits program area. If, however, a covered institution is permitted by law other than in this chapter to establish an alternative health insurance plan or an alternative faculty or University of Virginia Medical Center retirement plan, such alternative health insurance or faculty or University of Virginia Medical Center retirement plan shall apply to and govern the covered employees included in such plan.~~

~~B. Even if a covered institution establishes a human resources program or programs, plan, or procedure pursuant to §§ 23-38.116, 23-38.118, 23-38.119 and 23-38.120, a salaried nonfaculty Covered Employee who was in the employment of that covered institution as of the day prior to the effective date of the initial Management Agreement, except employees of the University of Virginia Medical Center, may elect pursuant to § 23-38.115 to continue to participate in and be governed by the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 and administered by the Department of Human Resources Management. In such case, in addition to the state human resources plans, programs, policies and procedures set forth in subsection A, all other state human resources and~~

~~benefit plans, programs, policies and procedures that apply to and govern state employees shall continue to apply to and govern such salaried nonfaculty Covered Employees.~~

~~C. Any All human resources ~~program or~~ programs, plans, policies ~~or, and~~ procedures established by the governing ~~body~~ board of a covered institution pursuant to ~~§§ 23-38.116, 23-38.118, 23-38.119, and 23-38.120~~ this article shall apply to and govern (i) all salaried nonfaculty Covered Employees of that covered institution who were in its employment as of the day prior to the effective date of the initial Management Agreement and who elect pursuant to § 23-38.115 to participate in and be governed by such program or programs, plans, policies, and procedures, (ii) all salaried nonfaculty Covered Employees of that covered institution who are employed by that institution on or after the effective date of the initial Management Agreement, (iii) all non-salaried nonfaculty Covered Employees of that covered institution without regard to when they were hired, (iv) all faculty Covered Employees of that covered institution without regard to when they were hired, and (v) all employees of the University of Virginia Medical Center without regard to when they were hired. For purposes of this article, "participating Covered Employee" means a Covered Employee described in subdivisions (i) through (v) of this subsection all participating covered employees, except as provided in § 23.1-1022.~~

~~D. C.~~ All covered institutions shall be are responsible for meeting the human resource reporting requirements established by the Governor ~~or~~ and General Assembly.

**Drafting note: The first sentence of existing subsection A of § 23-38.114 is stricken as duplicative of the second sentence of such subsection. The first sentence of existing subsection B of § 23-38.114 is stricken as duplicative of proposed subsection A of § 23.1-1022. The second sentence of existing subsection B of § 23-38.114 is stricken here and incorporated instead into proposed subsection B of § 23.1-1022. Technical changes are made.**

~~§ 23-38.116 23.1-1021. Human resources programs Covered institutions; operational authority; human resources; establishment of a human resources program.~~

A. As used in this section, "active military duty" means federally funded military duty as (i) a member of the Armed Forces of the United States on active duty pursuant to Title 10 of the United States Code or (ii) a member of the Virginia National Guard on active duty pursuant to either Title 10 or Title 32 of the United States Code.

B. The governing ~~body~~ board of each covered institution may elect to adopt for its nonfaculty participating ~~Covered Employees~~ covered employees either (i) one or more human resources programs that is or are generally consistent with the provisions of Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2, pertaining generally to state employees, or (ii) such other human resources program or programs as it determines to be appropriate. The covered institution may administer such human resources program or programs itself or ~~may~~ contract with another covered institution or ~~with~~ the Department of Human Resources Management to administer some or all of its human resources programs, subject to the execution

of any participation or operating agreement as the parties to that agreement may deem necessary and appropriate.

~~B.-C.~~ Each covered institution may (i) establish a human resources program or programs for participating ~~Covered Employees~~ covered employees who are not included in subject to a human resources program established pursuant to subsection ~~A~~ B, including a program or programs relating to ~~those other personnel such employees~~ that its enabling ~~legislation~~ statutes authorizes it to employ. ~~In addition, such institution may, in its discretion,~~ and (ii) contract for such consultants, attorneys, accountants, ~~and~~ financial experts, and ~~such~~ independent providers of expert advice and consultation as ~~may be~~ such institution deems necessary or desirable in the judgment of the covered institution to assist in the establishment of such program.

~~C.-D.~~ Any human resources program adopted by the governing ~~body~~ board of a covered institution for participating ~~Covered Employees~~ covered employees shall be based on merit principles and objective methods of appointment, promotion, transfer, layoff, removal, severance, and discipline; and shall include other appropriate topics ~~included in such a human resources program~~ based on such principles and methods.

E. The human resources program adopted by the governing board of a covered institution shall, consistent with applicable federal law, address (i) the employment of participating covered employees who leave the service of a covered institution for service in any of the Armed Forces of the United States, (ii) the employment of veterans who have served in any of the Armed Forces of the United States following the termination of their military service, and (iii) leave and other policies affecting the employment of participating covered employees who have been ordered to active military duty in the Armed Forces of the United States or the organized reserve forces of any of the armed services of the United States or the Virginia National Guard.

**Drafting note: Proposed subsections A and E incorporate the provisions of existing subsection D of § 23-38.118. Technical changes are made.**

~~§ 23-38.115 23.1-1022. Election~~ Covered institutions; operational authority; human resources; election by certain ~~Covered Employees~~ covered employees.

A. If the governing ~~body~~ board of a covered institution establishes a human resources program or programs pursuant to ~~§ 23-38.116 23.1-1021~~, a salaried nonfaculty ~~Covered Employee of that covered institution who was in its employment as of~~ covered employee who was employed by the covered institution on the day prior to the effective date of the initial ~~Management Agreement~~ management agreement, except employees of the University of Virginia Medical Center, ~~shall be permitted to~~ may elect within a prescribed period of the establishment of the human resources program to participate in and be governed by either (i) the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2; or (ii) the human resources program or programs established by the governing ~~body~~ board of ~~that the~~ covered institution pursuant to ~~§ 23-38.116 23.1-1021~~. If the salaried nonfaculty covered employee does not make an election within such prescribed period, he shall

be deemed to have elected to participate in and be governed by the state human resources program. Elections to participate in the human resources program established by the covered institution are irrevocable. At least once every two years, each covered institution that establishes a human resources program pursuant to § 23.1-1021 shall provide salaried nonfaculty employees who elected to participate and be governed by the state human resources program with (i) a comparison of the state program and the institution's program, including an assessment of compensation and benefits, and (ii) an opportunity participate in and be governed by the institution's human resources program.

B. A salaried nonfaculty covered employee who elects to participate in and be governed by the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 shall continue to be governed by all state human resources and benefit plans, programs, policies, and procedures that apply to and govern state employees.

C. A salaried nonfaculty ~~Covered Employee~~ covered employee who elects to participate in and be governed by the human resources program or programs established by the governing body ~~board~~ of ~~that~~ the covered institution pursuant to ~~§ 23-38.116~~ also, by that election, 23.1-1021 shall be deemed to have elected to be eligible to participate in and ~~to~~ be governed by the human resources plans, programs, policies, and procedures ~~that are or may be adopted by that the~~ covered institution for his employment classification of employees pursuant to ~~§§ 23-38.118, 23-38.119, and 23-38.120~~ 23.1-1024, 23.1-1025, and 23.1-1026.

~~B. If the governing body of a covered institution establishes a human resources program or programs pursuant to § 23-38.116, the covered institution shall provide each of its salaried nonfaculty Covered Employees who was in its employment as of the day prior to the effective date of the initial Management Agreement, except employees of the University of Virginia Medical Center, with a period of at least 90 days after the effective date of the institution's human resource program for his classification of employees to make the election required by subsection A. If such a salaried nonfaculty Covered Employee does not make an election by the end of that 90 day period, he shall be deemed not to have elected to participate in the human resources program or programs established by the covered institution pursuant to § 23-38.116. If such a salaried nonfaculty Covered Employee elects to participate in the human resources program or programs established by the covered institution pursuant to § 23-38.116, that election shall be irrevocable. At least every two years, a covered institution shall offer to salaried nonfaculty Covered Employees who have elected to continue to participate in the state human resources program set forth in Chapters 28 (§ 2.2 2800 et seq.) and 29 (§ 2.2 2900 et seq.) of Title 2.2 an opportunity to elect to participate in the human resources program or programs established by the covered institution pursuant to § 23-38.116; provided that, each time prior to offering such opportunity to such salaried nonfaculty Covered Employees, and at least once every two years after the effective date of the human resources program or programs established pursuant to § 23-38.116, the covered institution shall make available to each of its salaried nonfaculty Covered Employees a comparison of its human resources program for that~~

~~classification of salaried nonfaculty Covered Employee with the state human resources program for comparable state employees, including but not limited to a comparability assessment of compensation and benefits.~~

**Drafting note: Proposed subsection B incorporates the provisions of the second sentence of existing subsection B of § 23-38.114. The 90-day election period is updated to a "prescribed period" to more accurately reflect current practice and current management agreements. Technical changes are made.**

~~§ 23-38.117 23.1-1023. Grievance Covered institutions; operational authority; human resources; grievance procedures.~~

A. ~~No covered institution shall be~~ is exempt from the State Grievance Procedure (§ 2.2-3000 et seq.), which shall continue to apply to all eligible nonfaculty ~~Covered Employees~~ covered employees of a covered institution. The governing ~~body board~~ of each covered institution shall adopt policies that encourage the resolution of employment-related problems and complaints of its nonfaculty ~~Covered Employees~~ covered employees. Such policies shall provide that nonfaculty ~~Covered Employees~~ covered employees of the institution ~~shall be able to~~ may discuss their concerns with their immediate supervisors and management freely and without retaliation. To the extent that such concerns cannot be resolved informally, the State Grievance Procedure (§ 2.2-3000 et seq.) ~~of Title 2.2~~ shall apply (i) to the covered institution's nonfaculty participating nonfaculty Covered Employees covered employees to the same extent that it applied to the same classifications of nonfaculty employees prior to the institution's effective date of the initial ~~Management Agreement~~ management agreement and (ii) to the covered institution's salaried nonfaculty ~~Covered Employees~~ covered employees who have elected pursuant to ~~§ 23-38.115 23.1-1022~~ to continue to participate in the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2.

B. ~~A covered institution shall continue to make~~ The grievance policies ~~available to~~ faculty Covered Employees to the extent that such policies were applicable to faculty Covered Employees covered employees prior to its the effective date of the initial ~~Management Agreement, and may amend any such policies~~ management agreement shall continue in effect but may be amended by the covered institution.

C. ~~A covered institution is not required to adopt grievance policies governing Covered Employees not included in subsections A and B, but it may, in its discretion, do so for some or all such Covered Employees, and such~~ may adopt grievance policies that are applicable to some or all other employees not subject to grievance policies pursuant to subsection A or B. Such grievance policies may be the same as or different from the grievance policies adopted pursuant to subsection A.

**Drafting note: Technical changes.**

~~§ 23-38.118~~ 23.1-1024. Miscellaneous Covered institutions; operational authority; human resources; miscellaneous personnel matters.

A. ~~All~~ Each covered institution shall base all appointments ~~to, and~~ promotions, and tenure ~~in, positions in the service of a covered institution shall be based~~ decisions upon merit and fitness, to be ascertained, as far as possible, by the competitive rating of qualifications by that institution.

B. No establishment of a position or rate of pay, ~~and no~~ or change in rate of pay, shall become effective except on order of the appointing covered institution.

C. ~~No participating Covered Employee of, or applicant for employment with,~~ current or prospective participating covered employee of any covered institution shall be required, as a condition of employment, to smoke or use tobacco products on the job, ~~or to~~ abstain from smoking or using tobacco products outside the course of his employment, provided that this ~~section~~ subsection shall not apply to those classes of employees to which § 27-40.1 or 51.1-813 is applicable.

~~D. The human resources policies adopted by the governing body of a covered institution shall, consistent with applicable federal law, address (i) employment of participating Covered Employees who leave the service of a covered institution for service in any of the armed forces of the United States, and the employment of other veterans of such military service, following the termination of their military service; and (ii) leave and other policies affecting the employment of participating Covered Employees who have been ordered to active military service in the armed forces of the United States, or in the organized reserve forces of any of the armed services of the United States, or of the Virginia National Guard. "Active military duty," as used in this subsection, means federally funded military duty as (i) a member of the armed forces of the United States on active duty pursuant to Title 10 of the United States Code or (ii) a member of the Virginia National Guard on active duty pursuant to either Title 10 or Title 32 of the United States Code.~~

**Drafting note: Existing subsection D is stricken here and incorporated instead into proposed subsections A and E of § 23.1-1021. Technical changes are made.**

~~§ 23-38.119~~ 23.1-1025. Certain Covered institutions; operational authority; human resources; certain insurance plans; legal process and assignment.

A. Insurance plans provided under this article and all proceeds ~~therefrom shall be from such plans~~ are subject to the same provisions regarding exemption from levy, garnishment, and other legal process as is provided to Virginia Retirement System plans under § 51.1-510; provided, however, that (i) permitted assignments shall be ~~effected~~ made through completion of forms provided by the covered institution or its vendor; ~~and provided further, that~~ (ii) for insurance plans established by a covered institution, the covered institution shall exercise the authority granted to the Board of the Virginia Retirement System in § 51.1-510 ~~is hereby granted to and shall be exercised by the covered institution.~~

B. Each covered institution (i) shall purchase or make available group life and accidental death and dismemberment insurance ~~policies~~ plans covering in whole or in part those of its participating ~~Covered Employees~~ covered employees eligible to participate in the Virginia Retirement System; and (ii) may purchase or make available such additional insurance ~~policies~~ plans covering its participating ~~Covered Employees~~ covered employees as it deems appropriate. Participating ~~Covered Employees~~ covered employees shall not be required to present evidence of insurability satisfactory to an insurance company for basic group life insurance coverage. ~~All~~ Each covered institution shall offer all salaried participating ~~Covered Employees~~ covered employees shall be offered covered employees basic group life insurance at a level of coverage determined by ~~such~~ the institution's governing ~~body~~ board. A covered institution may require participating ~~Covered Employees~~ covered employees to pay all or a portion of the cost of the insurance coverage offered pursuant to this subsection, which may be collected through a payroll deduction program. If the institution's governing ~~body~~ board so elects, and subject to the execution of such participation agreements as the Virginia Retirement System may require, the covered institution's participating ~~Covered Employees~~ covered employees may be covered by the Virginia Retirement System's group insurance programs established pursuant to Chapter 5 (§ 51.1-500 et seq.) of Title 51.1 ~~under~~ with the same terms, costs, and conditions ~~that apply to, and with the same, and~~ benefits that are available to, as other state employees.

C. For those of its participating ~~Covered Employees~~ covered employees eligible to participate in the Virginia Retirement System, a covered institution shall (i) purchase disability insurance; (ii) subject to the execution of such participation agreements as may be necessary, appropriate, and in the best interests of the Commonwealth, continue to participate in the disability insurance program established for state agencies; (iii) establish a self-insured disability insurance program; or (iv) perform any combination of clauses (i) ~~through, (ii), and~~ (iii). A covered institution may require participating ~~Covered Employees~~ covered employees to pay all or a portion of the cost of the insurance coverage offered pursuant to ~~clauses~~ clause (i), (iii), or (iv) ~~of this subsection~~, which may be collected through a payroll deduction program. However, ~~the~~ no such covered institution shall ~~not~~ be required to contribute to the program established for state agencies on behalf of participating ~~Covered Employees~~ covered employees who do not participate in that program.

D. If a covered institution's governing ~~body~~ board so elects, and subject to the execution of such participation agreements as may be necessary, appropriate, and in the best interests of the Commonwealth, each such institution or its participating ~~Covered Employees~~ covered employees, or both, may participate in any future insurance programs established for state employees ~~under~~ with the same terms ~~and~~, conditions ~~that apply to, and with the same~~ benefits that are available to, and benefits as other state employees.

**Drafting note: Technical changes.**



~~§ 23-38.120~~ 23.1-1026. ~~Severance~~ Covered institutions; operational authority; human resources; severance policies.

A. Each covered institution shall adopt ~~one or more~~ a ~~severance policies~~ policy for its eligible participating ~~Covered Employees,~~ covered employees that is applicable to voluntary ~~or~~ and involuntary separations, including reductions in workforce. The provisions of the Workforce Transition Act (§ 2.2-3200 et seq.) shall not apply to participating ~~Covered Employees~~ covered employees.

B. The terms and conditions of a covered institution's severance policy ~~or policies~~ for eligible participating ~~Covered Employees~~ covered employees shall be determined by the institution's governing ~~body~~ board. The covered institution and the Board of the Virginia Retirement System shall negotiate a formula according to which cash severance benefits may be converted to years of age or creditable service for participating ~~Covered Employees~~ covered employees who participate in the Virginia Retirement System.

C. ~~Covered Employees~~ employees who (i) were employees of a covered institution and were covered by the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 prior to ~~its~~ the effective date of the initial ~~Management Agreement~~ management agreement, ~~who otherwise~~ (ii) would otherwise be eligible for severance benefits under the Workforce Transition Act (§ 2.2-3200 et seq.), and ~~who~~ (iii) are separated by a covered institution because of a reduction in workforce ~~shall~~ have the same preferential hiring rights with state agencies and other executive branch institutions as other state employees have under § 2.2-3201. ~~Conversely,~~ a covered institution shall recognize the hiring preference conferred by § 2.2-3201 on state employees who were (a) hired by a state agency or executive branch institution before the covered institution's effective date of the initial ~~Management Agreement~~ management agreement and ~~who were~~ (b) separated after that date by that state agency or executive branch institution because of a reduction in workforce. If a covered institution has adopted a classification system pursuant to § ~~23-38.116~~ 23.1-1021 that differs from the classification system administered by the Department of Human Resource Management, the covered institution shall classify the separated employee according to its classification system and shall place the separated employee appropriately. Any such separated employee who is hired by a covered institution ~~shall be~~ is a participating ~~Covered Employee~~ covered employee for purposes of this article. Classification decisions that are made under pursuant to this subsection and ~~applying~~ apply to employees transferring between state agencies ~~or, between~~ other executive branch institutions and covered institutions, ~~or and~~ between covered institutions, as a result of a reduction in force and with the preferential hiring rights provided in this subsection and in § 2.2-3201 ~~shall be~~ are presumed appropriate, and a separated employee who grieves the classification decision ~~shall bear~~ bears the burden of demonstrating that the classification violates the separated employee's preferential hiring rights.

D. An employee's transition ~~on the effective date of a covered institution's initial Management Agreement~~ from being an employee of a public institution of higher education to being a ~~Covered Employee~~ covered employee of a covered institution on the effective date of a

covered institution's initial management agreement shall not, in and of itself, constitute a severance of that employee or a reduction in force that would make either the covered institution's severance policy ~~or policies~~ adopted pursuant to subsection A or the Workforce Transition Act (§ 2.2-3200 et seq.) applicable to that employee.

**Drafting note: Technical changes are made, including removing "or policies" in subsections B and D because § 1-227 provides that throughout the Code any word used in the singular includes the plural and vice versa.**

~~Article 7.~~

~~Additional Authority Subject to Management Agreement.~~

**Drafting note: The article structure of existing Subchapter 3 of Chapter 4.10 is not retained in proposed Chapter 10.**

~~§ 23-38.121. Restructured authority subject to management agreement.~~

~~As provided in subsection D of § 23-38.88, no restructured financial or operational authority set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter or any other provision of such chapter shall become effective unless and until the authority or provision is expressly included in a management agreement and all other conditions of subdivisions D-1 and D-2 of § 23-38.88 have been met.~~

**Drafting note: This section is stricken as duplicative of provisions contained in proposed subsection B of § 23.1-1006.**

~~§ 23-38.103 23.1-1027. Tuition~~ Covered institutions; duties; tuition, fees, rentals, and other charges; moneys.

~~A~~ Each covered institution shall fix, revise ~~from time to time~~, charge, and collect tuition, rates, rentals, fees, and other charges for the services, goods, or facilities furnished by or on behalf of such institution; and may adopt policies regarding any such service rendered or the use, occupancy, or operation of any such facility.

**Drafting note: Technical changes are made, including striking the superfluous phrase "from time to time" per Code Commission policy.**

~~§ 23-38.113 23.1-1028. Leases~~ Covered institutions; duties; leases of property.

The governing ~~body~~ board of ~~a~~ each covered institution shall adopt such policies relating to the leasing of real property, including capital or operating/income leases, that reasonably ensure that such leases are efficiently procured on appropriate terms and for appropriate purposes. With respect to capital or operating/income leases for real property to be used for academic purposes; or for real property owned by the institution or a foundation ~~related~~ relating to the institution to be used for non-academic purposes in accordance with the institution's land use plan pursuant to § 2.2-1153, other than applicable policies adopted by a covered institution's governing board ~~of visitors~~ and provisions of general law that expressly apply to covered institutions, such institutions ~~shall be~~ are exempt from any state or local statutes ~~or~~, ordinances,

rules, regulations, and guidelines relating to (i) operating/income leases of real property by public entities and, (ii) except as otherwise provided in §§ ~~23-38.109~~ 23.1-1016 and ~~23-38.112~~, ~~to~~ 23.1-1019, capital leases.

**Drafting note: Technical changes.**

## CHAPTER ~~3~~ 11.

### BONDS AND OTHER OBLIGATIONS.

**Drafting note: Existing Chapter 3 (§ 23-14 et seq.) is reorganized as proposed Chapter 11 and technical changes are made throughout to modernize, simplify, and clarify language relating to bonds of public institutions of higher education and certain other entities.**

§ ~~23-15~~ 23.1-1100. Definitions.

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

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

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

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

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

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

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

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

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

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

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

~~The College of William and Mary in Virginia, at Williamsburg; Richard Bland College of the College of William and Mary at Dinwiddie and Prince George; the rector and visitors of Christopher Newport University, at Newport News; Longwood University, at Farmville; the University of Mary Washington, at Fredericksburg; George Mason University, at Fairfax; the James Madison University, at Harrisonburg; Old Dominion University, at Norfolk; the State Board for Community Colleges, at Richmond; the Virginia Commonwealth University, at Richmond; the Radford University, at Radford; the Roanoke Higher Education Authority and Center; the rector and visitors of the University of Virginia, at Charlottesville; the University of Virginia's College at Wise; the Virginia Military Institute, at Lexington; the Virginia Polytechnic Institute and State University, at Blacksburg; the Virginia Schools for the Deaf and the Blind; the Virginia State University, at Petersburg; Norfolk State University, at Norfolk; the Wilson Workforce and Rehabilitation Center, at Fishersville; the Eastern Virginia Medical School; the Southern Virginia Higher Education Center; the Southwest Virginia Higher Education Center; the Institute for Advanced Learning and Research; and the New College Institute are hereby classified as educational institutions and are declared to be public bodies and constituted as governmental instrumentalities for the dissemination of education. The powers of every such each institution derived directly or indirectly from this chapter ~~shall be~~ are vested in and may be exercised by a majority of the members of its board, and a majority of such board ~~shall be~~ constitutes a quorum for the transaction of any business authorized by this chapter. ~~Wherever the word "board" is used in this chapter, it shall be deemed to include the members of a governing body designated by another title.~~~~

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

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

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

**Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

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

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

**Drafting note: Technical changes.**

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

~~The~~ ~~With the prior~~ consent of the Governor ~~being first had and obtained~~, every any institution ~~shall have power and is hereby authorized and empowered to~~ may acquire any project by purchase, gift, or otherwise, ~~any project or to erect the same~~ any project, or ~~to~~ refinance the cost of ~~acquisition~~ acquiring or ~~erection of~~ erecting any project, and in connection ~~therewith to~~ with any such acquisition, erection, or refinancing, any institution may borrow money, ~~and~~; make, issue, and sell its bonds as ~~hereinafter~~ provided in this chapter, ~~and to~~; enter into and perform all lawful contracts and agreements ~~and~~, do all lawful acts ~~and things~~ necessary or proper, and ~~further to~~ make such lawful contracts and agreements and ~~do~~ and perform all such lawful acts ~~and things~~ as may be necessary, proper, or advisable for the purpose of obtaining and/or or securing grants, loans and/or, or financial assistance of any kind ~~or sort in connection therewith~~ under any act of Congress or ~~of this~~ the Commonwealth.

**Drafting note: Technical changes.**

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

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

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

C. Any notes or bonds ~~so~~ issued pursuant to this section may be sold at public or private sale for such price or prices as the board ~~shall determine, provided that the~~ determines. The interest cost to maturity of the ~~money~~ moneys received for any such issue of notes or bonds shall not exceed the rate specified in ~~§ 23-30.03 23.1-1112~~. Notes or bonds so issued and the interest thereon ~~shall be~~ (i) is payable only out of the sale or ~~the~~ liquidation of the endowment

investments, investments of unrestricted gifts from private sources, and interest accruing ~~thereon~~ on such sale, liquidation, or investment that is pledged to secure the notes or bonds so issued; and ~~shall in no event constitute~~ (ii) is not a general obligation of such institution, the Commonwealth, the Governor, the members of the board of such institution, ~~nor~~ or any person executing the notes or bonds so issued.

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

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

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

G. Any note or bonds so bond issued pursuant to this section, ~~their~~ the transfer of such note or bond, and the income ~~therefrom~~ from such note or bond, including any profit derived from the sale ~~thereof~~ of such note or bond, shall at all times be free and is exempt from taxation by ~~this~~ the Commonwealth, ~~and~~ or by any ~~municipality, county or any~~ locality or political subdivision ~~hereof~~ of the Commonwealth.

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

**Drafting note: Technical changes are made, including striking the superfluous phrase "from time to time" in proposed subsection A per Code Commission policy. In addition, "or dates," "or times," and "or places" are stricken in proposed subsections B and C and "or resolutions" and "or provisions" are stricken in proposed subsection I because § 1-227 provides that throughout the Code any word in the singular includes the plural and vice versa. The term "locality" is used to replace "municipality, county" in proposed subsection H as a more broad term that conforms to §§ 1-221 and 1-224, which respectively state that throughout the Code "locality" means a county, city, or town and "municipality" means a city or town.**

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

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

~~B. Any institution shall have power and is hereby authorized and empowered from time to time to~~ may execute its bonds in ~~such an~~ aggregate principal amount ~~as may be determined upon~~ by its board ~~and,~~ approved by the Governor. ~~All such bonds shall be,~~ and approved by the Treasury Board pursuant to § 2.2-2416, ~~and the Treasury Board is hereby designated the paying agent of such institutions under this chapter. The Treasury Board's duties shall include the approval of the terms and structure of such bonds. Such aggregate principal amount may include without limitation any costs~~ cost associated with the development and management of the project ~~or,~~ legal or accounting expenses incurred by the institution in connection with the project for ~~the~~ erection of which such bonds are issued, and the cost of ~~issuance of~~ issuing the bonds, including printing, engraving, advertising, legal, and other similar expenses.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

2. Bear such date, mature at such time, bear interest at such rate not exceeding the rate specified in § 23.1-1112 payable at such times, be in such denomination, be in such form, either coupon or registered, carry such registration privilege, be executed in such manner, be payable in such medium of payment and at such place, and be subject to such terms of redemption, with or without premium, as the resolution of the board provides;

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

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

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

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

D. Bonds issued pursuant to this chapter may be:

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

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

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

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

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

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

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

~~(h) G. In any case in which an institution shall have obtained obtains a loan for or in aid of the erection of any project from the United States of America or any federal agency, which loan to erect any project that requires the establishment of a debt service reserve, the institution, with the consent of the Governor, may deposit securities in a separate collateral account in an amount equal to the required debt service reserve, which securities shall be pledged and pledge such securities to meet the debt service requirements only if the revenues derived from any one or more of the sources mentioned source set forth in subdivisions (1), (2), (3) and (4) of subsection (d) of this section subdivision C 1 a, b, c, or d and pledged for the payment of such loan become insufficient for such purpose. The face value of United States government securities and the market value of all other securities shall be deemed to be is the value of any securities so~~

deposited. Nothing ~~herein~~ in this subsection shall be construed ~~as prohibiting to prohibit~~ repayment of any portion of such loan from income derived from the securities so deposited. No securities shall be deposited in any such collateral account unless ~~the same shall have been such securities are~~ purchased with funds, ~~the whose use of which~~ is ~~in nowise no way~~ limited or restricted or ~~shall have been~~ are donated to such institution for the purpose of establishing such debt service reserve.

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

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

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

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

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

~~(4) 1.~~ By mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the holders of bonds bondholders of such series, including the right to require such institution and its board to (i) collect fees, rents, charges, or other revenues adequate to carry out

any agreement as to, or pledge of, such revenues, ~~and to require such institution and board to or~~ (ii) carry out and perform any other agreements with the ~~holders of the bonds~~ bondholders of such series ~~and to perform it~~ and their duties under this chapter;

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

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

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

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

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

**Drafting note: Technical changes are made, including removing "or resolutions" in proposed subsections A and D and "or instruments" in proposed subsection B based on § 1-227, which provides that throughout the Code any word in the singular includes the plural and vice versa.**

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

~~Should~~ If any bond issued by an institution ~~become~~ is mutilated ~~or be,~~ lost, or destroyed, the board may ~~cause~~ execute and deliver a new bond of like date, number, and tenor ~~to be executed and delivered~~ in exchange and substitution for, and upon cancellation of, ~~such a~~ a mutilated bond and its interest coupons; or in lieu of and in substitution for ~~such a~~ a lost or

destroyed bond and its unmatured interest coupons. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, or destroyed bond ~~(1)~~ (i) has paid the reasonable expense and charges in connection ~~therewith and~~ (2) with the execution and delivery; (ii) in the case of a lost or destroyed bond, has filed with the board and the State Treasurer satisfactory evidence that such bond was lost or destroyed and that the ~~holder~~ bondholder was the owner ~~thereof of the bond;~~ and ~~(3)~~ (iii) has furnished indemnity satisfactory to the State Treasurer.

**Drafting note: Technical changes.**

~~§ 23-21 23.1-1109. Proceeds of bonds and revenues to be paid into state treasury~~ Bonds and revenues; disposition.

All moneys derived from the sale of bonds pursuant to ~~§ 23-19 23.1-1106~~ and all revenues derived from any ~~one or more of the sources mentioned~~ source set forth in subdivisions (1), (2) and (3) of subsection (d) subdivision C 1 a, b, or c of § 23-19 23.1-1106, except those moneys that are exempt from deposit into the state treasury, shall be paid into the state treasury ~~and any such moneys and revenues so paid into the state treasury shall be,~~ set aside in special funds, and devoted solely to the payment of (i) the cost of erecting the project for which such bonds ~~shall~~ have been issued ~~and to the payment of,~~ (ii) the principal of and the interest on such bonds, ~~and of~~ (iii) the cost of maintenance and operation of such project ~~and of any other existing facilities the revenues of for which are~~ any revenue is pledged either in whole or in part to the payment of the principal of and the interest on such bonds, respectively, and are hereby (ii) specifically appropriated for ~~those~~ such purposes to be paid out by the State Treasurer on warrants of the Comptroller to be issued on vouchers of the treasurer or other fiscal officer of the board of such institution.

**Drafting note: Technical changes.**

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

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

**Drafting note: Technical changes.**

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

The bonds and other obligations of an institution ~~shall~~ are not ~~be in any way~~ a debt of the Commonwealth ~~and shall,~~ do not create or constitute any indebtedness or obligation of the Commonwealth, either legal, moral, or otherwise, ~~nor shall they be and are not~~ payable out of any funds other than those of the institution ~~and nothing.~~ Nothing in this chapter ~~contained~~ shall

be construed to authorize any institution to incur any indebtedness on behalf of the Commonwealth or in any way to obligate the Commonwealth.

**Drafting note: Technical changes.**

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

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

**Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

**Drafting note: Technical changes.**

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

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

**Drafting note: Technical changes.**

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

(a) ~~In addition to the powers conferred upon institutions by other provisions of this chapter, and notwithstanding any other provision of this title, any A. Any institution is hereby authorized by and may,~~ with the approval of the Governor, ~~and~~ upon the affirmative vote of at least ~~two-thirds~~ two-thirds of its board, ~~to~~ (i) borrow ~~from time to time,~~ for and in the name of the institution, such ~~sum or~~ sums as it may determine determines necessary for the acquisition of



~~improved or unimproved real estate, improved or unimproved, whether or not such acquisition is in pursuance for the purpose of the erection of erecting a project; and to (ii) secure payment thereof of such debts by a lien on such real estate; provided that interest upon the notes or bonds issued by an institution pursuant to this section may be further secured by or the pledge of any endowment funds or unrestricted gifts from private sources available for the use of such institution and which that are not required by law or by previous binding contract to be devoted to some other purpose.~~

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

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

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

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

**Drafting note: Technical changes are made, including striking the superfluous phrase "from time to time" in subsection A per Code Commission policy. The term "locality" is used to replace "municipality, county" in proposed subsection D as a more broad term that conforms to §§ 1-221 and 1-224, which state respectively that throughout the Code "locality" means a county, city, or town and "municipality" means a city or town.**

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

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

**Drafting note: Technical changes.**

~~§ 23-5~~ 23.1-1119. Payment of interest on bonds of ~~State~~ the Commonwealth held by colleges, ~~etc~~ public institutions of higher education and private institutions of higher education.

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

**Drafting note: Technical changes.**

~~§ 23-6~~ 23.1-1120. Exchange and cancellation of consol coupon bonds of ~~State~~ the Commonwealth.

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

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

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

**Drafting note: Technical changes.**

~~§ 23-30~~ 23.1-1121. Certificates of indebtedness.

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

**Drafting note: Technical changes.**

~~§ 23-29~~ 23.1-1122. Provisions of chapter to control.

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

**Drafting note: Technical changes.**

~~CHAPTER 3.1.~~

~~VIRGINIA COLLEGE BUILDING AUTHORITY.~~

~~§§ 23-30.1 through 23-30.22.~~

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

~~CHAPTER 3.2 12.~~

~~VIRGINIA COLLEGE BUILDING AUTHORITY.~~

**Drafting note: Existing Chapters 3.2 (§ 23-30.23 et seq.) and 3.3 (§ 23-30.39 et seq.) are reorganized as proposed Chapter 12 in order to logically combine the provisions of these closely related chapters.**

Article 1.

General Provisions; Powers and Duties.

**Drafting note: Existing Chapter 3.2 (§ 23-30.23 et seq.) is reorganized as proposed Article 1 of Chapter 12, consolidating general provisions and provisions relating to the Virginia College Building Authority's powers and duties generally.**

~~§ 23-30.23. Title.~~

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

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

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

~~It is hereby found, determined and declared that the providing of funds for the construction of projects of capital improvement at educational institutions within this Commonwealth is or may be hindered, impeded and delayed by the high financing costs resulting from the sale of bonds of such educational institutions in the open market, and it is desirable that a state agency be created as hereinafter provided, authorized either (i) to purchase such bonds in order to serve educational institution purposes by financing the construction of projects of capital improvement at less cost, thereby facilitating such construction or (ii) to issue its own revenue bonds for purposes of paying for the costs of such projects.~~

~~It is hereby further found, determined and declared that there is an urgent need to provide substantial amounts of new scientific, technical and other equipment for teaching, research and related activities at such educational institutions so that they may remain competitive in attracting high-quality faculty and obtaining research grants, and it is desirable that a state agency be empowered, as hereinafter provided, to purchase such equipment for lease or sale to such educational institutions in order to provide them with such equipment at the lowest possible~~

~~cost, thereby facilitating the acquisition and supply of such equipment to educational institutions and increasing the purchasing power of their funds, including funds provided by tuition and fees and by appropriations from the General Assembly.~~

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

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

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

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

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

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

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

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

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

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

A. The Virginia College Building Authority is ~~hereby created~~ established as a public body corporate and ~~as a political subdivision and an~~ agency, and instrumentality of the Commonwealth of Virginia, and as such, shall have and. The Authority is hereby vested with the powers, rights, and duties ~~hereinafter~~ conferred in this ~~chapter~~ article.

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

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

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

E. The Authority shall elect a treasurer, a secretary, and an assistant secretary, ~~each of whom may to~~ perform the duties and functions commonly performed by such officers. All such

officers, except the secretary and the assistant secretary, shall be selected from members of the Authority. The secretary and the assistant secretary may receive such compensation as the Authority provides.

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

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

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

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

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

**Drafting note: Technical changes.**

~~§ 23-30.34~~ 23.1-1203. Powers of Authority generally.

~~In order to~~ To enable the Authority to carry out the purposes for which it is established, the Authority ~~is vested with the powers of a public body corporate, including the power to sue and may:~~

1. Sue and be sued, to make;
2. Make contracts, and to adopt and;
3. Adopt, use, and alter a common seal and to alter the same, and is authorized and empowered;
- ~~1. To have~~ 4. Have perpetual succession as a public body corporate, ~~and to adopt;~~
5. Adopt bylaws and regulations for the conduct of its affairs;
- ~~2. To maintain~~ 6. Maintain an office at such place ~~or places~~ as it may designate;
- ~~3. To collect,~~ 7. Collect, or ~~to~~ authorize the trustee under any trust indenture securing any bonds of the Authority to collect, ~~as the same shall become due,~~ (i) the principal of and the interest on all obligations transferred to the Authority by the General Assembly and (ii) other assets or moneys transferred to the Authority by the General Assembly or educational eligible

institutions, including lease payments and other sources of revenue, as such principal, interest, and other assets or moneys become due;

~~4. To conduct~~ 8. Conduct a program of purchasing equipment for lease or sale to educational eligible institutions as authorized by this ~~chapter~~ article;

~~5. To collect,~~ 9. Collect, or ~~to~~ authorize the trustee under any trust indenture securing any bonds of the Authority to collect, ~~as the same shall become due,~~ (i) payments due under leases or agreements of sale of equipment or leases or other obligations of real property by the Authority to educational eligible institutions, as such payments become due and (ii) the principal of and the interest on all ~~educational institution~~ of eligible institutions purchased by the Authority;

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

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

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

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

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

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

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

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

**Drafting note: Language vesting the Authority with the powers of a public body corporate are removed in this section because such powers are given in the previous section in existing language and retained in that proposed section. Technical changes are made,**

**including removing "or places" in proposed subdivision 6 because § 1-227 provides that throughout the Code any word in the singular includes the plural and vice versa.**

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

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

**Drafting note: Technical changes.**

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

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

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

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

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

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

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

~~C. The Authority is authorized to~~ may acquire equipment with any funds of the Authority available for such purpose. Acquisition and disposition of equipment may be at public or private



sale and for such price and on such terms as the Authority ~~shall determine~~ determines, provided that the Authority ~~shall acquire~~ finances the acquisition of equipment for, ~~and shall lease or sell the same sale~~ to educational eligible institutions only pursuant to standards and procedures ~~as approved through the Commonwealth's budget and appropriation process.~~ The budget document shall present ~~the~~ any lease payments and the corresponding total value of equipment to be acquired by each eligible institution. Each eligible institution shall make available such additional detail on specific equipment to be purchased as may be requested by the Governor or the General Assembly. If emergency acquisitions and leases are necessary when the General Assembly is not in session, the Governor may approve such acquisitions and leases. Prior to such acquisitions and leases, the Governor shall submit such proposed acquisitions and leases to the House Appropriations Committee and the Senate Finance Committee for their review and approval.

D. The Authority ~~is authorized to~~ may establish and maintain such funds accounts as it ~~may deem~~ deems appropriate ~~from time to time~~ to provide funds for acquisition of equipment on a continuing basis. The Authority may deposit ~~therein~~ in such accounts such funds as it deems appropriate, including, ~~but without limitation,~~ the proceeds of any Authority bonds issued to finance the purchase of equipment and payments made to the Authority under equipment ~~leases and lease or sale agreements with educational eligible institutions and others or other entities.~~ Any moneys held in such funds accounts may ~~also~~ be (i) ~~used in the Authority's discretion~~ to secure payment of principal of and interest on any Authority bonds, whether issued to finance the purchase of equipment, ~~or to~~ issued to pay administrative costs of the authority, ~~whether or~~ incurred in connection with the purchase, lease, or sale of equipment, ~~or may be~~ (ii) transferred by the Authority to be used in connection with any other program of the Authority. ~~However, no~~ No funds of the Authority derived from the equipment program authorized under this section may be used in connection with the issuance or securing of indebtedness for the benefit of private institutions ~~for~~ of higher education pursuant to ~~Chapter 3.3 Article 2 (§ 23-30.39 23.1-1220 et seq.) of this title.~~

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

**Drafting note: The term superfluous term "from time to time" in subsection D is stricken per Code Commission policy. Technical changes are made, including replacing "is authorized to" with its simpler equivalent "may" and removing "but without limitation"**

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

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

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

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

C. The bonds of each issue shall be dated, shall and mature at such time or times, not exceeding 40 years from their date or dates, as may be determined by the Authority but not to exceed 40 years from their date, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the

Authority prior to the issuance of the bonds. The bonds may bear interest payable at such time ~~or times and~~, at such rate or rates, and in such manner as may be determined by the Authority or as determined in such manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by it. The principal of and interest ~~of on~~ such bonds may be made payable in any lawful medium. The Authority shall determine the form ~~of the bonds and the~~, manner of execution ~~of~~, denomination, and place of payment of principal and interest for the bonds, ~~and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof~~, which may be at the office of the State Treasurer or at any bank or trust company within or ~~without~~ outside the Commonwealth. ~~In case~~

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

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

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

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

H. Prior to the preparation of definitive bonds, the Authority may under like restrictions issue temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds ~~shall~~ have been executed and are available for delivery. The Authority may also provide for the replacement of any bond ~~which shall become~~ that becomes mutilated or ~~shall be~~ is destroyed or lost. Such revenue bonds may be issued without any other proceedings or the

happening of any other conditions or things than the proceedings, conditions, and things ~~which that~~ are specified and required by this ~~chapter~~ article.

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

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

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

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

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

1. Pledge or assign all or ~~any~~ part of the funds of the Authority available for such purpose, including, ~~but without limitation,~~ (i) payments of principal of and interest on ~~educational institution~~ bonds of eligible institutions purchased by the Authority; (ii) proceeds of the sale of any such ~~educational institution~~ bonds; (iii) payments of principal of and interest on obligations transferred to the Authority by the General Assembly or from other assets or moneys transferred to the Authority by the General Assembly or ~~educational~~ eligible institutions, including lease payments and other sources of revenue; (iv) proceeds of the sale of any such obligations or assets; (v) proceeds from the sale of bonds of the Authority; (vi) security interests granted by the Authority or any ~~educational~~ eligible institution in, or other liens on, equipment, whether such equipment has been leased or sold to an ~~educational~~ eligible institution; (vii) all or ~~any~~ part of the payments due the Authority from ~~educational~~ eligible institutions under any

~~leases~~ lease, ~~sale agreements~~ agreement, ~~loans~~ loan, or other ~~agreements made by agreement~~ between the Authority ~~with the educational and eligible~~ educational and eligible institutions pursuant to ~~§ 23-30.27-1~~ 23.1-1206, and any funds realized from enforcing security for such payments; (viii) payments due under policies of bond insurance, letters of credit, or other credit enhancement securing payment of principal of and interest on bonds of the Authority; (ix) any moneys in any, ~~or all of the funds as the Authority may from time to time establish~~ fund established pursuant to ~~§ 23-30.27-1, 23.1-1206~~; (x) any reserve or sinking ~~funds~~ fund created by the Authority to secure such bonds; and (xi) other available funds of the Authority. ~~Such trust indenture or resolution may also pledge;~~

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

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

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

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

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

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

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

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

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

**Drafting note: The superfluous term "from time to time" in proposed subdivision A 1 is stricken per Code Commission policy. Technical changes are made, including removing "but without limitation" used in conjunction with "including" in proposed subdivision A 1 on the basis of the Code-wide application of § 1-218, which states, "'Includes' means includes, but not limited to."**

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

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

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

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

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

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

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

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

~~In order to~~ To provide funds for the repayment of bonds issued by the Authority ~~either to~~ (i) ~~for the purchase of any educational eligible~~ institution's bonds or (ii) ~~to provide funds for the purpose of paying to pay~~ all or any part of the cost of any ~~one or more projects~~ project or of any portion or portions thereof of a project, each ~~educational eligible~~ institution is ~~authorized to may~~ agree to pledge and transfer to the Authority all or a part of the ~~educational eligible~~ institution's revenues derived from any ~~one or more of the sources~~ source mentioned in subdivisions (1) through (4) of subsection (d) subdivision C 1 a, b, c, or d of ~~§ 23-49 23.1-1106~~. Any agreement ~~related relating~~ to such transfer may contain ~~such~~ other provisions that the Authority and ~~educational eligible~~ institution deem reasonable and proper and are not in violation of law. ~~Any~~ No such agreement shall ~~not be deemed to~~ constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth. Neither the full faith and credit of the Commonwealth nor the taxing power of the Commonwealth or any political subdivision ~~thereof~~ is or of the Commonwealth shall be pledged to the payment of the principal of and interest on bonds so secured by such agreement. Prior to execution, any such agreement shall be approved by ~~(i)~~ the Secretary of Finance and ~~(ii)~~ the Secretary of Education.

**Drafting note: Technical changes.**

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

A. Whenever it appears to the Governor from an affidavit filed with him by the paying agent for the bonds issued by the Authority that ~~the~~ an eligible institution has defaulted in the payment of the principal of or premium, if any, or interest on its bonds pursuant to this ~~chapter~~ article, the Governor shall immediately make a summary investigation into the facts set forth in the affidavit. If it is established to the satisfaction of the Governor that the eligible institution is in default in the payment of the principal of or premium, if any, or interest on its bonds ~~or the interest thereon~~, the Governor immediately shall make an order directing the State Comptroller to make payment immediately to the owners or paying agent of the bonds in default, ~~or the~~

~~paying agent for the bonds~~, on behalf of the eligible institution from any appropriation available to the eligible institution in the amount due and remaining unpaid by the eligible institution on its bonds.

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

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

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

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

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

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

**Drafting note: Technical changes.**

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

Any (i) holder of bonds issued under the provisions of this ~~chapter~~ article or any of the coupons appertaining ~~thereto, and the~~ to such bonds and (ii) trustee under any trust indenture, ~~except to the extent the rights herein given may be restricted by such trust indenture or the~~



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

**Drafting note: Technical changes.**

~~§ 23-30.33~~ 23.1-1214. Exemption of bonds from taxation.

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

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

~~§ 23-30.34~~ 23.1-1215. Bonds made lawful investments.

All bonds issued by the Authority under the provisions of this ~~chapter article~~ are ~~hereby made~~ securities (i) in which all public officers and bodies of the Commonwealth, and all counties, cities and towns, its localities and municipal political subdivisions, and all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, commercial banks and trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees, and other fiduciaries in the Commonwealth may properly and legally invest funds under their control. Such bonds are hereby made securities which and (ii) that may properly and legally be deposited with and received by any state or municipal officer or officer of a locality or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter [after June 27, 1966] be authorized by law.

**Drafting note: An obsolete reference to legal authorization before and after a past date, June 27, 1966, is stricken. A reference to "municipal subdivisions" is replaced with "political subdivisions." A reference to "municipal officer" is replaced with "officer of a locality." Technical changes are made.**

~~§ 23-30.36~~ 23.1-1216. Annual report; examination of records, books, and accounts.

A. The Authority shall submit an annual report to the Governor and General Assembly an annual report of the interim activity and work of the Authority on or before November 1 of each year. Such report shall be submitted as a report document as provided in the procedures of the

Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. Such report shall contain, at a minimum, the annual financial statements of the Authority for the year ending the preceding June 30.

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

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

~~§ 23-30.36:1~~ 23.1-1217. Annual audit.

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

**Drafting note: Technical changes.**

~~§ 23-30.37~~ 23.1-1218. ~~Chapter Article~~ Chapter Article liberally construed; powers of Authority not subject to supervision by ~~municipalities, etc~~ certain entities.

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

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

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

~~§ 23-30.38~~ 23.1-1219. Jurisdiction of suits against Authority; service of process.

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

**Drafting note: Technical changes.**

CHAPTER 3.3.  
EDUCATIONAL FACILITIES AUTHORITY ACT.

Article 2.

Nonprofit Private Institutions of Higher Education; Projects.

**Drafting note: Existing Chapter 3.3 (§ 23-30.39 et seq.), the Educational Facilities Authority Act, is reorganized as proposed Article 2 of Chapter 12, and the name is changed to "Nonprofit Private Institutions of Higher Education; Projects" to more accurately reflect its contents.**

~~§ 23-30.40. Title of chapter.~~

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

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

~~§ 23-30.41 23.1-1220. Definitions.~~

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

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

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

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

~~project, the financing of such construction and acquisition and the, acquiring the project, and placing of the project in operation.~~

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

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

~~(b) "Project," in the case of a participating institution for higher education, means a structure or structures suitable for use as a dormitory or other multi-unit housing facility for students, faculty, officers, or employees, a dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, maintenance, storage or utility facility and other structures or facilities, any related to any of the foregoing structure or facility, or any other structure or facility required or useful for the instruction of instructing students or the, conducting of research, or the operation of operating an institution for of higher education, including parking facilities and other facilities or structures essential or convenient for the orderly conduct of such institution for of higher education, and shall also include. "Project" includes landscaping, site preparation, furniture, equipment and machinery, and other similar items necessary or convenient for the operation intended use of a particular facility or structure in the manner for which its use is intended but shall. "Project" does not include such items as books, fuel, supplies, or other items the whose costs of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor, or any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.~~

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

~~§ 23-30.39~~ 23.1-1221. Declaration of policy and purpose.

~~It is hereby declared that for A.~~ For the benefit of the people of the Commonwealth, the increase of their commerce, welfare, and prosperity, and the improvement of their health and living conditions, it is essential that (i) this and future generations of youth be given the fullest

opportunity to learn and to develop their intellectual and mental capacities; ~~that it is essential that~~ and (ii) participating institutions for higher education within the Commonwealth be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities; ~~and that it is the~~.

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

**Drafting note: Technical changes.**

~~§ 23-30.43~~ 23.1-1222. Expenses of administering chapter article.

All expenses incurred in carrying out the provisions of this chapter article shall be payable solely from funds provided under the authority provisions of this chapter article, and no liability or obligation shall be incurred by the Authority ~~hereunder~~ pursuant to this article beyond the extent to which moneys ~~shall~~ have been provided under the provisions of this chapter article.

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

~~§ 23-30.42~~ 23.1-1223. Powers and duties of Authority.

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

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

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

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

~~to enter~~ 3. Enter into contracts for any ~~or all of such purposes, to enter~~ purpose set forth in subdivision 2;

4. Enter into contracts for the management and operation of ~~a any project, and to designate a participating institution for higher education as its agent to determine the location and character of a project undertaken by such participating institution for higher education under the provisions of this chapter and, as the agent of the Authority, to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, and, as the agent of the Authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project~~;

~~(b) To issue~~ 5. Issue bonds, bond anticipation notes, and other obligations of the Authority for any of its corporate purposes; and ~~to fund or refund the same all such bonds, bond anticipation notes, or other obligations~~ as provided in this ~~chapter~~ article;

~~(c) Generally, to fix and~~ 6. Fix, revise from time to time and, charge, and collect rates, rents, fees, and charges for the use of and for the services furnished ~~or to be furnished~~ by a project or any portion ~~thereof and to contract of a project;~~

7. Contract with any person, partnership, association ~~or,~~ corporation, or other ~~body~~ public or private in respect thereof and ~~to designate~~ entity to fix, revise, charge, and collect rates, rents, fees, and charges pursuant to subdivision 9;

8. Designate a participating institution ~~for higher education or a participating hospital~~ as its agent to ~~fix, revise, charge and collect such rates, rents, fees and charges and to make such contracts~~ take actions pursuant to subdivisions 1 through 4, 6, and 7;

~~(d) To establish rules and~~ 9. Establish regulations for the use of a project or any portion thereof and ~~to of a project or designate a participating institution for higher education~~ as its agent to establish ~~rules and~~ regulations for the use of a project in which such ~~participating~~ institution ~~for higher education~~ is participating;

~~(e) To employ~~ 10. Employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as ~~may be it deems necessary in its judgment, and to fix~~ determine their compensation;

~~(f) To receive~~ 11. Receive and accept from any public agency loans or grants for or in aid of the construction of a project or any portion thereof, ~~and to receive~~ of a project;

12. Receive and accept from any source loans, grants, aid, or contributions ~~from any source of either~~ money, property, labor, or other things of value to be held, used, and applied only for the purposes for which such loans, grants, aid, and contributions are made;

~~(g) To mortgage~~ 13. Mortgage any project and the site thereof of any project for the benefit of the holders of revenue bonds issued to finance such project;

~~(h) To make~~ 14. Make loans to any participating institution ~~for higher education~~ for the cost of a project in accordance with an agreement between the Authority and ~~one or more participating institutions for higher education; provided that~~ such institution, but no such loan shall exceed the total cost of the project as determined by such ~~participating~~ institution ~~or institutions for higher education~~ and approved by the Authority;

~~(i) To make~~ 15. Make loans to participating institutions ~~for higher education~~ to refund outstanding obligations, mortgages, or advances issued, made, or given by such participating institutions ~~for higher education~~ for the cost of a project;

~~(j) To charge~~ 16. Charge to and equitably apportion among participating institutions ~~for higher education~~ its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this ~~chapter~~ article; and

~~(k) To do~~ 17. Do all things necessary or convenient to carry out the purposes of this ~~chapter~~ article.

C. In carrying out the purposes of this ~~chapter article~~, the Authority may undertake a joint project for two or more participating institutions ~~for higher education~~, and, ~~thereupon~~, all other provisions of this ~~chapter article~~ shall apply to and for the benefit of the Authority and the ~~participants~~ institutions of higher education participating in such joint project ~~or projects~~.

**Drafting note: The obsolete reference in proposed subsection A to projects "began after July 1, 1972," is stricken, and the term "from time to time" in proposed subdivision B 6 is removed as unnecessary per Code Commission policy. Technical changes are made, including removing "or projects" in proposed subsection C because § 1-227 provides that throughout the Code any word in the singular includes the plural and vice versa.**

~~§ 23-30.45 23.1-1224. Execution of deeds and conveyances~~ Duties; conveyance of title to projects.

When (i) (a) the principal of and interest on revenue bonds of the Authority issued to finance the cost of a ~~particular project or projects for one or more~~ any participating institutions ~~for higher education~~, including any revenue refunding bonds issued to refund and refinance such revenue bonds, have been fully paid and retired or ~~when (b)~~ adequate provision has been made to fully pay and retire ~~the same, and such bonds,~~ (ii) all other conditions of the resolution or trust agreement authorizing and securing the same have been satisfied, and (iii) the lien of such resolution or trust agreement has been released in accordance with the provisions ~~thereof~~ of such resolution or trust agreement, the Authority shall ~~promptly do such things and execute such deeds and conveyances as are necessary and required to~~ convey title to such project ~~or projects~~ to such participating institution ~~or institutions for higher education~~, free and clear of all liens and encumbrances, ~~all to the extent that if~~ title to such project ~~or projects~~ is not, ~~at the time,~~ yet vested in such participating institution ~~or institutions for higher education~~.

**Drafting note: Technical changes are made, including removing "or projects" and "or institutions" because § 1-227 provides that throughout the Code any word in the singular includes the plural and vice versa.**

~~§ 23-30.44 23.1-1225. Acquisition Powers; acquisition~~ Powers; acquisition of property.

The Authority ~~is authorized and empowered may~~, directly or ~~by and~~ through a participating institution ~~for higher education~~, as its agent, ~~to~~ acquire by (i) purchase solely from funds provided under the authority of this ~~chapter~~, or by ~~gifts or~~ article, (ii) gift, or (iii) devise, such lands, structures, property, real or personal, rights, rights-of-way, air rights, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, ~~which that~~ are located within the Commonwealth as it may deem necessary or convenient for the acquisition, construction, or operation of a project, upon such terms and at such prices ~~as may be considered by it to be~~ deems reasonable and can be agreed upon between it and the owner ~~thereof, of the property and to take title thereto to the property~~ in the name of the Authority or ~~in the name of one or more~~ any participating ~~institutions for higher education~~ institution as its agent.

**Drafting note: Technical changes are made including replacing "which" with "that" as the context requires.**

§ ~~23-30.46~~ 23.1-1226. ~~Issuance~~ Powers; issuance of negotiable notes.

The Authority may ~~from time to time~~ issue negotiable notes for any corporate purpose ~~and may from time to time~~ or renew any notes by the issuance of new notes, whether or not the notes to be renewed have ~~or have not~~ matured. The Authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. ~~The~~ Such notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any ~~resolution or resolutions~~ resolution or resolutions authorizing notes ~~of the Authority~~ or any ~~issue thereof~~ issuance of notes by the Authority may contain any ~~provisions which~~ provision that the Authority is ~~authorized to~~ may include in any ~~resolution or resolutions~~ resolution or resolutions authorizing revenue bonds ~~of the Authority~~ or any ~~issue thereof~~ issuance of revenue bonds by the Authority, and the Authority may include in any ~~notes~~ note any ~~terms~~ term, ~~covenants~~ covenant, or ~~conditions which~~ condition that it is ~~authorized to~~ may include in any ~~bonds~~ bond. All such notes ~~shall be~~ are payable solely from the revenues of the Authority, subject only to any contractual ~~rights~~ rights of the holders of any of its notes or other obligations then outstanding.

**Drafting note: Technical changes are made, including striking the superfluous term "from time to time" per Code Commission policy.**

§ ~~23-30.47~~ 23.1-1227. ~~Issuance~~ Powers; issuance of revenue bonds.

(a) ~~A.~~ A. The Authority may ~~from time to time~~ issue revenue bonds for any corporate purpose, and all such revenue bonds, notes, bond anticipation notes, or other obligations of the Authority issued pursuant to this ~~chapter shall be~~ and article ~~are hereby declared to be~~ negotiable for all purposes, notwithstanding their payment from a limited source and without regard to any other law ~~or laws~~.

B. In anticipation of the sale of such revenue bonds, the Authority may issue and renew negotiable bond anticipation notes ~~and may renew the same from time to time~~, but the maximum maturity of any such note, including renewals ~~thereof~~, shall not exceed five years from the date ~~of issue of~~ on which the original note was issued. Such notes shall be paid from any revenues of the Authority available ~~therefor~~ for such purpose and not otherwise pledged, or from the proceeds of sale of the Authority's revenue bonds of the Authority issued in anticipation of ~~which they were issued~~ such sale. ~~The~~ Such notes shall be issued in the same manner as the revenue bonds. Such notes and the ~~resolution or resolutions~~ resolution or resolutions authorizing ~~the same~~ such notes may contain any provisions, conditions, or limitations ~~which a bond resolution of that~~ that the Authority may ~~contain~~ include in a bond resolution.

(b) ~~C.~~ C. The revenue bonds and notes of every issue ~~shall be~~ are payable solely out of revenues to the Authority, subject only to any ~~agreements~~ agreement with (i) the holders of particular revenue bonds or notes ~~pledging to pledge~~ pledging to pledge any particular revenues ~~and subject to any~~.



~~agreements with or (ii) any participating institution for higher education. Notwithstanding that revenue~~

~~D. Revenue~~ bonds and notes ~~may be payable from a special fund, they shall be and be deemed to be, for all purposes, are~~ negotiable instruments, ~~that are~~ subject only to the provisions of the revenue bonds and notes for registration but may be payable from a special fund.

~~(e) The revenue~~ E. Revenue bonds may be issued as serial bonds ~~or as~~ term bonds, ~~or the Authority, in its discretion, may issue bonds of both types. The revenue~~ Revenue bonds shall be authorized by resolution of the members of the Authority and ~~shall bear such date or dates, mature at such time or times, not exceeding fifty 50 years from their respective dates such date, bear interest at such rate or rates, that is payable at such time or times, be in such denominations denomination, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America currency at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide provides.~~ Revenue bonds or notes may be sold at public or private sale for such price or prices as the Authority ~~shall determine~~ determines. Pending preparation of the definitive bonds, the Authority may issue interim receipts or certificates ~~which that shall be exchanged for such definitive bonds.~~

~~(d) F. Any resolution or resolutions authorizing any revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the such revenue bonds to be authorized, as relating to:~~

~~(1) 1. Pledging all or any part of the revenues of a project or projects, any revenue producing revenue-producing contract or contracts made by the Authority with any individual, partnership, corporation or, association, or other public or private body, public or private, to secure the payment of the revenue bonds or of any particular issue of revenue bonds, subject to such any existing agreements with bondholders as may then exist;~~

~~(2) the 2. Charging rentals, fees, and other charges to be charged, and setting forth the amounts to be raised in each year thereby, annually with such charges and the use and disposition of the revenues;~~

~~(3) the establishment and setting 3. Establishing, setting aside of, regulating, and disposing of reserves or sinking funds, and the regulation and disposition thereof;~~

~~(4) limitations on 4. Limiting the right of the Authority or its agent to restrict and regulate the use of the project;~~

~~(5) limitations on 5. Limiting the purpose to which the proceeds of the sale of any issue of revenue bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the revenue bonds or any issue of the revenue bonds;~~

~~(6) limitations on 6. Limiting the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;~~

~~(7) the 7. Establishing a procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, that includes the amount of bonds the holders of~~

~~which must~~ number of bondholders required to consent thereto, to such amendment or abrogation and the manner in which such consent may be given;

~~(8) limitations on~~ 8. Limiting the amount of moneys derived from the project to be expended for operating, administrative, or other expenses of the Authority;

~~(9) defining the~~ 9. Defining the acts or omissions ~~to act which shall~~ that constitute a default in the duties of the Authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default;

~~(10)~~ 10. Setting forth the duties, obligations, and liabilities of any trustee or paying agent; and

~~(11) the mortgaging of~~ 11. Mortgaging a project and the site ~~thereof~~ of such project for the purpose of securing the bondholders.

~~(e) G. Neither the members of the Authority nor any person executing the~~ revenue bonds or notes ~~shall be~~ is liable personally on the revenue bonds or notes or be subject to any personal liability or accountability by reason of the issuance ~~thereof~~ of such revenue bonds or notes.

~~(f) H. The Authority shall have power out of any funds available therefor to~~ may purchase its bonds or notes with funds available for such purpose. The Authority may hold, pledge, cancel, or resell such bonds or notes subject to and in accordance with agreements with bondholders.

**Drafting note: The term "from time to time" in proposed subsections A and B is removed as unnecessary pursuant to Code Commission policy, and the following phrases are removed because § 1-227 provides that throughout the Code any word in the singular includes the plural and vice versa: "or laws," "or resolutions," "or dates," "or times," "or places," and "or contracts." Technical changes are made.**

~~§ 23-30-48~~ 23.1-1228. Security Powers; security for revenue bonds.

~~In the discretion of the~~ A. The Authority may secure any revenue bonds issued under the provisions of this ~~chapter may be secured~~ article by a trust agreement ~~by and~~ between the Authority and a corporate trustee ~~or trustees, which that~~ may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. Such trust agreement or the resolution providing for the issuance of such revenue bonds may (i) pledge or assign the revenues to be received or proceeds of any contract ~~or contracts pledged and may,~~ (ii) convey or mortgage the project or any portion ~~thereof~~. ~~Such trust agreement or resolution providing for the issuance of such revenue bonds may~~ of the project, or (iii) contain ~~such provisions for protecting and enforcing the rights and remedies of the bondholders as may be that the Authority deems reasonable and proper and are not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to~~ that may be included in any resolution or resolutions of the Authority authorizing revenue bonds thereof pursuant to this article.

B. Any bank or trust company incorporated under the laws of the Commonwealth ~~which~~ that may act as depository of the proceeds of bonds ~~or of,~~ revenues, or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the Authority.

C. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee ~~or trustees,~~ and ~~may~~ restrict the individual right of action by bondholders. ~~In addition to the foregoing, any~~

D. Any such trust agreement or resolution may contain such other provisions as the Authority ~~may deem~~ deems reasonable and proper for the security of the bondholders.

E. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

**Drafting note: Technical changes are made, including removing "or contracts" in proposed subsection A and "or trustees" in proposed subsection C because § 1-227 provides that throughout the Code any word in the singular includes the plural and vice versa.**

~~§ 23-30.50~~ 23.1-1229. ~~Rates~~ Powers and duties; rates, rents, fees and charges; sinking fund.

A. The Authority may fix, revise, charge, and collect rates, rents, fees, and charges for the use of and ~~for the services furnished or to be furnished~~ by each project and ~~to contract with any person, partnership, association or,~~ corporation, or other public or private body, ~~public or private, in respect thereof to perform such acts. Such~~ The aggregate of such rates, rents, fees, and charges shall be fixed and adjusted ~~in respect of the aggregate of rates, rents, fees and charges from such project so as to provide funds that, when combined with other revenues, is sufficient with other revenues, if any, (1) to (i) pay the uncovered cost of maintaining, repairing, and operating each portion of the project and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately provided for, (2) to; (ii) pay the principal of and the interest on outstanding revenue bonds of the Authority issued in respect of such project as the same shall become~~ as such principal and interest becomes due and payable; and ~~(3) to (iii) create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such revenue bonds of the Authority. Such rates, rents, fees and charges~~ No such rate, rent, fee, or charge shall ~~not~~ be subject to supervision or regulation by any department, commission, board, body, bureau, or agency of ~~this~~ the Commonwealth other than the Authority.

~~A-B.~~ The Authority shall set aside in a sinking fund or other similar fund a sufficient amount of the revenues derived in respect of from a project, except ~~such the~~ the part of such revenues ~~as may be that is~~ necessary to pay the cost of maintenance, repair, and operation ~~and to of the project, provide reserves and for, or make~~ renewals, replacements, extensions, enlargements, and improvements ~~as may be provided for~~ set forth in the resolution authorizing the issuance of any revenue bonds of the Authority or in the trust agreement securing ~~the same,~~ shall be set aside at such regular intervals as may be provided in such resolution or trust

~~agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of such revenue bonds. The Authority shall pledge such sinking fund or other similar fund to pay the principal of and the interest on such revenue bonds as the same shall become such principal and interest becomes due, and the redemption or purchase price or the purchase price of bonds retired by call or purchase as therein provided in the resolution authorizing the issuance of any revenue bonds of the Authority or in the trust agreement securing such revenue bonds. Such pledge shall be is valid and binding from the time when the pledge is made; the. The rates, rents, fees, and charges and other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the. The lien of any such pledge shall be is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of whether such parties have notice thereof of such lien. Neither the No resolution nor any authorizing the issuance of any revenue bonds of the Authority or trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund or other similar fund shall be is subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such Such sinking fund or other similar fund shall be is a fund for all such revenue bonds issued to finance a project or projects at one or more a participating institutions for higher education institution, without distinction or priority of one revenue bond over another; provided, but the Authority in any such resolution or trust agreement may provide in any such resolution or trust agreement (i) that such sinking fund or other similar fund shall be is the fund for a particular project at an institution for of higher education and for the revenue bonds issued to finance a particular project and may, additionally, permit and provide (ii) for the issuance of revenue bonds having a subordinate lien in respect of the security herein authorized to other revenue bonds of the Authority with respect to the security authorized and, in such case, the Authority may create separate or other similar funds in with respect of to such subordinate lien bonds.~~

**Drafting note: Technical changes are made, including referring to "the Commonwealth" instead of "this Commonwealth" in accordance with Code Commission policies.**

~~§ 23-30.54 23.1-1230. Issuance Powers; issuance of refunding bonds.~~

~~(a) A. The Authority is hereby authorized to may provide for the issuance of revenue bonds of the Authority for the purpose of refunding to (i) refund any of its outstanding revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to on the earliest or any subsequent date of redemption, purchase, or maturity of such revenue bonds, and, if deemed advisable by the Authority, for the additional purpose of paying or (ii) pay all or any part of the cost of~~

constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion thereof of a project.

~~(b) B.~~ The Authority may (i) apply the proceeds of any such revenue bonds issued for the purpose of refunding to refund outstanding revenue bonds may, in the discretion of the Authority, be applied to the purchase or retirement, retire at maturity, or redemption of redeem such outstanding revenue bonds either on their earliest or any subsequent redemption date or, upon the their purchase, or at the their maturity thereof and may, pending such application, be placed and (ii) place the proceeds of revenue bonds issued to refund outstanding revenue bonds in escrow pending such application to be applied to such purchase or, retirement at maturity, or redemption on such the date as may be determined by the Authority that it determines.

~~(c) Any such escrowed~~ C. The Authority may invest and reinvest proceeds, pending such use, may be invested and reinvested placed in escrow pursuant to subsection B in direct obligations of the United States of America, or in certificates of deposit, or time deposits secured by direct obligations of the United States of America, maturing that mature at such time or times as shall be is appropriate to assure ensure the prompt payment, as to of principal, interest, and any redemption premium, if any, of the outstanding revenue bonds to be so refunded, pending the purchase, retirement at maturity, or redemption of such outstanding revenue bonds. The Authority may apply interest, income, and any profits, if any, earned or realized on any such investment may also be applied to the payment of pay the outstanding revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and any interest, income, and profits, if any, earned or realized on the investments thereof on such proceeds may be returned to the Authority for its lawful use by it in any lawful manner.

~~(d) D.~~ The Authority may invest or reinvest the portion of the proceeds of any such revenue bonds issued for the additional purpose of paying to pay all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project may be invested and reinvested in direct obligations of the United States of America, or in certificates of deposit or time deposits secured by direct obligations of the United States of America, maturing that mature not later than the time or times when such proceeds will be are needed for the purpose of paying to pay all or any part of such cost. The Authority may apply any interest, income, and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the Authority use such interest, income, and profits in any lawful manner.

~~(e) E.~~ All such refunding revenue bonds shall be issued pursuant to this section are subject to the provisions of this chapter article in the same manner and to the same extent as other revenue bonds issued pursuant to this chapter article.

**Drafting note: Technical changes are made. The phrase "in the discretion of the Authority," used in conjunction with the phrase "may," is stricken as superfluous.**

~~§ 23-30.49~~ 23.1-1231. Revenue bonds not obligations of Commonwealth or political subdivision.

Revenue bonds issued under the provisions of this ~~chapter shall~~ article (i) do not ~~be deemed to~~ constitute a debt ~~or~~, liability, or pledge of the faith and credit of the Commonwealth or of any political subdivision ~~thereof or a pledge of the faith and credit of the Commonwealth or of any such political subdivision, but shall be~~ of the Commonwealth and (ii) are payable solely from the funds ~~herein provided therefor~~ from revenues as set forth in this article. ~~All~~ Each such revenue ~~bonds bond~~ shall ~~contain state~~ on the its face thereof a statement to the effect that (a) neither the Commonwealth of Virginia nor the Authority ~~shall be~~ is obligated to pay ~~the same such revenue bonds~~ or the interest thereon except from revenues of the project ~~or projects~~ or the portion ~~thereof~~ of the project for which they are issued and ~~that~~ (b) neither the faith and credit nor the taxing power of the Commonwealth of Virginia or of any political subdivision ~~thereof~~ of the Commonwealth is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this ~~chapter~~ article shall not directly ~~or~~, indirectly, or contingently obligate the Commonwealth or any political subdivision ~~thereof~~ of the Commonwealth to levy or ~~to~~ pledge any form of taxation ~~whatever therefor~~ for such bonds or ~~to~~ make any appropriation for their payment.

**Drafting note: Technical changes.**

~~§ 23-30.51~~ 23.1-1232. Moneys received deemed trust funds.

All moneys ~~received that the Authority receives~~ pursuant to ~~the authority of this chapter article~~, whether as proceeds from the sale of bonds or as revenues, ~~shall be deemed to be~~ are trust funds to be held and applied solely as provided in this ~~chapter~~ article. Any officer with whom, or any bank or trust company with which, such moneys ~~shall be~~ are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes ~~hereof, subject to such regulations as of this chapter and article~~, the resolution authorizing the bonds of any issue, or the trust agreement securing such bonds ~~may provide~~.

**Drafting note: Technical changes.**

~~§ 23-30.52~~ 23.1-1233. Remedies of bondholders, ~~ete~~ or holders of other obligations.

Any (i) holder of revenue bonds, notes, bond anticipation notes, other notes, or other obligations of the Authority, issued under the provisions of this ~~chapter~~ article or any of the coupons appertaining ~~thereto, and the~~ to any such obligation and (ii) trustee or trustees under any trust agreement, except to the extent ~~the that such~~ rights herein given may be are restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds or other obligations, may, either at law or in equity, by suit, action, mandamus, or other proceedings, (a) protect and enforce ~~any and~~ all rights under the laws of the Commonwealth ~~or granted hereunder~~ or ~~under~~ such resolution or trust agreement, and ~~may~~ (b) enforce and compel the performance of all duties required by this ~~chapter~~ article or by such resolution or trust agreement to be performed by the Authority or any officer, employee, or agent ~~thereof~~ of the

Authority, including the fixing, charging, and collecting of the rates, rents, fees, and charges ~~herein~~ authorized by this article and required by the provisions of such resolution or trust agreement to be fixed, ~~established and charged, and~~ collected.

**Drafting note: Technical changes.**

~~§ 23-30.53~~ 23.1-1234. Exemption from taxation.

The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of this Commonwealth, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a project by the Authority or its agent will constitute the performance of an essential public function, ~~neither~~ Neither the Authority nor its agent ~~shall be~~ are required to pay any taxes or assessments upon or ~~in respect of~~ with respect to a project ~~or~~, any property acquired or used by the Authority or its agent under the provisions of this ~~chapter~~ article, or ~~upon~~ the income ~~therefrom, and any from any such project or property.~~ Any bonds issued under the provisions of this ~~chapter~~ article, ~~their~~ the transfer of such bonds, and the income ~~therefrom~~ from such bonds, including any profit made on the sale ~~thereof of such bonds,~~ shall at all times be free are exempt from taxation of ~~every~~ any kind by the Commonwealth and ~~by the municipalities~~ localities and other political subdivisions ~~in~~ of the Commonwealth.

**Drafting note: Language at the beginning of this section relating to the exercise of the powers granted by this section is stricken as duplicative of provisions contained in proposed § 23.1-1221. A reference to "municipalities" in the last sentence is replaced with "localities." Technical changes are made.**

~~§ 23-30.55~~ 23.1-1235. Bonds ~~to be~~ as legal investments.

Bonds issued by ~~the~~ the Authority under the provisions of this ~~chapter~~ article are ~~hereby made~~ securities (i) in which all public officers and ~~public~~ bodies of the Commonwealth and its political subdivisions, ~~all~~ insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. ~~Such bonds are hereby made securities which~~ and (ii) that may properly and legally be deposited with and received by any ~~Commonwealth or municipal~~ officer of the Commonwealth or any of its localities or any agency or political subdivision of the Commonwealth for any lawful purpose ~~for which the deposit of bonds or obligations of the Commonwealth is now or may hereafter be authorized by law.~~

**Drafting note: A reference to "municipal officer" is replaced with officer of a locality. Technical changes are made.**

~~§ 23-30.56 23.1-1236. Chapter supplemental; application of other laws; Authority not subject to supervision, etc., by other agencies~~ Nature of article.

~~The foregoing sections of this chapter shall be deemed to provide a complete, additional and alternative method for the doing of the things authorized thereby and shall be regarded as~~ This article is supplemental and additional to powers conferred by other laws; provided, but the issuance of revenue bonds and revenue refunding bonds under the provisions of this chapter article need not comply with the requirements of any other law applicable to the issuance of bonds. Except as otherwise expressly provided in this chapter article, none of the powers no power granted to the Authority under the provisions of this chapter shall be article is subject to the supervision or regulation of or require requires the approval or consent of the Commonwealth, any municipality locality or political subdivision or any of the Commonwealth, or any department, division, commission, board, body, bureau, official, or agency thereof or of the Commonwealth of any such locality or political subdivision.

**Drafting note: A reference to "municipality" in the last sentence is replaced with "locality." Technical changes are made.**

~~§ 23-30.57 23.1-1237. Chapter Article~~ liberally construed.

~~This chapter article, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof of this article.~~

**Drafting note: Technical changes.**

~~§ 23-30.58 23.1-1238. Chapter Article~~ controls inconsistent laws.

~~To the extent that the provisions of this chapter article are inconsistent with the provisions of any general statute or special act or parts thereof, the provisions of this chapter shall be deemed controlling article control.~~

**Drafting note: Technical changes.**



SUBTITLE IV.

PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

**Drafting note:** Proposed Subtitle IV contains proposed Chapter 13 (Governing Boards of Public Institutions of Higher Education), which consists of provisions relating to the governing board of each public institution of higher education in the Commonwealth, and Chapters 14 through 29, which consist of the powers and duties of and other provisions relating to (i) the individual institutions of higher education in the Commonwealth and (ii) the Virginia Commonwealth University Health System Authority (not defined as a public institution of higher education for the purposes of Title 23.1 but included in this proposed subtitle because of its close relationship to Virginia Commonwealth University).

CHAPTER 13.

GOVERNING BOARDS OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

**Drafting note:** Existing provisions that apply to governing boards of public institutions of higher education are consolidated in proposed Chapter 13.

~~§ 23-1.~~

**Drafting note:** Repealed by Acts 1984, c. 734.

~~§ 23-2. Penalty for failure to make report.~~

~~If the report required by § 23-1.01 is not made from any educational institution which receives any portion of the revenue of the Literary Fund, or to which any loan has been made out of the fund, the Comptroller shall withhold, until the report is made, the payment of such portion of the Literary Fund, or proceed to enforce payment of the loan.~~

**Drafting note:** Existing § 23-2 is recommended for repeal as obsolete because no institution of higher education or educational institution established by or subject to the provisions of proposed Title 23.1 receives any portion of the revenue of the Literary Fund.

~~§ 23-2.06 23.1-1300. Members of governing boards; removal; terms; nonvoting, advisory representatives.~~

A. Members appointed by the Governor to the governing boards of public institutions of higher education shall serve for terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed by the Governor to such a governing board shall serve for more than two consecutive four-year terms; however, a member appointed by the Governor to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term. Except as otherwise provided in § 23.1-2601, all appointments are subject to confirmation by the General Assembly. Members appointed by the Governor to the governing board of a public institution of higher education shall continue to hold office until their successors have been appointed and confirmed. Ex officio members shall serve a term coincident with their term of office.

B. No member appointed by the Governor to the governing board of a public institution of higher education who has served two consecutive four-year terms on such board is eligible to serve on the same board until at least four years have passed since the end of his second consecutive four-year term.

C. Notwithstanding the provisions of subsection E or any other provision of law, the Governor may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board of any public institution of higher education and fill the vacancy resulting from the removal.

D. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to subsection C at the time the removal occurs. The Governor is the sole judge of the sufficiency of the cause for removal as set forth in subsection C.

E. If any member of the governing board of visitors of a four-year public institution of higher education or the State Board for Community Colleges fails to attend (i) the meetings of the board for one year without sufficient cause, as determined by a majority vote of the board, or (ii) the educational programs required by § 23-9.14:1 23.1-1304 in his first two years of membership without sufficient cause, as determined by a majority vote of the board, the remaining members of the board shall record such failure in the minutes at its next meeting and notify the Governor, and the office of such member shall be vacated. However, no member serving as of January 1, 2015 shall be removed for failing to attend the educational programs required by § 23-9.14:1 if he attends such training by January 1, 2016.

B. F. The board of visitors governing board of each four-year public institution of higher education and the State Board for Community Colleges shall adopt in its bylaws policies (i) for removing members pursuant to subsection A E and (ii) referencing the Governor's power to remove members described in § 2.2-108 subsection C.

C. No person who has served two consecutive four-year terms on the board of visitors of a four-year public institution of higher education or the State Board for Community Colleges shall be eligible to serve on the same board until at least four years have passed since the end of his second consecutive four-year term.

§ 23-9.2:4.1. Faculty representatives to the State Board for Community Colleges, local community college boards, and boards of visitors.

A. The State Board for Community Colleges, G. The governing board of each public institution of higher education and each local community college boards, and the boards of visitors of any four-year state institution of higher education board may appoint one or more nonvoting, advisory faculty representatives to their its respective boards board. In the case of local community college boards and boards of visitors, the such representatives appointed by the boards shall be chosen from individuals elected by the faculty or the institution's faculty senate or other its equivalent group of the relevant institution. In the case of the State Board for Community Colleges, such representatives appointed by the Board shall be chosen from individuals elected by the Chancellor's Faculty Advisory Committee. Such representatives shall

be appointed to serve ~~terms of not less than one 12-month period~~ (i) at least one term of at least 12 months, which shall be coterminous with the institution's fiscal year; or (ii) for such terms as may be mutually agreed to by the State Board ~~for Community Colleges~~ and the Chancellor's Faculty Advisory Committee, or by the local community college board or the board of visitors; ~~as the case may be~~, and the institution's faculty senate or ~~other~~ its equivalent ~~group~~.

~~B. Nothing in this section shall prohibit the State Board for Community Colleges, local community college boards, or any boards of visitors from excluding such representatives from discussions of faculty grievances, faculty or staff disciplinary matters, or salaries, or other matters, at the discretion of the relevant board.~~

~~§ 23-9.2:5. Student representatives to boards of visitors.~~

~~A.~~ H. The board of visitors of any ~~four-year state~~ baccalaureate public institution of higher education shall appoint one or more students as nonvoting, advisory representatives. Such representatives shall be appointed under such circumstances and serve for such terms as the board of visitors of the institution shall prescribe.

~~B.~~ I. ~~Nothing in this section~~ subsections G and H shall prohibit any board of visitors the governing board of any public institution of higher education or any local community college board from excluding such nonvoting, advisory faculty or student representatives from discussions of faculty grievances, faculty or staff disciplinary matters or salaries, or any other matters at the discretion of the board matter.

**Drafting note: Existing provisions relating to the terms and removal of members of the board of visitors of each public institution of higher education or other educational institution are incorporated into subsections A and B of this proposed section with technical changes. Subsections C and D are moved from subsections A and C of § 2.2-108. Subsections G, H, and I incorporate the provisions of existing §§ 23-9.2:4.1 and 23-9.2:5.**

§ 23.1-1301. Governing boards; powers.

A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

1. Make regulations and policies concerning the institution;
2. Manage the funds of the institution and approve an annual budget;
3. Appoint the chief executive officer of the institution;
4. Appoint professors and fix their salaries; and
5. Fix the rates charged to students for tuition, mandatory fees, and other necessary

charges.

B. The governing board of each public institution of higher education or its designee may:

~~§ 23-4.1. Sale or lease of interest in real property granted by purchase, deed or gift; granting of easements.~~

~~The boards of visitors or trustees of all State educational institutions, with the approval of the Governor first obtained, are hereby authorized to lease or~~ 1. In addition to the powers set forth in Chapter 10 (§ 23.1-1000 et seq.), lease or sell and convey whatever its interest they may have in any real property that it has been or may hereafter be acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and conditions of the will or deed of gift, if applicable. The proceeds from such leases, sales and conveyances shall be held, used, and administered in the same manner as all other gifts and bequests are held, used and administered;

~~Nothing in this section shall be construed as authorizing or empowering the lease, or sale and conveyance of such real property contrary to the terms and conditions of the will or deed of gift.~~

~~Such boards of visitors or trustees are authorized to grant~~ 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes on any property now owned or hereafter acquired by such boards of visitors or trustees, when, in the discretion of such visitors or trustees it is deemed proper to grant such easements, by the institution;

3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained, or controlled by the institution;

4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers, instructors, and other employees;

5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the regulations or institution policies required pursuant to § 23.1-1303;

6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such regulations or policies;

7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote (i) student compliance with state laws on the use of alcoholic beverages and (ii) the awareness and prevention of sexual crimes committed upon students;

8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of such property (i) developed wholly or predominantly through the use of state general funds, exclusive of capital assets and (ii) (a) developed by an employee of the institution acting within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective institutions. The Governor may attach conditions to these transfers as he deems

necessary. In the event the Governor does not approve such transfer, the materials shall remain the property of the respective institutions and may be used and developed in any manner permitted by law;

~~§ 23-2.01. Boards of visitors; public access to information.~~

~~Notwithstanding § 2.2-4342 and the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), the board of visitors of each public institution of higher education and the State Board for Community Colleges may conduct~~ 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and ~~may~~ conduct business as a "state public body" for purposes of subsection B of § 2.2-3708; and

11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and local ordinances with respect to offenses occurring on the property of the institution.

**Drafting note: Provisions relating to powers of governing boards are consolidated in this proposed section. A substantive change is made in proposed subsections A and B to permit the governing board of each public institution of higher education to delegate specific authority to a designee to reflect the current practice of such boards. Subsection A is derived from provisions common to the majority of baccalaureate public institutions of higher education in existing Title 23. Subdivisions B 1 and 2 incorporate the provisions of existing § 23-4.1. Subdivisions B 3 through 8 incorporate the provisions of existing subsection A of § 23-9.2:3. Subdivision B 9 incorporates the provisions of existing subsection A of § 23-4.4. Subdivision B 10 incorporates the provisions of existing § 23-2.01. Subdivision B 11 incorporates the first sentence of subsection B of existing § 23-9.2:3. Technical changes are made.**

~~§ 23-9.2:3.1 23.1-1302. Authority to establish incentives for Governing boards; additional powers; voluntary early retirement; eligibility; contents of plans.~~

A. ~~The board of visitors or other governing body board of any each~~ public institution of higher education may establish a compensation plan designed to provide incentives for voluntary early retirement of teaching and research staff employed in nonclassified, faculty positions. Participation in such compensation plan ~~shall be~~ is voluntary for eligible employees and no employee shall be penalized in any way for not participating.

B. In order to qualify for participation in such compensation plan, an eligible faculty employee shall (i) be at least 60 years of age; (ii) have completed at least 10 years of full-time service at the institution offering the plan; (iii) have been awarded tenure or have a contractual right to continued employment; (iv) agree to withdraw from active membership in the Virginia Retirement System; and (v) comply with any additional criteria established by the governing body board of the institution.

C. Any compensation plan established pursuant to this section shall include the institutional needs and objectives to be served, the kind of incentives to be offered, the sources of available funding for implementation, and any additional qualifications required of eligible faculty employees established by the ~~governing body of the institution~~ board. Any such compensation plan shall explicitly reserve to the ~~governing body of the institution~~ board the authority to modify, amend, or repeal the plan. However, no such amendment, modification, or repeal ~~shall be~~ is effective as to any individual who retires under the plan prior to the effective date of the amendment, modification, or repeal.

D. The cash payments offered under any such compensation plan shall not exceed 150 percent of the employee's base annual salary reflected in the Personnel Management Information System at the time of election to participate. Any such payment shall be allocated over at least two years. Such compensation may include payment of insurance benefits by the institution until the participant reaches the age of 65. The total cost in any fiscal year for any compensation plan established under this section shall not exceed one percent of the institution's corresponding fiscal year state general fund appropriation for faculty salaries and associated benefits.

E. The Governor may establish, with the assistance of the ~~State Council of Higher Education~~, uniform criteria for such compensation plans. Prior to the adoption, modification, amendment, or repeal of any such compensation plan, the governing board shall obtain the Governor's approval ~~shall be obtained by the governing body of the institution~~. The Governor shall provide a copy of each approved plan to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. All compensation plans shall be reviewed for legal sufficiency by the Office of the Attorney General prior to adoption, modification, amendment, or repeal.

F. The Administrative Process Act (§ 2.2-4000 et seq.) ~~shall~~ does not apply to the establishment of such compensation plans or any implementing regulations or criteria.

**Drafting note: Technical changes.**

~~§ 23-9.2:3 23.1-1303. Power of governing body of educational institution to establish rules and regulations; offenses occurring on property of institution; state direct student financial assistance; release of educational records~~ Governing boards; duties.

A. ~~In addition to the powers now enjoyed by it, the board of visitors or other governing body of every educational institution shall have the power:~~

1. ~~To establish rules and regulations for the acceptance and assistance of students except that (i) individuals who have failed to meet the federal requirement to register for the selective service shall not be eligible to receive any state direct student assistance; (ii) the accreditation status of a Virginia public high school shall not be considered in making admissions determinations for students who have earned a diploma pursuant to the requirements established by the Board of Education; and (iii) the governing boards of the four-year institutions shall~~

~~establish policies providing for the admission of certain graduates of Virginia community colleges as set forth in § 23-9.2:3.02.~~

~~2. To establish rules and regulations for the conduct of students while attending such institution.~~

~~3. To establish programs, in cooperation with the State Council of Higher Education and the Office of the Attorney General, to promote compliance among students with the Commonwealth's laws relating to the use of alcoholic beverages.~~

~~4. To establish rules and regulations for the rescission or restriction of financial aid, within the discretionary authority provided to the institution by federal or state law and regulations, and the suspension and dismissal of students who fail or refuse to abide by such rules and regulations for the conduct of students.~~

~~5. To establish rules and regulations for the employment of professors, teachers, instructors and all other employees and provide for their dismissal for failure to abide by such rules and regulations.~~

~~6. To provide parking and traffic rules and regulations on property owned by such institution.~~

~~7. To establish guidelines for the initiation or induction into any social fraternity or sorority in accordance with § 18.2-56.~~

~~8. To establish programs, in cooperation with the State Council of Higher Education for Virginia and the Office of the Attorney General, to promote the awareness and prevention of sexual crimes committed upon students.~~

For purposes of this section, "intellectual property" means (i) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable.

~~B. Upon receipt of an appropriate resolution of the board of visitors or other governing body of an educational institution, the governing body of a political subdivision which is contiguous to the institution shall enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution. The governing bodies board of the each public institutions institution of higher education shall assist:~~

~~§ 23-2.02. Boards of visitors; bylaws.~~

~~The board of visitors of each public institution of higher education and the State Board for Community Colleges shall adopt bylaws for its own governance. This document shall be posted.~~1. Adopt and post conspicuously on the board's its website and shall include bylaws for its own governance, including provisions that:~~1. Establish~~ (i) establish the requirement of transparency, to the extent required by law, in all board actions; ~~2. Describe~~ (ii) describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in § ~~23-2:1~~ subdivision B 10 of § 23.1-1301, including the requirements that: ~~a. The~~ (a) the board ~~shall~~ record minutes of each open meeting and post the minutes on the board's website, in

accordance with subsection I of § 2.2-3707 and § 2.2-3707.1; ~~b. Discussions,~~ (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 shall be held in an open meeting; ~~e. The,~~ (c) the board shall give public notice of all meetings, in accordance with subsection C of § 2.2-3707; and ~~d. Any official~~ (d) any action taken in a closed meeting shall be approved in an open meeting before it can have any force or effect, in accordance with subsection B of § 2.2-3711; and ~~3. Require~~ (iii) require that the board notify and invite the Attorney General's appointee or representative to all meetings of the board, executive committee, and board committees;

2. Establish regulations or institution policies for the acceptance and assistance of students that include provisions (i) that specify that individuals who have knowingly and willfully failed to meet the federal requirement to register for the selective service are not eligible to receive any state direct student assistance, (ii) that specify that the accreditation status of a public high school in the Commonwealth shall not be considered in making admissions determinations for students who have earned a diploma pursuant to the requirements established by the Board of Education, and (iii) relating to the admission of certain graduates of comprehensive community colleges as set forth in § 23.1-907;

3. Assist the State Council of Higher Education in enforcing the provisions relating to eligibility for financial aid;

~~4.~~ Notwithstanding any other provision of state law, ~~the board of visitors or other governing body of every public institution of higher education in Virginia shall~~ establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs. However, notification may be withheld if any person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board within the Department of Health Professions who is treating the student has made a part of the student's record a written statement that, in the exercise of his professional judgment, the notification would be reasonably likely to cause substantial harm to the student or another person. No public institution of higher education or employee of a public institution of higher education making a disclosure pursuant to this subsection ~~shall be~~ is civilly liable for any harm resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct by the institution or its employees;



~~D. The board of visitors or other governing body of every public institution of higher education in Virginia shall establish~~ 5. Establish policies and procedures requiring the release of the educational record of a dependent student, as defined by 20 U.S.C. § 1232g, to a parent at his request.;

~~E. In order to improve the quality of the Commonwealth's work force and educational programs, the governing bodies of the public institutions of higher education shall establish~~ 6. Establish programs to seek to ensure that all graduates have the technology skills necessary to compete in the ~~21st Century~~ twenty-first century and, ~~particularly,~~ that all students matriculating in teacher-training programs receive instruction in the effective use of educational technology.;

~~§ 23-2.5. Student athlete discipline policies.~~

~~The board of visitors or other governing board of each public institution of higher education in the Commonwealth shall establish~~ 7. Establish policies for the discipline of students who participate in varsity intercollegiate athletics. ~~Such policies shall include, including~~ a provision requiring an annual report by the administration of the institution to the ~~board of visitors or other governing board~~ regarding enforcement actions taken pursuant to such policies.;

~~§ 23-2.03. Boards of visitors; annual meeting with the president of the institution.~~

~~A. 8.~~ In addition to all meetings prescribed in Chapters ~~5~~ 14 (~~§ 23-39~~ 23.1-1400 et seq.) through ~~16~~ 29 (~~§ 23-214~~ 23.1-2900 et seq.), ~~the board of visitors of each public institution of higher education and the State Board for Community Colleges shall meet with the president of that the~~ institution at least once annually, in a closed meeting pursuant to subdivision A 1 of § 2.2-3711, and deliver an evaluation of the president's performance. ~~B.~~ Any change to the president's employment contract during any such meeting or any other meeting of the board shall be made only by a vote of the majority of the board's members.;

~~§ 23-9.2:3.3. Human research.~~

~~Each board of visitors or other governing body of any public or private institution of higher education in which~~ 9. If human research, as defined in § 32.1-162.16, is conducted ~~shall promulgate at the institution, adopt~~ regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. ~~The~~ Such regulations shall require the human research committee to submit to the Governor, the General Assembly, and the president of the institution or his designee at least annually a report on the human research projects reviewed and approved by the committee and ~~shall~~ require the committee to report any significant deviations from approved proposals.;

~~§ 23-1.01. Annual reports required of boards of visitors.~~

~~The board of visitors of each institution of higher education shall submit~~ 10. Submit the annual financial statements for the year ending the preceding June 30 and the accounts and status of any ongoing capital projects to the Auditor of Public Accounts for the audit of such statements pursuant to § 30-133.;

~~§ 23-2.05. Boards of Visitors; annual executive summaries.~~

~~The board of visitors of each public institution of higher education and the State Board for Community Colleges shall submit~~ 11. Submit to the General Assembly and the Governor an annual executive summary of its interim activity and work no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.;

~~§ 23-9.1:1. Reports of certain acts to State Police.~~

~~The board of visitors or the governing body of any public institution of higher education in Virginia shall make~~ 12. Make available to any interested party upon request a copy of ~~that the~~ portion of the most recent report of the Uniform Crime Reporting Section of the Department of State Police entitled "Crime in Virginia" pertaining to ~~colleges and universities.~~ institutions of higher education; and

~~§ 23-4.3. Adoption of intellectual property policies; employees to be bound by such policies.~~

~~A. The boards of visitors of state supported institutions of higher education and the State Board for Community Colleges shall adopt~~ 13. Adopt policies or institution regulations regarding the ownership, protection, assignment, and use of intellectual property.;

~~B. All employees of state supported institutions of higher education, including the Virginia Community College System, as a condition of employment, shall be bound by the intellectual property policies of the institution employing them.~~

~~C. Upon adoption, the boards of visitors of state supported institutions of higher education, including the State Board for Community Colleges, shall provide a copy of their intellectual property policies to the Governor and the Joint Commission on Technology and Science.~~

~~D. For purposes of this section, "intellectual property" means (i) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable and provide a copy of such policies to the Governor and the Joint Commission on Technology and Science. All employees of public institutions of higher education are bound by the intellectual property policies of the institution employing them.~~

**Drafting note: Existing duties of governing boards are consolidated in subsection B of this proposed section as follows: subdivision 1, existing § 23-2.02; subdivision 2, subdivision A 1 of existing § 23-9.2:3; subdivision 7, existing § 23-2.5 with the addition of a reference to knowing and willful failure in accordance with the federal Military Selective Service Act (50 U.S.C. § 451 et seq.); subdivision 8, existing § 23-2.03; subdivision 9, the provisions of existing § 23-9.2:3.3 relating to public institutions of higher education; subdivision 10, existing § 23-1.01; subdivision 11, existing § 23-2.05; subdivision 12, existing § 23-9.1:1; and subdivision 13, existing § 23-4.3. Technical changes are made. Powers of governing boards located in existing subdivisions A 1 through 8 are moved to § 23.1-1301**

as subdivisions C 3 through 8. The first sentence of subsection B of this proposed section is moved to subdivision B 12 of proposed § 23.1-1301. The definition of "intellectual property" provided in subsection A is taken from subsection D of existing § 23-4.3, with subsections A, B, and C moved to subdivision B 13 of this proposed section.

~~§ 23-9.14:1 23.1-1304. Educational~~ Governing boards; additional duties; educational programs for governing boards.

A. From such funds as are appropriated for such purpose, the Council shall develop, in consultation with public institutions of higher education and members of their governing boards, and annually deliver educational programs for the governing boards of such institutions. New members of such governing boards shall participate, at least once during their first two years of membership, in the programs, which shall be designed to address the role, duties, and responsibilities of the governing boards and may include in-service programs on current issues in higher education. In developing such programs, the Council may consider similar educational programs for institutional governing boards in other states.

B. Educational programs for the governing boards of public institutions of higher education shall include presentations ~~related~~ relating to:

1. Board members' duty to the Commonwealth;
2. Governing board committee structure and function;
3. The duties of the executive committee set forth in ~~§ 23-2.04~~ 23.1-1306;
4. Professional accounting and reporting standards;
5. Methods for meeting the statutory, regulatory, and fiduciary obligations of the board;
6. The requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), developed and delivered in conjunction with the Freedom of Information Advisory Council;
7. Institutional ethics and conflicts of interest;
8. Creating and implementing ~~institution wide rules and regulations and institution policies~~;
9. Business operations, administration, budgeting, financing, financial reporting, and financial reserves, including a segment on endowment management;
10. Fixing student tuition ~~and~~ mandatory fees, and other necessary charges;
11. Overseeing ~~that impact affect the University's~~ institution's consolidated infrastructure, physical facilities, and natural environment, including its lands, improvements, and capital equipment;
12. Workforce planning, strategy, and investment;
13. Institutional advancement, including philanthropic giving, fundraising initiatives, alumni programming, communications and media, government and public relations, and community affairs;

14. Student welfare issues, including academic studies; curriculum; residence life; student governance and activities; and the general physical and psychological well-being of undergraduate and graduate students;

15. Current national and state issues in higher education;

16. Future national and state issues in higher education;

17. Relations between the governing board of visitors and the president chief executive officer of the institution, including perspectives from presidents chief executive officers of public institutions of higher education ~~in the Commonwealth~~;

18. Best practices for board governance, including perspectives from current board members; and

19. Any other topics that the Council, public institutions of higher education, and members of their governing boards deem necessary or appropriate.

C. The Council shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Council pursuant to this section no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

**Drafting note: Technical changes.**

§ 23.1-1305. Governing boards; student accounts; collections.

F. ~~The board of visitors or other~~ No governing body of every public institution of higher education board shall ~~not~~ refer a student account to collections for nonpayment before required by the provisions of § 2.2-4806. This ~~subsection~~ section shall not apply to public institutions of higher education that have entered into ~~Management Agreements~~ management agreements with the Commonwealth pursuant to Chapter 10 (§ 23.1-1000 et seq.).

**Drafting note: Subsection F of existing § 23-9.2:3 is relocated to this proposed section and technical changes are made.**

~~§ 23-2.04~~ 23.1-1306. Boards of visitors; Governing board executive committee; duties.

The executive committee of ~~the each governing board of visitors of each public institution of higher education and the State Board for Community Colleges~~ shall (i) organize the working processes of the board ~~and~~; (ii) recommend best practices for board governance. ~~The committee shall:~~ 1. Develop; (iii) develop and recommend to the board a statement of governance setting out the board's role; ~~2. Periodically~~ (iv) periodically review the board's bylaws and recommend amendments; ~~3. Provide~~ (v) provide advice to the board on committee structure, appointments, and meetings; ~~4. Develop~~ (vi) develop an orientation and continuing education process for visitors that includes training on the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); ~~5. Create~~ (vii) create, monitor, oversee, and review compliance with a code

of ethics for visitors; and ~~6. Develop~~ (viii) develop a set of qualifications and competencies for membership on the board for approval by the board and recommendation to the Governor.

**Drafting note: Technical changes.**

~~§ 23-3 23.1-1307. Expenses~~ Governing boards; expenses of visitors members.

~~The members of the board of visitors of each educational institution owned and controlled by the Commonwealth shall receive their actual expenses, when properly itemized, incurred in the discharge of their duties in attending the meetings of the board. Members of the governing board of each public institution of higher education shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties. Funding for the expenses of the members shall be provided by the institution.~~

**Drafting note: The language in this proposed section relating to expenses of members of governing boards is updated.**

~~§ 23-4.3:1 23.1-1308. Policies addressing~~ Governing board procedures; textbook sales and bookstores.

A. ~~No employee at of a Virginia public college or university institution of higher education shall demand or receive any payment, loan, subscription, advance, deposit of money, services, or anything, present or promised, as an inducement for requiring students to purchase a specific textbook required for coursework or instruction; with the exception that the. However, such~~ employee may receive (i) sample copies, instructor's copies, or instructional material; not to be sold; and (ii) royalties or other compensation from sales of textbooks that include such instructor's own writing or work.

B. ~~The~~ Each ~~governing boards~~ board shall implement procedures for making available to students in a central location and in a standard format on the relevant institutional website listings of textbooks required or assigned for particular courses at the institution. The lists of those required or assigned textbooks for each particular course shall include the International Standard Book Number (ISBN) along with other relevant information.

~~Institutions~~ C. Public institutions of higher education maintaining a bookstore supported by auxiliary services or operated by a private contractor shall post the listing of such textbooks when the relevant instructor or academic department identifies the required textbooks for order and subsequent student purchase.

~~The~~ D. Each ~~governing boards of public institutions of higher education~~ board shall implement policies, procedures, and guidelines that encourage efforts to minimize the cost of textbooks for students ~~at public colleges and universities~~ while maintaining the quality of education and academic freedom. The guidelines shall ensure ~~the following that:~~

1. ~~That faculty~~ Faculty textbook adoptions are made with sufficient lead time to ~~university-~~ university-managed or contract-managed bookstores so as to confirm availability of the requested materials and, ~~where~~ when possible, ensure maximum availability of used textbooks;

2. ~~That in~~ In the textbook adoption process, the intent to use all items ordered, particularly each individual item sold as part of a bundled package, is affirmatively confirmed by the faculty member before the adoption is finalized. If the faculty member does not intend to use each item in the bundled package, he shall notify the bookstore, and the bookstore shall order the individualized items when their procurement is cost effective for both ~~institutions~~ the institution and students and such items are made available by the publisher;

3. ~~That faculty~~ Faculty members affirmatively acknowledge the bookstore's quoted retail price of textbooks selected for use in each course;

4. ~~That faculty~~ Faculty members are encouraged to limit their use of new edition textbooks when previous editions do not significantly differ in a substantive way as determined by the appropriate faculty member; and

5. ~~That the establishment of policies shall include provisions for~~ Provisions address the availability of required textbooks to students otherwise unable to afford the cost.

~~D.~~ E. No funds provided for financial aid from university bookstore revenue shall be counted in the calculation for state appropriations for student financial aid.

**Drafting note: Technical changes.**

~~§ 23-1.2 23.1-1309. Intercollegiate~~ Boards of visitors; baccalaureate public institutions of higher education; intercollegiate athletics programs.

A. ~~For the purposes of~~ As used in this section:

"Athletics revenue" means the total revenue received by an institution that is generated by any of the institution's intercollegiate athletics programs. "Athletics revenue" includes contributions; game guarantees; income received from endowments and investments; income received from the sale of food, game programs, novelties, and other concessions at an intercollegiate athletics contest; income received from intercollegiate athletics conferences for participation in bowl games, tournaments, and other intercollegiate athletics contests; income received from the provision of parking at intercollegiate athletics contests or other events associated with intercollegiate athletics; rights and licensing; school funds; student fees; support from third parties guaranteed by the institution, such as income received from athletics camps, income received from television, and housing allowances; and all other income from any other source generated by the institution's intercollegiate athletics programs.

"Contributions" means any income received directly from individuals, corporations, associations, foundations, clubs, or other donors for the operation of an institution's intercollegiate athletics programs. "Contributions" includes amounts paid in excess of the face value of an admissions ticket to an intercollegiate athletics contest or any other event associated with intercollegiate athletics; cash; marketable securities; income generated from preferential seating arrangements at intercollegiate athletics contests or other events associated with intercollegiate athletics; and in-kind contributions such as cars provided to an intercollegiate

athletics program by car dealers at no cost and apparel and sports drink products provided to intercollegiate athletes and coaches at no cost.

"Generated revenue" means all athletics revenue with the exception of the subsidy.

"Institution" means a ~~four-year~~ baccalaureate public institution of higher education ~~in the Commonwealth.~~

"Intercollegiate athletics program" means any athletics program for a particular sport that is operated by an institution and governed by the National Collegiate Athletic Association (NCAA).

"Rights and licensing" includes income from radio and television broadcasts; Internet and e-commerce rights resulting from institution-negotiated contracts; revenue-sharing agreements with the NCAA or an intercollegiate athletics conference; licensing; the sale of advertisements, trademarks, or royalties; corporate sponsorships; and the value of in-kind contributions of products and services provided to an intercollegiate athletics program at no cost as part of such corporate sponsorship, such as equipment, apparel, isotonic sports drinks, other sports drink products, or water.

"School funds" means the direct and indirect financial support provided by the institution to any of its intercollegiate athletics programs. "School funds" includes state funds, tuition, tuition waivers, federal work awards for student athletes, administrative costs, facilities and grounds maintenance, security, risk management, utilities, and depreciation and debt services.

"Student fees" means any fees assessed by an institution against a student that are used to support any of the institution's intercollegiate athletics programs.

"Subsidy" means the sum of school funds and student fees.

"Subsidy percentage" means the subsidy divided by the athletics revenue, provided that revenues allocated to (i) support spirit groups associated with any intercollegiate athletics program, (ii) meet any indirect cost policy requirements, or (iii) debt service for previously approved intercollegiate athletics capital outlay projects may be excluded from the subsidy for the purposes of such calculation.

"Ticket sales" means the sale of the right to gain admission to an intercollegiate athletics contest or any other event associated with intercollegiate athletics. "Ticket sales" includes sums received from any associated shipping and handling charges and includes sales to the public, faculty, and students. "Ticket sales" does not include (i) amounts paid in excess of the face value of an admissions ticket to an intercollegiate athletics contest or any other event associated with intercollegiate athletics such as preferential seating arrangements or (ii) pass-through sales transactions such as sales for admission tickets to bowl games and conference and national tournaments.

~~B. No later than November 1, 2015, the~~ The Auditor of Public Accounts, in collaboration with the ~~State Council of Higher Education for Virginia, the State Comptroller, the Department of Planning and Budget, and each institution,~~ shall develop and implement a standardized reporting format for each institution to annually report its intercollegiate athletics revenue and

expenses to the Auditor of Public Accounts that shall include treatment of student fees and classification of specific intercollegiate athletics programs and shall require expenses for spirit groups, indirect cost policy requirements, and debt service for previously approved intercollegiate athletics capital outlay projects and other intercollegiate athletics capital outlay projects to be reported on separate lines.

C. The subsidy percentage shall not exceed:

1. 20 percent for NCAA Division I-A institutions affiliated with the Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern Conference;

2. 55 percent for NCAA Division I-A institutions affiliated with conferences other than the Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern Conference;

3. 70 percent for NCAA Division I-AA institutions;

4. 78 percent for NCAA Division I-AAA institutions;

5. 81 percent for NCAA Division II institutions that operate intercollegiate football programs;

6. 85 percent for NCAA Division II institutions that do not operate intercollegiate football programs;

7. 89 percent for NCAA Division III institutions that operate intercollegiate football programs; and

8. 92 percent for NCAA Division III institutions that do not operate intercollegiate football programs.

D. ~~Effective with the~~ Each fiscal year ~~beginning July 1, 2016~~, any percentage increase in the subsidy at an institution that complies with subsection C shall be matched by a like percentage increase in generated revenue, except that each such institution shall utilize a rolling average of the change in generated revenue and student fees over the immediately preceding five years for the purposes of such calculation.

E. When necessary, each institution shall submit to the Governor and the General Assembly for approval a plan that reduces the subsidy in accordance with targets outlined in the plan over a five-year period until the subsidy percentage complies with the requirements of subsection C.

F. The Auditor of Public Accounts shall annually review each institution's progress towards meeting the requirements of each plan approved pursuant to subsection E as part of his annual audit pursuant to § 30-133.

G. Failure to meet the progress requirements of each plan approved pursuant to subsection E for one year, as determined by the Auditor of Public Accounts, shall result in such reduction of the financial and administrative operations authority granted to the institution pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ ~~23-38.88~~ 23.1-1000 et seq.) as the Governor or General Assembly determines.



H. Failure to meet the progress requirements of each plan approved pursuant to subsection E for two consecutive years, as determined by the Auditor of Public Accounts, shall result in revocation of all financial and administrative operations authority granted to the institution pursuant to the Restructured Higher Education Financial and Administrative Operations Act (~~§ 23-38.88~~ 23.1-1000 et seq.).

I. The board of visitors of any institution that seeks to add a major intercollegiate athletics program such as football or basketball or change the division level of any of its existing intercollegiate athletics programs shall first submit to the Intercollegiate Athletics Review Commission (Commission) established pursuant to Chapter 57 (§ 30-359 et seq.) of Title 30 a plan and recommendations for financing the addition or change. The institution shall not in any way undertake any such addition or agree or commit to any such change until it has received the findings and recommendations of the Commission pursuant to § 30-360. Any such addition or change ~~shall be~~ is subject to the approval of the General Assembly expressed in the general appropriation act. The board of visitors of any institution that adds a non-major intercollegiate athletics program shall report such decision within 15 days of the board's action.

**Drafting note: Obsolete references to the establishment of a standardized reporting format by November 1, 2015, and the requirement for increased generated revenue to track an increased subsidy effective with the fiscal year beginning July 1, 2016, are stricken. Technical changes are made, including use of "regulations" rather than "rules and regulations" per recommendation of the Code Commission.**

§ 23.1-1310. Boards of visitors; baccalaureate public institutions of higher education; property of predecessor institutions.

All real estate and personal property standing in the name of any predecessor institution of a baccalaureate public institution of higher education shall be transferred to, known and taken as standing in the name of, and controlled by the board of visitors of such public institution of higher education. All such real estate and personal property is the property of the Commonwealth.

**Drafting note: This proposed section incorporates and standardizes institution-specific provisions relating to the real estate and property of predecessor institutions.**

#### CHAPTER ~~5.3~~ 14.

#### CHRISTOPHER NEWPORT UNIVERSITY.

**Drafting note: Existing Chapter 5.3 (§ 23-49.23 et seq.) is logically reorganized as proposed Chapters 13 and 14. 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 board of visitors that are unique to the University are retained in proposed Chapter 14.**

~~§ 23-49.23 23.1-1400. Board of visitors a corporation and under control of General Assembly Corporate name; name of the University.~~

~~There is hereby established a corporate body composed of the A. The board of visitors of Christopher Newport University (the board) is a corporation under the name and style of "The Rector and Visitors of Christopher Newport University," hereafter referred to in this chapter as "the board" or "the board of visitors," which shall have and has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1; except in those cases where, by the express terms of the provisions thereof, it is powers that are confined to corporations created under such title, and the board shall also have the power to accept, execute and administer any trust in which it may have an interest under the terms of the instrument creating the trust. Such corporation pursuant to Title 13.1. The board shall be subject at all times to be under the control of the General Assembly.~~

~~B. The University institution shall be known as Christopher Newport University (the University).~~

**Drafting note: Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-49.24. Transfer and control of certain property in Newport News.~~

~~All real estate and personal property now existing and heretofore standing in the name and under the control of the corporate body designated "The College of William and Mary" that is located in Newport News and that was heretofore exclusively used by Christopher Newport University is hereby transferred to and shall be known and taken as standing in the name and under the control of the rector and visitors of Christopher Newport University. The term "control" shall include, without limitation, management, control, operation and maintenance. Such real estate and personal property shall be the property of the Commonwealth.~~

**Drafting note: The provisions of existing § 23-49.24 are stricken here and incorporated instead into proposed § 23.1-1310.**

~~§ 23-49.25 23.1-1401. Appointments of visitors generally; terms Membership.~~

~~A. The board shall consist of 14 members appointed by the Governor, of whom at least six of whom shall be alumni of Christopher Newport the University.~~

~~Appointments shall be for terms of four years; however, appointments to fill vacancies occurring otherwise than by expiration of terms shall be for the unexpired terms.~~

~~B. All appointments of the Governor shall be subject to confirmation by the General Assembly. Members shall continue to hold office until their successors have been appointed and have qualified.~~

**Drafting note: Existing provisions relating to the terms and removal of members of the board are stricken and incorporated instead into proposed § 23.1-1300, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education.**

~~§ 23-49.26. Eligibility to serve for more than two terms.~~

~~No person shall be eligible to serve on the board of visitors for or during more than two successive four year terms; but after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, a member may serve two additional four year terms if appointed thereto.~~

**Drafting note: The provisions of existing § 23-49.26 are stricken and incorporated instead into proposed § 23.1-1300.**

~~§ 23-49.27.~~

**Drafting note: Repealed by Acts 2015, c. 560, cl. 2.**

~~§ 23-49.28 23.1-1402. Powers and duties of visitors generally; meetings; rector, secretary and vice rector; executive committee Meetings; officers; committees.~~

~~A. The board of visitors shall be vested with all the rights and powers conferred by the provisions of this title insofar as the same are not inconsistent with the provisions of this chapter and the general laws of the Commonwealth.~~

~~The board shall control and expend the funds of the University and any appropriation hereafter provided; make all needful rules and regulations concerning the University; appoint the president, who shall be its chief executive officer, and all teachers; fix their salaries; provide for the employment of other personnel as required; and generally direct the affairs of the University.~~

~~B. The board of visitors shall meet at the University at least four times a year and at such other times as it shall determine, the days of meetings to be fixed by the board determines. Special meetings of the board may be called by the rector or any three members. The secretary shall provide notice of any special meeting to each member.~~

~~B. Seven members shall constitute a quorum.~~

~~C. At the first meeting after July 1 in every even-numbered year, the board shall elect from its membership a rector, who shall to preside at its meetings, a secretary and a vice-rector. In the absence of the rector or vice-rector at any meeting, the secretary shall preside, and in the absence of all three, the to preside at its meetings in the absence of the rector, and a secretary to preside at its meetings in the absence of the rector and vice-rector.~~

~~D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector, vice-rector, and secretary.~~

~~Any vacancies E. Vacancies in the offices of rector, vice-rector ~~or~~, and secretary may be filled by the board for the unexpired term. ~~Special meetings of the board may be called by the rector or any three members. In either of such cases, notice of the time of meetings shall be given by the secretary to every member.~~~~

~~C. F. At every regular annual meeting of the board, the board may appoint an executive committee for the transaction of business in the recess of the board, to serve for a period of one year or until the next regular annual meeting.~~

**Drafting note: Duties of the board set forth in the second paragraph of subsection A are stricken here and incorporated instead into proposed §§ 23.1-1301 and 23.1-1403. Technical changes are made to conform provisions relating to meetings, officers, and committees of the board of visitors to those of each other baccalaureate public institution of higher education.**

~~§ 23-49.29. Rates, fees and charges.~~

~~The board may fix, in its discretion, the rates charged the students of the University for tuition, fees and other necessary charges.~~

**Drafting note: The provisions of existing § 23-49.29 are stricken here and incorporated instead into proposed § 23.1-1301.**

~~§ 23-49.30 23.1-1403. Degrees Powers and duties.~~

A. The board shall appoint all teachers and fix their salaries, provide for the employment of other personnel as required, and generally direct the affairs of the University.

~~B. The board shall have the right to~~ may confer degrees.

~~§ 23-49.31. Curriculum.~~

The existing collegiate curriculum of the University shall be continued; however, the board may make such alterations therein as it shall from time to time deem necessary and, subject to the provisions of § 23.1-203, approve new academic programs and discontinue academic programs offered by the University.

**Drafting note: Proposed subsection A incorporates board powers from subsection A of existing § 23-49.28. Board powers relating to degrees (existing § 23-49.30) and curriculum (existing § 23-49.31) are combined in subsection B of this proposed section. A reference to the Council's powers relating to academic programs is included in subsection B. Technical changes are made, including striking the superfluous term "from time to time" per Code Commission policy.**

~~§ 23-49.32. Sale, etc., of real estate.~~

~~The rector and visitors of Christopher Newport University, with the approval of the Governor first obtained, are hereby authorized to lease, sell and convey any and all real estate to which it has acquired title by gift, devise or purchase since the commencement of the University under any previous names, or which may hereafter be conveyed or devised to it. The proceeds derived from any such lease, sale or conveyance shall be held by the rector and the visitors of Christopher Newport University, upon identical trusts, and subject to the same uses, limitations and conditions, if any, that are expressed in the original deed or will under which its title was derived; or if there be no such trusts, uses, limitations or conditions expressed in such original deed or will, then such funds shall be applied by the rector and visitors of the University to such purposes as the board may deem best for the University.~~

**Drafting note: The provisions of existing § 23-49.32 are stricken here and incorporated instead into proposed § 23.1-1301.**

~~§ 23-49.33. Use of library; sharing of faculty and facilities with College of William and Mary.~~

~~A. Use of the library of the University shall be granted to students and faculty of the College of William and Mary in Virginia.~~

~~B. The board of visitors shall make cooperative agreements with the board of visitors of the College of William and Mary in Virginia for the sharing of faculty and of laboratory and other facilities.~~

**Drafting note: Existing § 23-49.33 is recommended for repeal as obsolete because the purposes of the original 1976 Act of Assembly that established requirements for shared faculty, library use, and laboratory and other facility use between Christopher Newport University and The College of William and Mary in Virginia have been accomplished by the respective boards of visitors.**

#### CHAPTER ~~9.1~~ 15.

#### GEORGE MASON UNIVERSITY.

**Drafting note: Existing Chapter 9.1 (§ 23-91.24 et seq.) is logically reorganized as proposed Chapters 13 and 15. 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 board of visitors that are unique to the University are retained in proposed Chapter 15.**

~~§ 23-91.24 23.1-1500. Board of visitors a corporation and under control of General Assembly Corporate name; name of the University.~~

~~There is hereby established a corporate body composed of the~~ A. The board of visitors of George Mason University (the board) is a corporation under the name and style of "The Rector and Visitors of George Mason University" hereinafter referred to in this chapter as the board. Such corporation and has, 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 be subject at all times to be under the control of the General Assembly.

~~B. The University institution~~ shall be known as George Mason University (the University).

**Drafting note: Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-91.25. Transfer of property.~~

~~All the real estate and personal property now existing and heretofore standing in the name of the rector and visitors of the University of Virginia, located in Fairfax and heretofore exclusively used by the George Mason College Division of the University of Virginia, shall be transferred to and be known and taken as standing in the name and under the control of the rector and visitors of George Mason University. Such real estate and personal property shall be the property of the Commonwealth.~~

**Drafting note: The provisions of existing § 23-91.25 are stricken here and incorporated instead into proposed § 23.1-1310.**

~~§ 23-91.26 23.1-1501. Appointment and terms of visitors generally~~ Membership.

~~(a) A. The board shall consist of sixteen 16 members, who shall be appointed by the Governor. Of the sixteen members, two may be nonresidents of Virginia. At least one member appointed each year shall be an alumnus of the University.~~

B. The alumni association of the University and the board may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.

~~(b) In 1972 the Governor shall appoint the members of the board for terms beginning July 1, 1972. At least one of the members appointed each year beginning in 1978 shall be an alumnus of George Mason University or of the George Mason College Division of the University of Virginia and, insofar as is possible, ten of the sixteen members shall be representative of the principal political subdivisions comprising Planning District Number Eight and of Fauquier County. Four of such appointments shall be for terms of four years each, four for terms of three years, four for terms of two years, and four for terms of one year. Subsequent appointments shall be for terms of four years; provided, however, that appointments to fill vacancies occurring otherwise than by expiration of terms shall be for the unexpired terms.~~

~~(c) All appointments shall be subject to confirmation by the General Assembly. Members shall continue to hold office until their successors have been appointed and have qualified.~~

**Drafting note: Existing provisions relating to the membership of the board of visitors are logically combined in this proposed section, existing provisions relating to the terms and removal of members of the board are stricken and incorporated instead into proposed § 23.1-1300, existing provisions relating to the initial staggering of terms are stricken as obsolete, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education. The provisions in existing subsection (a) relating to nonresident members and in existing subsection (b) relating to members from Planning District Eight and Fauquier County are recommended for repeal as obsolete because such provisions are not enforced and are inconsistent with current practice. Proposed subsection B is relocated from existing § 23-91.27.**

~~§ 23-91.27. Appointment of visitors from nominees submitted by board and association.~~

~~(a) The Governor may, if his discretion so dictates appoint visitors from a list of qualified persons submitted to him by the board of visitors and the alumni association of George Mason University on or before the first day of July of any year next preceding a year in which the terms of any of such visitors will expire.~~

~~(b) Every list of prospective appointees submitted by the board and such alumni association shall contain at least three names for each vacancy to be filled.~~

~~(c) The Governor is not to be limited in his appointments to the persons so nominated.~~

**Drafting note: The July 1 deadline for alumni association nominations is recommended for repeal as obsolete because such provision is not enforced and is inconsistent with current practice. The remaining provisions of existing § 23-91.27 are stricken and incorporated instead into proposed § 23.1-1501.**

~~§ 23-91.28. No person eligible to serve more than two terms; when office of visitor deemed vacant.~~

~~No person shall be eligible to serve for more than two successive terms; however, a member appointed to serve an unexpired term shall be eligible to serve two successive four year terms.~~

**Drafting note: The provisions of existing § 23-91.28 are stricken and incorporated instead into proposed § 23.1-1300.**

~~§ 23-91.29 23.1-1502. Powers and duties of board generally; meetings; Meetings; officers; executive committee committees.~~

~~(a) The board of visitors shall be vested with all the rights and powers conferred by the provisions of this title insofar as the same are not inconsistent with the provisions of this chapter and the general laws of the Commonwealth.~~

~~The board shall control and expend the funds of the University and any appropriation hereafter provided, and shall make all needful rules and regulations concerning the University, appoint the president, who shall be its chief executive officer, and all professors, teachers, staff members and agents, and fix their salaries, and generally direct the affairs of the University.~~

~~(b) A. The board of visitors shall meet at the University once a year, and at such other times as they shall determine, the days of meetings to be fixed by them it determines. Special meetings of the board may be called by the rector or any three members. The secretary shall provide notice of any special meeting to each member.~~

~~B. Eight members shall constitute a quorum. At the first meeting after July 1, 1972, and every second year thereafter, they~~

~~C. Every other year, the board shall appoint from their own body its membership a rector, who shall to preside at their its meetings, a secretary and a vice-rector to preside at its meetings in the absence of the rector, and a secretary to preside at its meetings in the absence of the rector and vice-rector.~~

~~In the absence of the rector or vice rector at any meeting, the secretary shall preside, and on the absence of all three, the~~ D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector, vice-rector, and secretary.

~~Any vacancies~~ E. Vacancies in the offices of rector, vice-rector ~~or, and~~ secretary may be filled by the board for the unexpired term. ~~Special meetings of the board may be called by the rector or any three members. In either of such cases, notice of the time of meetings shall be given by the secretary to every member.~~

~~(e)~~ F. At every regular annual meeting of the board ~~they, the board~~ may appoint an executive committee for the transaction of business in the recess of the board, ~~not less than consisting of at least three nor and not~~ more than five members, to serve for a period of one year or until the next regular annual meeting.

**Drafting note: Duties of the board set forth in existing subsection (a) are stricken and incorporated instead into proposed §§ 23.1-1303 and 23.1-1503. Technical changes are made to conform provisions relating to meetings, officers, and committees of the board of visitors to those of each other baccalaureate public institution of higher education. An obsolete reference to the board's first meeting after July 1, 1972, is stricken as obsolete.**

~~§ 23-91.30. Tuition, fees and other charges.~~

~~The board may fix, in its discretion, the rates charged the students of the University for tuition, fees and other necessary charges.~~

**Drafting note: The provisions of existing § 23-91.30 are stricken here and incorporated instead into proposed § 23.1-1301.**

~~§ 23-91.31 23.1-1503. Right to confer degrees Powers and duties.~~

A. The board shall appoint all teachers, staff members, and agents and fix their salaries and generally direct the affairs of the University.

B. The board shall have the right to may confer degrees.

~~§ 23-91.32. Curriculum.~~

The existing collegiate curriculum shall be continued; however, the board may make such alterations therein as it shall from time to time deem necessary and, subject to the provisions of § 23.1-203, approve new academic programs and discontinue academic programs offered by the University.

**Drafting note: Subsection A incorporates board duties set forth in subsection (a) of existing § 23-91.29. Board powers relating to degrees (existing § 23-91.31) and curriculum (existing § 23-91.32) are combined in subsection B of this proposed section. A reference to the Council's powers relating to academic programs is added in subsection B. Technical changes are made, including striking the superfluous term "from time to time" per Code Commission policy.**



~~§ 23-91.29-1~~ 23.1-1504. Establishment of branch campus in the Republic of Korea.

A. In recognition that global educational opportunities benefit the intellectual and economic interests of the Commonwealth, the board of visitors of ~~George Mason University~~ is ~~authorized to~~ may create a corporation or other legal entity controlled by ~~George Mason~~ the University to establish and operate a branch campus of ~~George Mason~~ the University in the Republic of Korea. Establishment of the branch campus ~~shall be~~ is subject to ~~State Council of Higher Education for Virginia~~ guidelines governing the approval of branch campuses, pursuant to ~~§ 23-9.6-1~~ 23.1-203.

B. The board of visitors ~~shall have~~ has the same powers with respect to operation and governance of its branch campus in Korea as are vested in the board ~~by the Code of Virginia~~ with respect to ~~George Mason~~ the University in Virginia, including, but not limited to, fixing of fees and charges, the establishment of academic standards, and the conferral of degrees.

C. No corporation or other legal entity created for the above purpose shall be deemed a state or governmental agency, advisory agency, public body or agency, or other instrumentality.

~~Further, no~~ D. No director, officer, or employee of any such corporation or other legal entity shall be deemed an officer or employee of the Commonwealth for any purpose.

E. In operating the branch campus, the board of visitors shall provide for appropriate professional opportunities for Virginia-based faculty to teach or conduct research on the Republic of Korea campus and educational opportunities for Virginia-based students to study or conduct research on the Republic of Korea campus.

F. Nothing contained in this section shall be deemed a waiver of the sovereign immunity of the Commonwealth or of ~~George Mason~~ the University.

**Drafting note: Technical changes.**

~~§ 23-91.33. Conveyance of real estate; disposition of proceeds.~~

~~The rector and visitors of George Mason University with the approval of the Governor first obtained, are hereby authorized to lease, sell and convey any and all real estate to which it has acquired title by gift, devise or purchase since the commencement of the University under any previous names, or which may hereafter be conveyed or devised to it. The proceeds derived from any such lease, sale or conveyance shall be held by the rector and visitors of George Mason University upon the identical trusts, and subject to the same uses, limitations and conditions, if any, that are expressed in the original deed or will under which its title was derived; or if there be no such trusts, uses, limitations or conditions expressed in such original deed or will, then such funds shall be applied by the rector and visitors of the University to such purposes as said board may deem best for the University.~~

**Drafting note: The provisions of existing § 23-91.33 are stricken and incorporated instead into proposed § 23.1-1301.**

~~CHAPTER 12.1 16.~~  
JAMES MADISON UNIVERSITY.

**Drafting note: Existing Chapter 12.1 (§ 23-164.1 et seq.) is logically reorganized as proposed Chapters 13 and 16. Existing provisions that apply generally to governing boards of public institutions of higher education are consolidated in proposed Chapter 13. Existing provisions relating to the incorporation, membership, and powers and duties of the board of visitors that are unique to the University are retained in proposed Chapter 16.**

~~§ 23-164.1 23.1-1600. Corporation composed of board of visitors established; style; Corporate name; name of the University.~~

~~A. The corporation composed of the board of visitors of Madison College, heretofore established by law, is continued as the board of visitors of James Madison University (the board) is a corporation under the name and style of "The Visitors of James Madison University" hereinafter referred to in this chapter as board and has, 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 University institution shall be known as James Madison University (the University).~~

~~C. All laws relating to Madison College or the board of visitors of Madison College shall be construed as relating to James Madison the University or the board, respectively.~~

**Drafting note: Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-164.2. Transfer of property.~~

~~All the real estate and personal property now existing and heretofore standing in the name of the visitors of Madison College shall be known and taken as standing in the name, and to be under the control, of the corporate body designated "The Visitors of James Madison University." Such real estate and personal property shall be the property of the Commonwealth.~~

**Drafting note: The provisions of existing § 23-164.2 are stricken here and incorporated instead into proposed § 23.1-1310.**

~~§ 23-164.3. Appointment of members of board of visitors generally; terms; vacancies. 23.1-1601. Membership.~~

~~A. The board shall consist of fifteen 15 members who shall be appointed by the Governor, of whom at least 13 shall be residents of the Commonwealth.~~

~~Of the four members of the board appointed for terms beginning July 1, 1989, two members shall be appointed for initial terms of two years and two members shall be appointed for initial terms of three years. Successors to the members so appointed shall be appointed to serve for terms of four years each. Vacancies occurring other than by expiration of term shall be~~

~~filled for the unexpired term. Of the persons so appointed two may be nonresidents of the Commonwealth.~~

~~All appointments shall be subject to confirmation by the General Assembly. Members shall continue to hold office until their successors have been appointed and have qualified.~~

~~B. The alumni association of the University may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees. The Governor is not limited in his appointments to the individuals so nominated.~~

**Drafting note: Existing provisions relating to the membership of the board of visitors are logically combined in this proposed section, existing provisions relating to the terms and removal of members of the board are stricken and incorporated instead into proposed § 23.1-1300, existing provisions relating to the initial staggering of terms are stricken as obsolete, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education.**

~~§ 23-164.4. Appointment of visitors from list submitted by alumni.~~

~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him by the alumni association of the James Madison University, or its titular successor, on or before the first day of July of any year in which the terms of any visitors will expire.~~

~~(b) Every list shall contain at least three names for each vacancy to be filled.~~

~~(c) The Governor shall not be limited in his appointments to the persons so nominated.~~

**Drafting note: The July deadline for alumni association nominations is recommended for repeal as obsolete because such provision is not enforced and is inconsistent with current practice. The remaining provisions of existing § 23-164.4 are stricken and incorporated instead into proposed § 23.1-1601.**

~~§ 23-164.5. Eligibility to serve more than two successive terms.~~

~~No person shall be eligible to serve for or during more than two successive four-year terms. A person appointed to serve an unexpired term created by a vacancy shall be eligible to serve two additional four-year terms.~~

**Drafting note: The provisions of existing § 23-164.5 are stricken and incorporated instead into proposed § 23.1-1300.**

~~§ 23-164.6 23.1-1602. Rights and powers of board generally Powers and duties.~~

~~A. The board shall be vested with all the rights and powers conferred by this chapter insofar as the same are not inconsistent with the laws of the Commonwealth.~~

~~The board shall control and expend the funds of the University and any appropriation hereafter provided, and shall make all needful rules and regulations concerning the University, appoint the president, who shall be its chief executive officer, and all professors, teachers and agents; and fix their salaries; and generally direct the affairs of the University.~~

~~§ 23-164.8. Degrees.~~

~~B. The board shall have the right to may confer degrees.~~

**Drafting note: The board's duties to control and expend funds, make regulations, and appoint a president and professors, as set forth in the second paragraph of existing § 23-164.6, are stricken and incorporated instead into proposed § 23.1-1303. Proposed subsection B incorporates the provisions of existing § 23-164.8. Technical changes are made.**

~~§ 23-164.7. Tuition, fees and charges.~~

~~The board may fix the rates charged the students of the University for tuition, fees and other necessary charges.~~

**Drafting note: The provisions of existing § 23-164.7 are stricken and incorporated instead into proposed § 23.1-1301.**

~~§ 23-164.9 23.1-1603. Curriculum Program of instruction to educate and train teachers.~~

~~The curriculum of James Madison University shall embrace such branches of learning as relate to teaching in the public free schools of Virginia, without excluding other studies in the arts and sciences maintain a program of instruction to educate and train teachers for the public elementary and secondary schools of the Commonwealth without excluding other programs of instruction.~~

**Drafting note: Technical changes.**

~~§ 23-164.10. Granting easements over, etc., property of University.~~

~~The visitors of James Madison University are authorized, subject to the approval of the Governor in writing first obtained, to convey upon such terms and conditions and for such consideration as they deem proper easements upon, over, across or under the property of James Madison University for which they serve as the governing body, to the City of Harrisonburg, the County of Rockingham, the Rockingham Memorial Hospital, or to any public utility or public service company, for the purpose of erecting or maintaining power, telephone, water, sewer or gas lines and mains; provided, that any deed or other conveyance executed hereunder shall be in form approved by the Attorney General; and provided, further, that any funds derived by the visitors in consideration of the granting of any such easement shall be paid into the state treasury to the account of James Madison University for use for capital outlay expenditures as authorized by the visitors of James Madison University.~~

**Drafting note: The provisions of existing § 23-164.10 are recommended for repeal as inconsistent with the more general provision relating to easements contained in proposed § 23.1-1301.**

CHAPTER ~~15~~ 17.  
LONGWOOD UNIVERSITY.

**Drafting note: Existing Chapter 15 (§ 23-182 et seq.) is logically reorganized as proposed Chapters 13 and 17. Existing provisions that apply generally to governing boards of public institutions of higher education are consolidated in proposed Chapter 13. Existing provisions relating to the incorporation, membership, and powers and duties of the board of visitors that are unique to the University are retained in proposed Chapter 17.**

~~§ 23-182 23.1-1700. Board of visitors established as corporation Corporate name; name of the University.~~

~~There is hereby established a corporation composed of the~~ A. The board of visitors of Longwood University (the board) is a corporation under the name and style of "The Visitors of Longwood University;" hereinafter referred to in this chapter as the board and has, 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.

~~§ 23-183. Name.~~

~~The University~~ B. The institution shall be known as Longwood University (the University).

**Drafting note: Existing §§ 23-182 and 23-183 are combined as proposed § 23.1-1700. Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-184. Property transferred to Longwood University and owned by Commonwealth.~~

~~All the real estate and personal property now existing and heretofore standing in the name of the State Board of Education, located at Farmville, and heretofore used by Longwood University under the State Board of Education, shall be transferred to and be known and taken as standing in the name, and to be under the control, of the corporate body designated "The Visitors of Longwood University." Such real estate and personal property shall be the property of the Commonwealth.~~

**Drafting note: The provisions of existing § 23-184 are stricken here and incorporated instead into proposed § 23.1-1310.**

~~§ 23-185 23.1-1701. Composition of board; appointment and terms of visitors generally; vacancies; confirmation Membership.~~

A. The board shall consist of 13 members who shall be appointed by the Governor, of whom at least two shall be alumni of the University and at least 11 shall be residents of the Commonwealth.

~~B. The Governor shall appoint the 13 appointive members of the board for terms of four years each. Members shall be eligible for service for two consecutive terms of four years,~~

~~exclusive of that portion of any unexpired term. Successors to the members so appointed shall be appointed to serve for terms of four years each. Vacancies occurring other than by expiration of term shall be filled for the unexpired term. Of the persons so appointed two shall be alumni of the University, and two may be nonresidents of the Commonwealth, the remaining number to be selected from the Commonwealth at large.~~

~~C. All appointments shall be subject to confirmation by the General Assembly. Members shall continue to hold office until their successors have been appointed and have qualified. The alumni association of the University may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.~~

**Drafting note: Existing provisions relating to the membership of the board of visitors are logically combined in this proposed section, existing provisions relating to the terms and removal of members of the board are stricken and incorporated instead into proposed § 23.1-1300, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education. Proposed subsection B is relocated from existing § 23-186.**

~~§ 23-186. Appointment of visitors from alumni.~~

~~A. The Governor may appoint visitors from a list of qualified persons submitted to him, by the alumni association of the University, or its titular successor, on or before the first day of July of any year in which the terms of any visitors will begin or expire.~~

~~B. Every list shall contain at least three names for each vacancy to be filled.~~

~~C. The Governor shall not be limited in his appointments to the persons so nominated.~~

**Drafting note: The July deadline for alumni association nominations is recommended for repeal as obsolete because such provision is not enforced and is inconsistent with current practice. The remaining provisions of existing § 23-186 are stricken and incorporated instead into proposed § 23.1-1701.**

~~§ 23-186.1.~~

**Drafting note: Repealed by Acts 2015, c. 560.**

~~§ 23-187. Eligibility to serve more than two successive terms.~~

~~No person shall be eligible to serve for or during more than two successive terms except the persons receiving initial appointments for only two years and who have served an additional four year term may be appointed for another four year term.~~

**Drafting note: The provisions of existing § 23-187 are stricken and incorporated instead into proposed § 23.1-1300.**

~~§ 23-188 23.1-1702. Rights, powers Powers and duties of board generally.~~

~~A. The board shall be vested with all the rights and powers conferred by this chapter insofar as the same are not inconsistent with the laws of the Commonwealth.~~

~~The board shall control and expend the funds of the University and any appropriation hereafter provided, and shall make all needful rules and regulations concerning the University, appoint the president, who shall be its chief executive officer, and all professors, teachers and agents, and fix their salaries, and generally direct the affairs of the University.~~

~~§ 23-190. Right to confer degrees.~~

~~B. The board shall have the right to may confer degrees.~~

**Drafting note: The board's duties to control and expend funds, make regulations, and appoint a president and professors, as set forth in the second paragraph of existing § 23-188, are stricken and incorporated instead into proposed § 23.1-1303. Subsection B incorporates the provisions of existing § 23-190.**

~~§ 23-189. Board may fix tuition, fees and other necessary charges.~~

~~The board may fix the rates charged the students of the University for tuition, fees and other necessary charges.~~

**Drafting note: The provisions of existing § 23-189 are stricken here and incorporated instead into proposed § 23.1-1301.**

~~§ 23-191 23.1-1703. Curriculum Program of instruction to educate and train teachers.~~

~~The curriculum of Longwood University shall embrace such branches of learning as relate to teaching in the public free schools of Virginia, without excluding other studies in the arts and sciences maintain a program of instruction to educate and train teachers for the public elementary and secondary schools of the Commonwealth without excluding other programs of instruction.~~

**Drafting note: Technical changes.**

#### ~~CHAPTER 7.~~

#### ~~THE MILLER SCHOOL OF ALBEMARLE.~~

**Drafting note: Existing Chapter 7 (§§ 23-51, 23-52, and 23-53) relating to the Miller School of Albemarle, a college preparatory school in Albemarle County, is recommended for repeal as obsolete. All of the relevant and necessary provisions regarding the governance of the Miller School of Albemarle are included in the school's Articles of Incorporation filed with the State Corporation Commission.**

~~§ 23-51. Miller Manual Labor School continued as The Miller School of Albemarle.~~

~~The Miller Manual Labor School of Albemarle, created pursuant to Chapter 61 of the Acts of Assembly of 1874, is continued as The Miller School of Albemarle, an educational institution of the Commonwealth of Virginia, as a corporation with all of the rights and powers of nonprofit, nonstock corporations chartered under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 for the purpose of providing quality education to certain worthy students.~~

**Drafting note: Existing § 23-51 is recommended for repeal as obsolete. This section became obsolete with the passage of Chapter 305 of the Acts of Assembly of 1986.**

~~§ 23-52. Certain statutes continued in force.~~

~~The second through seventh clauses of section one, and the second section of the act entitled "an act to give effect to a compromise of the litigation in respect to the construction and effect of the will of Samuel Miller, deceased, and to establish the manual labor school provided for in the twenty fifth clause of the said will," approved February 24, 1874, as amended by Chapter 258 of the Acts of 1946, approved March 25, 1946, by Chapter 553 of the Acts of 1950, approved April 7, 1950, and by Chapter 462 of the Acts of 1966, effective April 4, 1966; the act approved February 19, 1884, amending and reenacting the fourth clause of the second section of the act approved April 2, 1877 relating to the Miller Manual Labor School of Albemarle; and the act to authorize the board of the Miller Manual Labor School to convert coupon bonds into registered bonds, approved August 23, 1884, shall severally continue in force.~~

**Drafting note: Existing § 23-52 is recommended for repeal as obsolete. This section became obsolete with the passage of Chapter 305 of the Acts of Assembly of 1986.**

~~§ 23-53. Jurisdiction and powers of Circuit Court for Albemarle County.~~

~~All of the jurisdiction and powers by law vested in and exercised by the Circuit Court for Albemarle County, and the judge thereof in vacation, over the Miller Manual Labor School of Albemarle, or in connection with the government, control and management thereof, are continued, and the compensation for such duties and services shall be paid to such judge.~~

**Drafting note: Existing § 23-53 is recommended for repeal as obsolete. This section became obsolete with the passage of Chapter 195 of the Acts of Assembly of 2007.**

#### ~~CHAPTER 8.~~

~~STATE TEACHERS COLLEGE AT FARMVILLE; MADISON COLLEGE.~~

~~§§ 23-54 through 23-61.~~

**Drafting note: Repealed by Acts 1964, c. 97.**

#### ~~CHAPTER 9.2 18.~~

~~UNIVERSITY OF MARY WASHINGTON.~~

**Drafting note: Existing Chapter 9.2 (§ 23-91.34 et seq.) is logically reorganized as proposed Chapters 13 and 18. 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 board of visitors that are unique to the University are retained in proposed Chapter 18.**

~~§ 23-91.34 23.1-1800. Board of visitors a corporation and under control of General Assembly Corporate name; name of the University.~~

~~There is hereby established a corporate body composed of the A. The board of visitors of the University of Mary Washington (the board) is a corporation under the name and style of "The Rector and Visitors of the University of Mary Washington" hereinafter referred to in this chapter~~



~~as the board, which shall have and has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1; except in those cases where by the express terms of the provisions thereof, it is powers that are confined to corporations created under such title, and the board shall also have the power to accept, execute and administer any trust in which it may have an interest under the terms of the instrument creating the trust. Such corporation pursuant to Title 13.1. The board shall be subject at all times to be under the control of the General Assembly.~~

B. The institution shall be known as the University of Mary Washington (the University).

**Drafting note: Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-91.35. Transfer of certain property.~~

~~Upon July 1, 1972, all real estate and personal property held by the University of Mary Washington prior to its union with the rector and visitors of the University of Virginia; control of the real estate acquired from Corinne Lawton Melchers and known as "Belmont" (see Chapter 51 of the Acts of Assembly, 1960), and the real estate known as the James Monroe Law Office—Museum and Memorial Library (see Chapter 641 of the Acts of Assembly, 1964), together with the personal property associated with the respective real estate, all of such real and personal properties existing and standing in the name of the Commonwealth of Virginia but controlled by the rector and visitors of the University of Virginia; and all real and personal property acquired in the name of the rector and visitors of the University of Virginia for the use of the University of Mary Washington during the time in which the University of Mary Washington was a part of the University of Virginia, hereby is transferred to and shall be known and taken as standing in the name and under the control of the rector and visitors of the University of Mary Washington (the term "control" shall include, without limitation, "management, control, operation and maintenance"). Such real estate and personal property shall be the property of the Commonwealth.~~

**Drafting note: The provisions of existing § 23-91.35 are stricken here and incorporated instead into proposed § 23.1-1310.**

~~§ 23-91.36~~ 23.1-1801. Appointment of visitors generally; terms Membership.

~~(a) A.~~ The board shall consist of twelve 12 members, who shall be appointed by the Governor. Of the twelve members, no more than three may be nonresidents of Virginia, of whom at least nine shall be residents of the Commonwealth and at least six shall be alumni of the University.

~~(b) In 1972 the Governor shall appoint the members of the board for terms beginning July 1, 1972. Three of such appointments shall be for terms of four years each, three for terms of three years, three for terms of two years, and three for terms of one year. Subsequent appointments shall be for terms of four years; provided, however, that appointments to fill vacancies occurring otherwise than by expiration of terms shall be for the unexpired terms.~~

~~(c) All appointments shall be subject to confirmation by the General Assembly. Members shall continue to hold office until their successors have been appointed and have qualified.~~

B. The alumni association of the University may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.

**Drafting note: Existing provisions relating to the membership of the board of visitors are logically combined in this proposed section, existing provisions relating to the terms and removal of members of the board are stricken and incorporated instead into proposed § 23.1-1300, existing provisions relating to the initial staggering of terms are stricken as obsolete, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education.**

~~§ 23-91.37. Appointment of visitors from nominees of alumni association.~~

~~(a) The Governor may, if his discretion so dictates, appoint visitors from a list of qualified persons submitted to him by the alumni association of the University of Mary Washington on or before the first day of December of any year next preceding a year in which the terms of any of such visitors will expire.~~

~~(b) Whenever a vacancy occurs otherwise than by expiration of term, the Governor shall certify this fact to the association and nominations may be submitted of qualified persons. The Governor may fill the vacancy, if his discretion so dictates, from among the eligible nominees of the association, whether or not alumni or alumnae.~~

~~(c) Every such list of prospective appointees shall contain at least three names for each vacancy to be filled.~~

~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

~~(e) At no time shall fewer than six of the members of the board be alumni or alumnae of the University.~~

**Drafting note: The December deadline for alumni association nominations is recommended for repeal as obsolete because such provision is not enforced and is inconsistent with current practice. The remaining provisions of existing § 23-91.37 are stricken and incorporated instead into proposed § 23.1-1801.**

~~§ 23-91.38. Eligibility to serve for more than two terms.~~

~~No person shall be eligible to serve on the board of visitors for or during more than two successive four-year terms; but after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, a member may serve two additional four-year terms if appointed thereto.~~

**Drafting note: The provisions of existing § 23-91.38 are stricken and incorporated instead into proposed § 23.1-1300.**

§ 23-91.39.

**Drafting note: Repealed by Acts 2015, c. 560.**

~~§ 23-91.40 23.1-1802. Powers and duties of visitors generally; meetings; rector, secretary and vice-rector; executive committee Meetings; officers; committees.~~

~~(a) The board of visitors shall be vested with all the rights and powers conferred by the provisions of this title insofar as the same are not inconsistent with the provisions of this chapter and the general laws of the Commonwealth.~~

~~The board shall control and expend the funds of the University and any appropriation hereafter provided, and shall make all needful rules and regulations concerning the University; appoint the president, who shall be its chief executive officer, and all teachers, and fix their salaries, and provide for the employment of other personnel as required, and generally direct the affairs of the University.~~

~~(b) A. The board of visitors shall meet at the University once a year, and at such other times as they shall determine, the days of meetings to be fixed by them it determines.~~

~~B. A majority of the members shall constitute a quorum.~~

~~C. At the first meeting after July 1, 1972, and every second year thereafter, they in every even-numbered year, the board shall appoint from their own body its membership a rector, who shall to preside at their its meetings, a secretary and a vice-rector to preside at its meetings in the absence of the rector, and a secretary who shall preside at its meetings in the absence of the rector and vice-rector.~~

~~In the absence of the rector or vice-rector at any meeting, the secretary shall preside, and in the absence of all three, the D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector, vice-rector, and secretary.~~

~~Any vacancies E. Vacancies in the offices of rector, vice-rector ~~or~~ and secretary may be filled by the board for the unexpired term.~~

~~F. Special meetings of the board may be called by the rector or any three members. In either of such cases case, the secretary shall give notice of the time of meetings ~~shall be given by the secretary to every~~ each member.~~

~~(e) G. At every regular annual meeting of the board ~~they, it~~ may appoint an executive committee for the transaction of business in the recess of the board, ~~not less than~~ consisting of at least three ~~nor~~ and not more than five members, to serve for a period of one year or until the next regular annual meeting.~~

**Drafting note: Technical changes are made to conform provisions relating to meetings, officers, and committees of the board of visitors to those of each other baccalaureate public institution of higher education. Board duties set forth in subsection (a) of existing § 23-91.40 are stricken and incorporated instead into proposed § 23.1-1303, if the duty applies generally to boards of public institutions of higher education, or § 23.1-1803, if the duty applies specifically to the University.**

~~§ 23-91.41. Rates, fees and charges.~~

~~The board may fix, in its discretion, the rates charged the students of the University for tuition, fees and other necessary charges.~~

**Drafting note: The provisions of existing § 23-91.41 are stricken and incorporated instead into proposed § 23.1-1301.**

~~§ 23-91.42 23.1-1803. Degrees Powers and duties.~~

~~A. The board shall appoint all teachers and fix their salaries, provide for the employment of other personnel as required, and generally direct the affairs of the University.~~

~~B. The board shall have the right to may confer degrees.~~

~~§ 23-91.43. Curriculum.~~

~~The existing collegiate curriculum of the University shall be continued; however, the board may make such alterations therein as it shall from time to time deem necessary and, subject to the provisions of § 23.1-203, approve new academic programs and discontinue academic programs offered by the University.~~

**Drafting note: Subsection A incorporates board duties set forth in subsection (a) of existing § 23-91.40. Board powers relating to degrees (existing § 23-91.42) and curriculum (existing § 23-91.43) are combined in subsection B of this proposed section. A clarifying reference to the Council's powers relating to academic programs is proposed in subsection B. Technical changes are made, including striking the superfluous term "from time to time" per Code Commission policy.**

~~§ 23-91.44. Sale, etc., of real estate.~~

~~The rector and visitors of the University of Mary Washington, with the approval of the Governor first obtained, are hereby authorized to lease, sell and convey any and all real estate to which it has acquired title by gift, devise or purchase since the commencement of the University under any previous names, or which may hereafter be conveyed or devised to it. The proceeds derived from any such lease, sale or conveyance shall be held by the rector and visitors of the University of Mary Washington, upon identical trusts, and subject to the same uses, limitations and conditions, if any, that are expressed in the original deed or will under which its title was derived; or if there be no such trusts, uses, limitations or conditions expressed in such original deed or will, then such funds shall be applied by the rector and visitors of the University to such purposes as said board may deem best for the University.~~

**Drafting note: The provisions of existing § 23-91.44 are stricken and incorporated instead into proposed § 23.1-1301.**

#### CHAPTER ~~13.1~~ 19.

#### NORFOLK STATE UNIVERSITY.

**Drafting note: Existing Chapter 13.1 (§ 23-174.1 et seq.) is logically reorganized as proposed Chapters 13 and 19. Existing provisions that apply generally to governing boards**

**of public institutions of higher education are consolidated in proposed Chapter 13. Existing provisions relating to the incorporation, membership, and powers and duties of the board of visitors that are unique to the University are retained in proposed Chapter 19.**

~~§ 23-174.1 23.1-1900. Corporation established under control of General Assembly  
Corporate name; name of the University.~~

~~A. The corporation composed of the board of visitors of Norfolk State College, heretofore established by law, is continued as the board of visitors of Norfolk State University (the board) is a corporation under the name and style of "The Visitors of Norfolk State University;" and which has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1. The board shall at all times shall be under the control of the General Assembly.~~

~~B. The institution shall be known as Norfolk State University (the University).~~

~~Whenever the term "C. All laws relating to Norfolk State College" is used in any law of this Commonwealth, it or the board of visitors of Norfolk State College shall be construed as relating to mean Norfolk State the University or the board, respectively.~~

**Drafting note: Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-174.2. Corporation to establish and maintain University.~~

~~The corporation is formed for the purpose of establishing and maintaining a university in the name and style of "Norfolk State University."~~

**Drafting note: The provisions of existing § 23-174.2 are stricken and incorporated instead into proposed § 23.1-1900.**

~~§ 23-174.3. Transfer of property.~~

~~All real estate and personal property existing and standing in the name of the Visitors of Norfolk State College shall be known and taken as standing in the name, and to be under the control, of the Visitors of Norfolk State University. Such real estate and personal property shall be the property of the Commonwealth.~~

**Drafting note: The provisions of existing § 23-174.3 are stricken here and incorporated instead into proposed § 23.1-1310.**

~~§ 23-174.4 23.1-1901. Composition of board of visitors; appointment, terms, etc.  
Membership; executive committee.~~

~~A. The board of visitors shall consist of 13 members who shall be appointed, on or before June 30 of any year in which their terms shall expire, by the Governor for terms of four years, of whom at least four shall be alumni of the University. Of the persons so alumni appointed, four shall be alumni of Norfolk State University of which three may be nonresidents of the~~

~~Commonwealth at least one shall be a resident of the Commonwealth. Vacancies occurring other than by expiration of term shall be filled by the Governor for the unexpired term.~~

~~B. The Governor may appoint alumni visitors from a list of qualified persons submitted to him upon the recommendation of the National Alumni Association of Norfolk State University on or before November 1 of any year in which the terms of such visitors shall expire. The National Alumni Association of Norfolk State University shall submit the names of four qualified alumni for each vacancy.~~

~~C. All appointments shall be subject to confirmation by the General Assembly. Members shall continue to hold office until their successors have been appointed and qualified. Members shall be eligible for two consecutive terms of four years, exclusive of that portion of any term on the initial board of less than four years or any unexpired term. The alumni association of the University may submit to the Governor a list of four nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.~~

~~C. The board may appoint at least three and not more than five of its members to an executive committee that has and may exercise such powers as the board may prescribe.~~

**Drafting note: The November 1 deadline for alumni association recommendations is recommended for repeal as obsolete because such provision is not enforced and is inconsistent with current practice. The remaining existing provisions relating to the terms and removal of members of the board are stricken and incorporated instead into proposed § 23.1-1300. Subsection C incorporates the last sentence of existing § 23-174.5. Technical changes are made to conform the language to that of each other baccalaureate public institution of higher education.**

~~§ 23-174.6 23.1-1902. Control of funds; rules and regulations; appointment, etc., of president, faculty and staff Powers and duties.~~

~~A. The board shall control and expend the funds of the corporation and any appropriation hereafter provided, and shall make all necessary rules and regulations concerning the University, appoint a president, who shall be its chief executive officer, and (i) make all provisions for teachers, staff members, and agents, and shall fix their salaries, and shall prescribe their duties and (ii) generally direct the affairs of the University.~~

~~§ 23-174.5. Rights and powers of board of visitors generally; executive committee.~~

~~The board shall be vested with all the rights and powers conferred by the provisions of this chapter and the provisions relating to similar corporations under the laws of this Commonwealth so far as they are applicable. B. The corporation shall also have the power to board may take, hold, receive, and enjoy any gift, grant, devise, or bequest to Norfolk State the University, the same to be held for the uses and purposes designated by the donor, if any, or if not so designated, for the general purposes of the corporation board. The board may designate~~

~~not less than three nor more than five of its members to constitute an executive committee which shall have and may exercise such authority of the board as the board may provide.~~

~~§ 23-174.7. Right to confer degrees; tuition, fees and other charges.~~

~~C. The board shall have the right to may confer degrees, and may fix the rates charged the students of the University for tuition, fees and other necessary charges.~~

**Drafting note: The board's duties to control and expend funds, make regulations, and appoint a president, as set forth in existing § 23-174.6, are stricken and incorporated instead into proposed § 23.1-1301. Language relating to the duty to generally direct the affairs of the University is added to conform the board's duties to those of the majority of other baccalaureate public institutions of higher education. The provisions of existing § 23-174.5 relating to gifts, grants, devises, and bequests are incorporated into subsection B of this proposed section. The provisions of existing § 23-174.5 relating to the executive committee of the board are stricken and incorporated instead as subsection C of proposed § 23.1-1901. The provisions of existing § 23-174.7 relating to conferring degrees are incorporated into subsection C of this proposed section. The provisions of existing § 23-174.7 relating to fixing tuition and fees are stricken and incorporated instead into proposed § 23.1-1301. Technical changes are made.**

~~§ 23-174.8, 23-174.9.~~

**Drafting note: Repealed by Acts 1979, c. 146.**

#### CHAPTER ~~5.2~~ 20.

#### OLD DOMINION UNIVERSITY.

**Drafting note: Existing Chapter 5.2 (§ 23-49.11 et seq.) is logically reorganized as proposed Chapters 13 and 20. 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 board of visitors that are unique to the University are retained in proposed Chapter 20.**

#### Article ~~1.~~

#### General Provisions.

**Drafting note: Article 2 and its contents are recommended for repeal as obsolete, which renders the Article 1 designation unnecessary in proposed Chapter 20.**

~~§ 23-49.11 23.1-2000. Corporate name; powers; subject to control of General Assembly name of the University.~~

~~A. The board of visitors of the Old Dominion University shall be (the board) is a corporation under the name and style of "Old Dominion University;" and shall have has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1; except in those cases where, by the express terms of the provisions thereof, it is~~

~~powers that are confined to corporations created under such title; and shall also have the power to accept, execute and administer any trust in which it may have an interest under the terms creating the trust pursuant to Title 13.1. The rector and visitors of Old Dominion University board shall at all times be subject to under the control of the General Assembly.~~

B. The institution shall be known as Old Dominion University (the University).

C. All laws relating to Norfolk College or the board of visitors of Norfolk College shall be construed as relating to the University or the board, respectively.

**Drafting note: Existing §§ 23-49.11 and 23-49.12 are combined as proposed § 23.1-2000. Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education, including the specification in subsection C that all laws relating to Norfolk College relate to the University or the board.**

~~§ 23-49.12. Visitors empowered to choose title.~~

~~"The board of visitors of Old Dominion University" is empowered to choose and maintain a distinctive and appropriate title, in addition to its other powers.~~

**Drafting note: The corporate name and style is already delineated in proposed § 23.1-2000. As such, existing § 23-49.12 is recommended for repeal.**

~~§ 23-49.14 23.1-2001. Appointment of visitors generally; number and terms; vacancies; confirmation Membership.~~

~~(a) A. The board of visitors is to shall consist of seventeen 17 members to be appointed by the Governor, three of whom may be nonresidents of whom at least 14 shall be residents of the Commonwealth of Virginia and at least three of whom shall be alumni of Old Dominion the University.~~

~~(b) Prior to July 1, 1980, the Governor shall appoint successors to the members whose terms expire in 1980 for terms of four years and four additional members, one for a term of one year, one for a term of two years, one for a term of three years and one for a term of four years. Annually thereafter, the Governor shall appoint members to fill vacancies caused by the expiration of terms for terms of four years.~~

~~(c) All vacancies, whether occasioned by failure to make an appointment within the sixty days preceding any regular expiration as required, or otherwise, are to be filled by the Governor for the unexpired term.~~

~~(d) All appointments are subject to confirmation by the General Assembly if in session when such appointments are made, and if not in session, then at its next succeeding session. Visitors shall continue to discharge their duties after their terms have expired until their successors have been appointed and have qualified.~~

B. The alumni association of the University may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.



**Drafting note: Existing provisions relating to the membership of the board of visitors are logically combined in this proposed section, existing provisions relating to the terms and removal of members of the board are stricken and incorporated instead into proposed § 23.1-1300, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education.**

~~§ 23-49.15. Nominations for appointment to board of visitors.~~

~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him, by the alumni association of Old Dominion University, or its titular successor, on or before April 1 of any year in which the terms of any visitors will expire.~~

~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall certify this fact to the association and nominations may be submitted of qualified persons and the Governor may fill the vacancy, if his discretion so dictates, from among the eligible nominees of the association, whether or not alumni or alumnae.~~

~~(c) [Repealed.]~~

~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

**Drafting note: The provisions of existing § 23-49.15 are stricken and incorporated instead into proposed § 23.1-2001.**

~~§ 23-49.16. Visitor ineligible for more than two successive terms.~~

~~No person shall be eligible to serve for or during more than two successive four year terms.~~

**Drafting note: The provisions of existing § 23-49.16 are stricken and incorporated instead into proposed § 23.1-1300.**

~~§ 23-49.17. 23.1-2002. Rights, powers and duties of board in general; meetings; rector, vice rector and secretary; executive committee Meetings; officers; committees.~~

~~A. The board of visitors shall be vested with all the rights and powers conferred by the provisions of this chapter insofar as the same are not inconsistent with the provisions of this chapter and the general laws of the Commonwealth.~~

~~The board shall control and expend the funds of the University and any appropriation hereafter provided, and shall make all needful rules and regulations concerning the University, appoint the president, who shall be its chief executive officer, and all professors, teachers, staff members and agents, and fix their salaries, and generally direct the affairs of the University.~~

~~B. The board of visitors shall meet at the University once a year, and at such other times as they shall determine, the days of meetings to be fixed by them it determines. Special meetings of the board may be called by the rector or any three members. The secretary shall provide notice of any special meeting to each member.~~

~~B. A majority of voting members shall constitute a quorum.~~

~~C. At the first meeting after July 1, 1962, and every second year thereafter, they in every even-numbered year, the board shall elect from their own body its membership a rector, who shall to preside at their its meetings, a secretary and a vice-rector to preside at its meetings in the absence of the rector, and a secretary to preside at its meetings in the absence of the rector and vice-rector.~~

~~In the absence of the rector or vice-rector at any meeting, the secretary shall preside, and on the absence of all three, the~~ D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector, vice-rector, and secretary.

~~Any vacancies~~ E. Vacancies in the offices of rector, vice-rector or, and secretary may be filled by the board for the unexpired term. Special meetings of the board may be called by the rector or any three members. In either of such cases, notice of the time of meetings shall be given by the secretary to every member.

~~C. F. At every regular annual meeting of the board, an executive committee of no fewer than five members may be appointed for the transaction of business in the recess of the board may be appointed, consisting of at least five members. The executive committee shall be consist of the officers of the board and such other members as shall be appointed by the rector may appoint.~~

**Drafting note: Technical changes are made to conform provisions relating to meetings, officers, and committees of the board to those of each other baccalaureate public institution of higher education. Board duties set forth in subsection A of existing § 23-49.17 are relocated to §§ 23.1-1301 and 23.1-2003.**

~~§ 23-49.18. Board may fix tuition, fees and other necessary charges.~~

~~The board of visitors may fix, in their discretion, the rates charged the students of the University for tuition, fees and other necessary charges.~~

**Drafting note: The provisions of existing § 23-49.18 are stricken and incorporated instead into proposed § 23.1-1301.**

~~§ 23-49.19 23.1-2003. Right to confer degrees Powers and duties.~~

A. The board shall (i) appoint all teachers, staff members, and agents and fix their salaries and (ii) generally direct the affairs of the University.

B. The board of visitors shall have the right to may confer degrees.

~~§ 23-49.13. Property transferred to visitors and owned by Commonwealth; gifts or bequests.~~

~~All the real estate and personal property now existing and heretofore (before June 27, 1966) standing in the name of the corporate body designated "Norfolk College," located in Norfolk, and heretofore exclusively used by the Norfolk College, shall be transferred to and be known and taken as standing in the name, and to be under the control, of the corporate body designated "The Visitors of Old Dominion University." Such real estate and personal property shall be the property of the Commonwealth of Virginia.~~

~~Every~~ C. The board may take, hold, and enjoy any gift, grant, devise, or bequest heretofore or hereafter made to Old Dominion the University; for any use or purpose or purposes, designated by the donor, the corporation is empowered to receive, take, hold and enjoy the same for the uses and purposes designated by the donor if he or she shall so designate, or for the general purposes of the corporation board when the gift, grant, devise or bequest is not so no use or purpose is designated, whether the same be given such gift, grant, devise, or bequest is made directly to the corporation; or to trustees for its benefit.

**Drafting note: Subsection A incorporates board duties set forth in subsection A of existing § 23-49.17. Subsection B incorporates the provisions of existing § 23-49.19. The first paragraph of existing § 23-49.13 is stricken here and incorporated instead into proposed § 23.1-1310. Subsection C incorporates the provisions of the second paragraph of existing § 23-49.13. Technical changes are made.**

~~§ 23-49.20~~ 23.1-2004. Normal course to be maintained Program of instruction to educate and train teachers.

The University may maintain ~~in connection with its collegiate course, which shall be continued,~~ a system of normal a program of instruction and training for the purpose of educating and training to educate and train teachers for the public-free elementary and secondary schools of the Commonwealth.

**Drafting note: Technical changes.**

~~§ 23-49.21. Lease or sale of real estate.~~

~~The rector and visitors of Old Dominion University, with the approval of the Governor first obtained, are hereby authorized to lease, sell and convey any and all real estate to which it has acquired title by gift, devise or purchase since the commencement of the University under any previous name or names, or which may hereafter be conveyed or devised to it. The proceeds derived from any such lease, sale or sales shall be held by said rector and visitors of Old Dominion University upon the identical trusts, and subject to the same uses, limitations and conditions, if any, that are expressed in the original deed or will under which its title was derived, or if there be no such trusts, uses, limitations or conditions expressed in such original deed or will, then said funds shall be applied by the rector and visitors of the University to such purposes as said board may deem best for the University.~~

**Drafting note: The provisions of existing § 23-49.21 are stricken and incorporated instead into proposed § 23.1-1301.**

~~§ 23-49.22.~~

**Drafting note: Repealed by Acts 1968, c. 545.**

Article 2.

~~Center for Graduate and Undergraduate Studies.~~

**Drafting note: Existing Article 2 (§§ 23-49.22:1 through 23-49.22:4) of Chapter 5.2 and its contents are recommended for repeal as obsolete because Old Dominion University and Norfolk State University do not currently operate such a center.**

~~§ 23-49.22:1. Center for graduate and undergraduate studies authorized; executive director.~~

~~A. In addition to such powers conferred by this chapter and Chapter 13.1 (§ 23-174.1 et seq.) of this title, the boards of visitors of Old Dominion University and Norfolk State University shall be empowered to jointly establish, from such funds as may be appropriated or received, and to supervise and control a center for graduate and undergraduate studies to serve the Cities of Chesapeake, Portsmouth, and Suffolk. The boards of visitors may enter into agreements for the sharing of faculty and equipment for the operation of the center.~~

~~B. The boards may appoint an executive director for the center, who shall perform the specific duties imposed by the boards of visitors and shall employ such personnel and contract for such services as may be required for the operation of the center.~~

**Drafting note: Existing § 23-49.22:1 is recommended for repeal as obsolete.**

~~§ 23-49.22:2. Administration.~~

~~The boards of visitors of Old Dominion University and Norfolk State University shall have the same powers as to determining the fields of instruction to be offered; fixing tuition, fees, and other charges; appointing and removing administrative officers, professors, and agents; and the making of rules and regulations as are now vested in their respective boards. The boards shall have the power to grant appropriate diplomas or certificates upon the successful completion of the curriculum of the center.~~

**Drafting note: Existing § 23-49.22:2 is recommended for repeal as obsolete.**

~~§ 23-49.22:3. Curriculum.~~

~~The curriculum offered by the center shall be limited to upper level undergraduate and graduate courses of instruction which are offered by Old Dominion University and Norfolk State University. The approval of the State Council of Higher Education shall be required for the addition of any new academic programs pursuant to § 23-9.6:1. In developing upper level undergraduate educational programs, the boards shall consider articulation agreements and course offerings at area community colleges to ensure the appropriate breadth and availability of coursework.~~

**Drafting note: Existing § 23-49.22:3 is recommended for repeal as obsolete.**

~~§ 23-49.22:4. Care, preservation, and acquisition of property; gifts and donations.~~

~~The boards of visitors of Old Dominion University and Norfolk State University shall be charged with the care and preservation of all real and personal property belonging to the center.~~

~~The boards are authorized to lease or acquire by gift or purchase a suitable site for the center and to accept and expend gifts and donations of any kind from individuals, firms, corporations, and organizations.~~

**Drafting note: Existing § 23-49.22:4 is recommended for repeal as obsolete.**

~~CHAPTER 11.1~~ 21.  
RADFORD UNIVERSITY.

**Drafting note: Existing Chapter 11.1 (§ 23-155.1 et seq.) is logically reorganized as proposed Chapters 13 and 21. Existing provisions that apply generally to governing boards of public institutions of higher education are consolidated in Chapter 13. Existing provisions relating to the incorporation, membership, and powers and duties of the board of visitors that are unique to the University are retained in Chapter 21.**

~~§ 23-155.1 23.1-2100. Corporation composed of board of visitors created; style Corporate name; name of the University.~~

~~A. The corporation composed of the board of visitors of Radford College, heretofore established by law, is continued as the board of visitors of Radford University (the board) is a corporation under the name and style of "The Visitors of Radford University" in this chapter hereinafter referred to as the board and has, 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.~~

~~All laws relating to Radford College or the board of visitors of Radford College shall be construed as relating to Radford University or the board.~~

~~§ 23-155.2. Name of University.~~

~~B. The University institution shall be known as Radford University (the University).~~

~~C. All laws relating to Radford College or the board of visitors of Radford College shall be construed as relating to the University or the board, respectively.~~

**Drafting note: The provisions of existing §§ 23-155.1 and 23-155.2 are combined as proposed § 23.1-2100. Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-155.3. Transfer of property from board of visitors of Radford College.~~

~~All the real estate and personal property now existing and heretofore standing in the name of the visitors of Radford College shall be transferred to and be known and taken as standing in the name, and to be under the control, of the visitors of Radford University. Such real estate and personal property shall be the property of the Commonwealth.~~

**Drafting note: The provisions of existing § 23-155.3 are stricken here and incorporated instead into proposed § 23.1-1310.**

~~§ 23-155.4 23.1-2101. Appointment of visitors; terms; vacancies Membership.~~

~~(a) A. The board shall consist of 15 members who shall be appointed by the Governor, of whom at least 11 shall be residents of the Commonwealth.~~

~~(b) Of the four members taking new seats of the board to be appointed by the Governor for terms beginning July 1, 2007, two shall be appointed for initial terms of three years each and two for terms of four years each. Successors to all members shall be appointed to serve for terms of four years each. Vacancies occurring other than by expiration of term shall be filled for the unexpired term. Of the persons so appointed four may be nonresidents of the Commonwealth.~~

~~(c) All appointments shall be subject to confirmation by the General Assembly. Members shall continue to hold office until their successors have been appointed and have qualified.~~

~~B. The alumni association of the University may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.~~

**Drafting note: Existing provisions relating to the membership of the board of visitors are logically combined in this proposed section, existing provisions relating to the terms and removal of members of the board are stricken and incorporated instead into proposed § 23.1-1300, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education.**

~~§ 23-155.5. Appointment of visitors from list submitted by alumni association.~~

~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him, by the alumni association of the Radford College, or its titular successor, on or before the first day of July of any year in which the terms of any visitors will begin or expire.~~

~~(b) Every list shall contain at least three names of each vacancy to be filled.~~

~~(c) The Governor is not to be limited in his appointments to the persons so nominated.~~

**Drafting note: The July 1 deadline for alumni association recommendations is recommended for repeal as obsolete because such provision is not enforced and is inconsistent with current practice. The remaining provisions of existing § 23-155.5 are stricken and incorporated instead into proposed § 23.1-2101.**

~~§ 23-155.6.~~

**Drafting note: Repealed by Acts 2015, c. 560.**

~~§ 23-155.7 23.1-2102. Rights, powers Powers and duties of board generally.~~

~~A. The board shall be vested with all the rights and powers conferred by the provisions of this chapter insofar as the same are not inconsistent with the laws of the Commonwealth.~~

~~The board shall control and expend the funds of the University and any appropriation hereafter provided, and shall make all needful rules and regulations concerning the University, appoint the president, who shall be its chief executive officer, and all professors, teachers and~~

~~agents, (i) provide for the employment of personnel as required and fix their salaries; and (ii) generally direct the affairs of the University.~~

~~§ 23-155.9. Right to confer degrees.~~

~~B. The board shall have the right to~~ may confer degrees.

**Drafting note: Duties of the board set forth in the second paragraph of existing § 23-155.7 are stricken and incorporated instead into proposed § 23.1-1301. The provisions of existing § 23-155.9 are incorporated as subsection B of this proposed section. Technical changes are made.**

~~§ 23-155.8. Board may fix rates, fees and charges.~~

~~The board may fix the rates charged the students of the University for tuition, fees and other necessary charges.~~

**Drafting note: The provisions of existing § 23-155.8 are stricken and incorporated instead into proposed § 23.1-1301.**

~~§ 23-155.10 23.1-2103. Curriculum Program of instruction to educate and train teachers.~~

~~The curriculum of Radford University shall embrace such branches of learning as relate to teaching in the public free schools of Virginia, without excluding other studies in the arts and sciences~~ maintain a program of instruction to educate and train teachers for the public elementary and secondary schools of the Commonwealth without excluding other programs of instruction.

**Drafting note: Technical changes.**

## CHAPTER ~~9~~ 22.

### UNIVERSITY OF VIRGINIA.

**Drafting note: Existing Chapter 9 (§ 23-62 et seq.) is logically reorganized as proposed Chapters 13 and 22. 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 board of visitors that are unique to the University of Virginia are retained in proposed Chapter 22.**

#### Article 1.

##### General Provisions.

**Drafting note: The provisions of existing Articles 1 (§ 23-62 et seq.) and 2 (§ 23-69 et seq.) of Chapter 9 are reorganized as proposed Article 1 of Chapter 22, and technical changes are made.**

~~§ 23-62. University continued.~~

~~The University of Virginia shall be continued.~~

**Drafting note: The provisions of existing § 23-62 are recommended for repeal as obsolete because the University of Virginia is continued by virtue of the inclusion of proposed Chapter 22 and its contents in proposed Title 23.1.**

~~§ 23-69 23.1-2200. Board a corporation~~ Corporate name; name of the University.

A. The board of visitors of the University of Virginia shall be and remain (the board) is a corporation, under the name and style of "the Rector and Visitors of the University of Virginia," and shall have has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1; except in those cases where, by the express terms of the provisions thereof, it is confined to corporations created under such title; and shall also have the power to accept, execute and administer any trust in which it may have an interest under the terms of the instrument creating the trust those powers that are confined to corporations created pursuant to Title 13.1. The rector and visitors of the University of Virginia board shall be at all times subject to be under the control of the General Assembly.

B. The institution shall be known as the University of Virginia (the University).

**Drafting note: Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-70 23.1-2201. Appointment of visitors generally; number and terms of office~~ Membership.

A. The board of visitors is to shall consist of 17 visitors members appointed by the Governor, of whom at least (i) at least 12 shall be appointed from the Commonwealth at large, (ii) at least 12 shall be alumni of the University of Virginia, and (iii) at least one shall be a physician with administrative and clinical experience in an academic medical center.

B. All appointments on or after July 1, 2008, shall be for terms of four years and commence July 1 of the first year of appointment, except that appointments to fill vacancies shall be made for the unexpired terms. Members shall complete their service on June 30 of the year in which their respective terms expire, including appointments made prior to July 1, 2008. All appointments for full terms, as well as to fill vacancies, shall be made by the Governor subject to confirmation by the Senate and the House of Delegates. The alumni association of the University may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint members from the list of nominees.

**Drafting note: Existing provisions relating to the membership of the board of visitors are logically combined in this proposed section, existing provisions relating to the terms and removal of members of the board are stricken and incorporated instead into proposed § 23.1-1300, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education.**



~~§ 23-71. Appointment of visitors from nominees of alumni association.~~

~~A. The Governor may appoint visitors from a list of qualified persons submitted to him, before or after induction into office, by the alumni association of the University of Virginia, on or before the first day of April of any year in which the terms of any visitors will expire.~~

~~B. Whenever a vacancy occurs otherwise than by expiration of term, the Governor shall certify this fact to the association and nominations may be submitted of qualified persons and the Governor may fill the vacancy, if his discretion so dictates, from among the eligible nominees of the association, whether or not alumni or alumnae.~~

~~C. Every list shall contain at least three names for each vacancy to be filled.~~

~~D. The Governor is not to be limited in his appointments to the persons so nominated.~~

~~E. At no time shall less than 12 of the visitors be alumni or alumnae of the University.~~

**Drafting note: The provisions of existing § 23-71 are stricken and incorporated instead into proposed § 23.1-2201.**

~~§ 23-72. Eligibility to serve more than two successive terms.~~

~~No person shall be eligible to serve for or during more than two successive four-year terms; but after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional four-year terms may be served by such a member if appointed thereto.~~

**Drafting note: The provisions of existing § 23-72 are stricken and incorporated instead into proposed § 23.1-1300.**

~~§ 23-73.~~

**Drafting note: Repealed by Acts 2015, c. 560.**

~~§ 23-74. 23.1-2202. Meetings of board of visitors; quorum; rector and vice-rector; secretary; officers; committees.~~

~~A. The board of visitors shall meet at the University at least once a year; and at such other times as they shall determine, the days of meeting to be fixed by them and places as it determines. Special meetings of the board may be called by the rector or any three members. The Secretary shall provide notice of any special meeting to each member.~~

~~B. Five members shall constitute a quorum.~~

~~C. The board of visitors shall appoint; from among its members, membership a rector to preside at their its meetings and a vice-rector to preside at their its meetings in the absence of the rector. The board may appoint a substitute pro tempore to preside in the absence of the rector and vice-rector. The rector and the vice-rector shall also perform such any additional duties as the board may prescribe prescribed by the board. The terms of the rector and vice-rector shall be for two years, commencing and expiring as provided in the board's bylaws.~~

~~D. The board shall also appoint a secretary for such term and with such duties as the board shall prescribe who shall serve a term and perform duties as prescribed by the board.~~

~~The board may also appoint a substitute pro tempore, as provided in its bylaws, to preside in the absence of the rector or the vice rector.~~

~~E. Vacancies in the office offices of rector, vice rector or, and secretary may be filled by the board for the unexpired term, as provided in the Board's bylaws.~~

~~Special meetings of the board may be called by the rector or any three members. In either of such cases, notice of the time of meeting shall be given by the secretary to every member.~~

~~§ 23-75. Executive committee of board.~~

~~F. At every regular annual meeting of the board, the members board shall appoint an executive committee for the transaction of business in the recess of the board, which shall consist consisting of not less than at least three nor and not more than seven members, to serve for the period of one year or until the next regular annual meeting.~~

**Drafting note: Existing provisions relating to meetings, officers, and committees of the board of visitors are logically combined in this proposed section, including relocating existing § 23-75 as proposed subsection F. Technical changes are made to conform the language to that of each other baccalaureate public institution of higher education.**

~~§ 23-63 23.1-2203. Branches of learning Courses of study to be taught.~~

The following ~~branches of learning~~ courses of study shall be taught at the University: the Latin, Greek, Hebrew, French, Spanish, Italian, German, and Anglo-Saxon languages; the different branches of mathematics, pure and physical; natural philosophy, chemistry, and mineralogy, including geology; the principles of agriculture; botany, anatomy, surgery, and medicine; zoology, history, ideology, general grammar, ethics, rhetoric, and belles lettres; and civil government, political economy, the law of nature and of nations, and municipal law.

**Drafting note: Technical changes.**

~~§ 23-64 23.1-2204. Salary of president and professors; fees.~~

The president and each of the professors shall receive a stated salary, ~~and~~ The board may also receive such additional compensation supplement such stated salary out of the fees for tuition and other revenues of the University ~~as the visitors may from time to time direct.~~

**Drafting note: Technical changes.**

~~§ 23-65 23.1-2205. Secured obligations.~~

It shall ~~not be lawful~~ unlawful for the ~~rector and visitors of the University of Virginia~~ board to issue its obligations; to be secured by deed of trust on its real estate; without the prior consent of the General Assembly ~~previously obtained.~~

**Drafting note: Technical changes.**

~~§ 23-66 23.1-2206. Payment of bonds of the University.~~

For the payment of the bonds, with the interest ~~thereon~~ on such bonds, issued ~~in~~ pursuance of pursuant to the act entitled "An act to authorize the rector and board of visitors of the University of Virginia to issue bonds to pay off and discharge their floating debt and

maturing obligations," approved March 28, 1871, ~~not only~~ the current revenue of the University; ~~but also~~ and the property ~~now~~ held by the Commonwealth for the purposes of the University; shall continue liable.

**Drafting note: Technical changes.**

~~§ 23-67~~ 23.1-2207. Payment of interest on debt of University; sinking fund.

Out of the appropriation made by the General Assembly for the support of the University of Virginia, there shall be first set apart, annually, a sum sufficient to pay the interest accruing on the existing interest-bearing debt of the University, except as provided in ~~§ 23-21~~ 23.1-1109, and to constitute a sinking fund for the liquidation of the principal of ~~the same; and such~~ debt. Such sum shall be applied to no other purpose or object ~~whatever~~.

**Drafting note: Technical changes.**

~~§ 23-68~~ 23.1-2208. Provision for interest on certain bonds.

~~Two several~~ The Comptroller shall place in the state treasury a sum sufficient to pay semiannually six percent annual interest on two sums of \$50,000 in consol bonds of the Commonwealth having been donated by William W. Corcoran, of Washington, D.C., to the University; and the consol bonds, having, under the act of January 13, 1877, and the act of April 2, 1879, been converted into registered bonds in the name of the rector and visitors of the University, bearing interest at the rate of six per centum per annum, payable semiannually: It is enacted, that for the continued payment of such interest, the Comptroller is authorized and required to place, from time to time, in the state treasury a sufficient sum to pay the same as it falls due board.

**Drafting note: Technical changes, including striking the superfluous term "from time to time" per Code Commission policy.**

~~§ 23-76~~ 23.1-2209. Powers and duties ~~of board; president and other officers; professors and instruction; regulations~~.

A. The board shall be charged with the (i) care for and preservation of preserve all property belonging to the University. They shall appoint a president, with such duties as may be prescribed by the board, and who shall have, (ii) grant to the president of the University supreme administrative direction under the authority of the board over all the schools, colleges, divisions, and branches of the University wherever located, and they shall appoint as many professors as they deem proper, and,

~~§ 23-78~~. Testimonials to students.

The board shall, and (iii) examine into the progress of the students in each year; and shall give to those who excel in any branch of learning course of study such honorary testimonials of approbation honors as they deem it deems proper.

B. The board may (i) remove the president of the University or any professor with the assent of two-thirds of the whole number of visitors, may remove such president or any

~~professor. They may~~ its members, (ii) prescribe the duties of each professor; and the course and mode of instruction. ~~They may, (iii) appoint a comptroller and proctor; and employ any other agents agent or servants servant, (iv) regulate the government and discipline of the students, and the renting of the rooms and dormitories, and, generally, in respect to the government and management of the University, make such regulations as they may deem expedient, not being contrary to law. To~~ and (v) to enable the proctor and visitors of the University board to procure a supply of water; and to construct and maintain a system of waterworks, drainage, and sewerage for the University they shall have power and authority to, acquire such springs, lands, and rights-of-way as may be necessary, according to the provisions of Title 25.1.

**Drafting note: The provisions of existing § 23-76 regarding appointing a president and professors, disciplining students, and making regulations are stricken here and incorporated instead into proposed § 23.1-1301. Proposed subsection A incorporated the provisions of existing § 23-78. Technical changes are made.**

~~§ 23-76.1~~ 23.1-2210. Investment of endowment funds, endowment income, and gifts; standard of care; liability; exemption from the Virginia Public Procurement Act etc.

A. As used in this section:

"Derivative" means a contract or financial instrument or a combination of contracts and financial instruments, including any contract commonly known as a "swap," that gives the University the right or obligation to deliver, receive delivery of, or make or receive payments based on changes in the price, value, yield, or other characteristic of a tangible or intangible asset or group of assets or changes in a rate, index of prices or rates, or other market indicator for an asset or group of assets.

"Financial security" means (i) any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; (ii) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof; (iii) any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; (iv) in general, any interest or instrument commonly known as a "security"; or (v) any certificate of interest or participation in, temporary or interim security for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any financial security.

"Option" means an agreement or contract whereby the University may grant or receive the right to purchase, sell, or pay or receive the value of any personal property asset, including any agreement or contract that relates to any security, contract, or agreement.

B. The board of visitors shall invest and manage the endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the

University in accordance with this section and the provisions of the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

~~B.-C.~~ B. No member of the board of visitors shall be is personally liable for losses suffered by ~~an~~ any endowment fund, endowment income, ~~gifts~~ gift, ~~all~~ other nongeneral fund ~~reserves~~ reserve and ~~balances~~ balance, or local funds of or held by the University, arising from investments made pursuant to the provisions of subsection A.

~~C.-D.~~ C. The investment and management of endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the University ~~shall~~ is not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

~~D.-E.~~ D. In addition to the investment practices authorized by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board of visitors may ~~also~~ invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the University in derivatives, options, and financial securities.

1. ~~In this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments, including, without limitation, any contract commonly known as a "swap," which gives the University the right or obligation to deliver or receive delivery of, or make or receive payments based on, changes in the price, value, yield or other characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.~~

2. ~~In this section, an "option" means an agreement or contract whereby the University may grant or receive the right to purchase or sell, or pay or receive the value of, any personal property asset including, without limitation, any agreement or contract that relates to any security, contract, or agreement.~~

3. ~~In this section, "financial security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, collateral trust certificate, preorganization certificate of subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim security for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

~~E.-F.~~ E. The authority ~~as provided in this section as it relates to~~ invest and reinvest nongeneral fund reserves and balances of or held by the University is predicated upon an approved management agreement between the University and the Commonwealth of Virginia.

**Drafting note: Technical changes.**

~~§ 23-77. Confirmation of certain proceedings and contracts.~~

~~All proceedings heretofore had before any court or in any clerk's office, and all contracts heretofore entered into, for acquiring land by condemnation or purchase, for any of the purposes mentioned in § 23-76, are hereby confirmed and made valid.~~

**Drafting note: The provisions of existing § 23-77 are recommended for repeal as obsolete because all such proceedings and contracts have already been confirmed and made valid on a certain past date.**

~~§ 23-77.1. Authority to sell and convey certain lands.~~

~~The rector and visitors of the University of Virginia, with the approval of the Governor first obtained, are hereby authorized to sell and convey any and all real estate to which it has acquired title by gift, devise or purchase since January 1, 1900, or which may hereafter be conveyed or devised to it. The proceeds derived from any such sale or sales shall be held by said rector and visitors of the University of Virginia upon the identical trusts, and subject to the same uses, limitations and conditions, if any, that are expressed in the original deed or will under which its title was derived, or if there be no such trusts, uses, limitations or conditions expressed in such original deed or will, then said funds shall be applied by the rector and visitors of the University to such purposes as said board may deem best for the University.~~

**Drafting note: The provisions of existing § 23-77.1 are stricken here and incorporated instead into proposed § 23.1-1301.**

~~§ 23-77.2. Granting easements on property of the University.~~

~~The rector and visitors of the University of Virginia are hereby authorized to grant easements for roads, streets, sewers, water lines, electric and other utility lines or other purpose on any property now owned or hereafter acquired by said rector and visitors of the University of Virginia, when in the discretion of the rector and visitors it is deemed proper to grant such easement.~~

**Drafting note: The provisions of existing § 23-77.2 are stricken here and incorporated instead into proposed § 23.1-1301.**

~~§ 23-79. Visitors' expenses.~~

~~Such reasonable expenses as the visitors may incur in the discharge of their duties shall be paid out of the funds of the University.~~

**Drafting note: The provisions of existing § 23-79 are stricken here and incorporated instead into § 23.1-1307.**

~~§ 23-80.~~

**Drafting note: Repealed by Acts 2009, c. 72.**

Article ~~9~~ 2.

The University of Virginia's College at Wise.

**Drafting note: The provisions of the first three sections in existing Article 9 (§ 23-91.20 et seq.) of Chapter 9 are logically combined as a single section, § 23.1-2211, in proposed Article 2 of Chapter 22. The fourth and final section in existing Article 9, § 23-91.23, is recommended for repeal as obsolete.**

~~§ 23-91.20 23.1-2211. Institution a division of The University of Virginia under supervision, etc., of rector and visitors; authorized to grant degrees~~ Virginia's College at Wise.

A. The University of Virginia's College at Wise (the College), established in Wise County, Virginia, shall be is a division of the University of Virginia. It shall be and a four-year college with the right to prepare students for the granting of degrees upon graduation therefrom. It shall be an integral part of the University of Virginia and be baccalaureate public institution of higher education subject to the supervision, management, and control of the rector and visitors of the University of Virginia board.

~~§ 23-91.22. Expenditure of appropriations.~~

Appropriations, directly or indirectly, B. Direct and indirect appropriations from the Commonwealth to such division the College shall be expended as directed by the rector and visitors of the University of Virginia board.

~~§ 23-91.21. Property, duties, contracts, etc., vested in rector and visitors of University; principal administrative officer of division; powers of board of visitors generally; title of local administrative officer.~~

C. All property, property rights, duties, contracts, and agreements of such division are the College are vested in the rector and visitors of the University of Virginia board. The president of the University of Virginia, by virtue of his office, shall be the principal administrative officer of such division. The board of visitors of the University is charged with the care and preservation of shall care for and preserve all property belonging to such division the College.

D. With respect to such division the College, the board of visitors shall have has all the same powers as to granting degrees, as to fixing tuitions, fees and charges, as to borrowing money and issuing bonds, as to the appointment and removal of administrative officers, professors, agents and servants, and the making of rules and regulations, as that are now vested in them the board with respect to the University.

E. The president of the University shall be the principal administrative officer of the College.

F. The board shall fix the title of the chief local administrative executive officer of such division shall be fixed by the board of visitors the College.

**Drafting note: The provisions of the first three sections in existing Article 9 (§ 23-91.20 et seq.) of Chapter 9 are logically combined as a single section, § 23.1-2211, in proposed Article 2 of Chapter 22. Technical changes are made.**

~~§ 23-91.23. Validation of prior acts and proceedings of rector and visitors.~~

~~All acts and proceedings heretofore [before September 1, 1968] taken by the rector and visitors of the University of Virginia with respect to the establishment and maintenance of the University of Virginia's College at Wise, including all contracts, loan agreements and other agreements of whatsoever nature, are hereby ratified, validated and confirmed.~~

**Drafting note: The provisions of existing § 23-91.23 are stricken as obsolete because all such acts and proceedings have already been ratified, validated, and confirmed on a certain past date.**

Article ~~2~~ 3.

Board of Visitors Medical Center.

**Drafting note: The provisions of existing Article 2, Board of Visitors, have been logically reorganized in proposed Chapter 22: Existing §§ 23-69 through 23-77.2 and §§ 23-78, 23-79, and 23-80 have been moved into and addressed in proposed Article 1, General Provisions. Existing §§ 23-77.3 and 23-77.4, relating to the University of Virginia Medical Center, are logically reorganized as five sections in proposed Article 3, Medical Center, of Chapter 22.**

~~§ 23-77.3~~ 23.1-2212. Operations of Medical Center.

A. ~~In enacting this section, the General Assembly recognizes that the~~ The ability of the University of Virginia to provide medical and health sciences education and related research is dependent upon the maintenance of high quality teaching hospitals and related health care and health maintenance facilities, collectively referred to in this ~~section~~ article as the Medical Center, and ~~that~~ the maintenance of a Medical Center serving such purposes requires specialized management and operation that permit the Medical Center to remain economically viable and ~~to~~ participate in cooperative arrangements reflective of changes in health care delivery.

B. Notwithstanding the provisions of § 32.1-124 exempting hospitals and nursing homes owned or operated by an agency of the Commonwealth from state licensure, the Medical Center shall be, for so long as the Medical Center maintains its accreditation by a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to ensure compliance with Medicare conditions of participation pursuant to § 1865 of Title XVIII of the Social Security Act (42 U.S.C. § 1395bb), deemed to be licensed as a hospital for purposes of other law relating to the operation of hospitals licensed by the Board of Health. The Medical Center shall not, however, be deemed to be a licensed hospital to the extent that any law relating to licensure of hospitals specifically excludes the Commonwealth or its agencies. As an agency of the Commonwealth, the Medical Center shall, ~~in addition,~~ remain (i) exempt from licensure by the Board of Health pursuant to § 32.1-124 and (ii) subject to the Virginia Tort Claims Act (§ 8.01-195.1 et seq.). ~~Further, this~~ This subsection shall not be construed as a waiver of the Commonwealth's sovereign immunity.



C. ~~Without limiting the powers provided in this chapter, the~~ The University of Virginia may create, own in whole or in part, or otherwise control corporations, partnerships, insurers, or other entities whose activities ~~will~~ promote the operations of the Medical Center and its mission; ~~may~~; cooperate or enter into joint ventures with such entities and with government bodies; and ~~may~~ enter into contracts in connection ~~therewith~~ with its operations. Without limiting the power of the University of Virginia to issue bonds, notes, guarantees, or other evidence of indebtedness ~~under~~ pursuant to subsection D in connection with such activities, no such creation, ownership, or control shall create any responsibility of the University, the Commonwealth, or any ~~other~~ agency ~~thereof~~ of the Commonwealth for the operations or obligations of any such entity or in any way make the University, the Commonwealth, or any ~~other~~ agency ~~thereof~~ of the Commonwealth responsible for the payment of debt or other obligations of such entity. All such interests shall be reflected on the financial statements of the Medical Center.

D. Notwithstanding the provisions of Chapter ~~3 11~~ (~~§ 23-14 23.1-1100~~ et seq.) ~~of this title~~, the University of Virginia may issue bonds, notes, guarantees, or other evidence of indebtedness without the approval of any other governmental body subject to the following provisions:

1. Such debt is used solely for the purpose of paying not more than 50 percent of the cost of capital improvements in connection with the operation of the Medical Center or related issuance costs, reserve funds, and other financing expenses, including interest during construction ~~or~~ and acquisitions and for up to one year thereafter;

2. The only revenues of the University pledged to the payment of such debt are those derived from the operation of the Medical Center and related health care and educational activities, and ~~there are pledged therefor~~ no general fund appropriation and special Medicaid disproportionate share payments for indigent and medically indigent patients who are not eligible for the Virginia Medicaid Program; is pledged for the payment of such debt.

3. Such debt states that it does not constitute a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth;

4. Such debt is not sold to the public;

5. The total principal amount of such debt outstanding at any one time does not exceed \$25 million;

6. The Treasury Board ~~has approved~~ approves the terms and structure of such debt;

7. The purpose, terms, and structure of such debt are promptly communicated to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees; ~~and~~

8. All such indebtedness is reflected on the financial statements of the Medical Center.

E. Subject to meeting the conditions set forth ~~above~~ in subsection D, such debt may be in such form and have such terms as the board of visitors may provide and shall be in all respects debt of the University for the purposes of §§ ~~23-23 23.1-1110, 23-25 23.1-1115, and 23-26 23.1-1116.~~

**Drafting note: Technical changes.**

~~§ 23-77.4~~ 23.1-2213. Medical center management; capital projects; leases of property; procurement.

A. ~~The General Assembly recognizes and finds that the~~ economic viability of the University of Virginia Medical Center, ~~hereafter referred to as the Medical Center, together with~~ the requirement for its specialized management and operation, and the need of the Medical Center to participate in cooperative arrangements reflective of changes in health care delivery, as set forth in ~~§ 23-77.3~~ 23.1-2212, ~~are dependent~~ depend upon the ability of the management of the Medical Center to make and promptly implement ~~promptly~~ decisions necessary to conduct the affairs of the Medical Center in an efficient, competitive manner. ~~The General Assembly also recognizes and finds that it~~ It is critical to, and in the best interests of, the Commonwealth that the University ~~continue~~ continues to fulfill its mission of providing quality medical and health sciences education and related research and, through the presence of its Medical Center, ~~continue~~ continues to provide for the care, treatment, health-related services, and education activities associated with Virginia patients, including indigent and medically indigent patients. ~~Because the General Assembly finds that~~ the ability of the University to fulfill this mission is highly dependent upon revenues derived from providing health care through its Medical Center, and ~~because the General Assembly also finds that~~ the ability of the Medical Center to continue to be a reliable source of such revenues is heavily dependent upon its ability to compete with other providers of health care that are not subject to the requirements of law applicable to agencies of the Commonwealth, the University ~~is hereby authorized to~~ may implement the following modifications to the management and operation of the affairs of the Medical Center in order to enhance its economic viability:

~~B. Capital projects; leases of property; procurement of goods, services and construction.~~

~~1. Capital projects.~~

a. For any Medical Center capital project entirely funded by a nongeneral fund appropriation made by the General Assembly, all post-appropriation review, approval, administrative, and policy and procedure functions performed by the Department of General Services, the Division of Engineering and Buildings, the Department of Planning and Budget, and any other agency that supports the functions performed by these departments are ~~hereby~~ delegated to the University, subject to the following stipulations and conditions: (i) the ~~Board of Visitors~~ board shall develop and implement an appropriate system of policies, procedures, reviews, and approvals for Medical Center capital projects to which this ~~subdivision~~ subsection applies; (ii) the system so adopted shall provide for the review and approval of any Medical Center capital project to which this ~~subdivision~~ subsection applies ~~in order~~ to ensure that, except as provided in clause (iii), the cost of any such capital project does not exceed the sum ~~appropriated therefor~~ for the project and ~~that~~ the project otherwise complies with all requirements of the Code of Virginia regarding capital projects, excluding only the post-appropriation review, approval, administrative, and policy and procedure functions performed by the Department of General Services, the Division of Engineering and Buildings, the Department

of Planning and Budget, and any other agency that supports the functions performed by these departments; (iii) the ~~Board of Visitors~~ board may, during any fiscal year, approve a transfer of up to ~~a total of~~ 15 percent of the total nongeneral fund appropriation for the Medical Center ~~in order~~ to supplement funds appropriated for a capital project ~~or capital projects~~ of the Medical Center, provided that the ~~Board of Visitors~~ board finds that the transfer is necessary to effectuate the original intention of the General Assembly in making the appropriation for the capital project ~~or projects~~ in question; (iv) the University shall report to the Department of General Services on the status of any such capital project prior to commencement of construction of, and at the time of acceptance of, any such capital project; and (v) the University shall ensure that Building Officials and Code Administrators (BOCA) Code and fire safety inspections of any such project are conducted and ~~that~~ such projects are inspected by the State Fire Marshal or his designee prior to certification for building occupancy by the University's assistant state building official to whom such inspection responsibility has been delegated pursuant to § 36-98.1. Nothing in this section shall be deemed to relieve the University of any reporting requirement pursuant to § 2.2-1513. Notwithstanding the ~~foregoing provisions of this subsection~~, the terms and structure of any financing of any capital project to which this ~~subdivision~~ subsection applies shall be approved pursuant to § 2.2-2416.

b. No capital project to which this ~~subdivision~~ subsection applies shall be materially increased in size or materially changed in scope beyond the plans and justifications that were the basis for the project's appropriation unless: (i) the Governor determines that such increase in size or change in scope is necessary due to an emergency or (ii) the General Assembly approves the increase or change in a subsequent appropriation for the project. After construction of any such capital project has commenced, no such increase or change ~~may~~ shall be made during construction unless the conditions in clause (i) or (ii) have been satisfied.

## 2. Leases of property.

a. The University ~~shall be~~ is exempt from the provisions of § 2.2-1149 and ~~from~~ any rules, regulations and guidelines of the Division of Engineering and Buildings ~~in relation to~~ regarding leases of real property that it enters into on behalf of the Medical Center and, pursuant to policies and procedures adopted by the ~~Board of Visitors~~ board, may enter into such leases subject to the following conditions: (i) the lease ~~must~~ shall be an operating lease and not a capital lease as defined in guidelines established by the Secretary of Finance and ~~Generally Accepted Accounting Principles (GAAP)~~ generally accepted accounting principles; (ii) the University's decision to enter into such a lease shall be based upon cost, demonstrated need, and compliance with guidelines adopted by the ~~Board of Visitors~~ board ~~which~~ that direct that (a) competition be sought to the maximum practical degree, ~~that~~ (b) all costs of occupancy be considered, and ~~that~~ (c) the use of the space to be leased ~~actually~~ is necessary and ~~is~~ efficiently planned; (iii) the form of the lease is approved by the Special Assistant Attorney General representing the University; (iv) the lease otherwise meets all requirements of law; (v) the leased property is certified for occupancy by the building official of the political subdivision in which the leased property is

located; and (vi) upon entering such leases and upon any subsequent amendment of such leases, the University ~~shall provide~~ provides copies of all lease documents and any attachments ~~thereto to such lease documents~~ to the Department of General Services.

b. Notwithstanding the provisions of ~~§§ 2.2-1155 and 23-4.1~~ subdivision B 1 of § 23.1-1301, but subject to policies and procedures adopted by the ~~Board of Visitors~~ board, the University may lease, for a purpose consistent with the mission of the Medical Center and for a term not to exceed 50 years, property in the possession or control of the Medical Center.

c. Notwithstanding the ~~foregoing~~ provisions of this subdivision, the terms and structure of any financing arrangements secured by capital leases or other similar lease financing agreements shall be approved pursuant to § 2.2-2416.

### ~~3. Procurement of goods, services and construction.~~

~~a. Contracts awarded by the University in compliance with this section, on behalf of the Medical Center, for the procurement of goods, services, including professional services, construction, and, or information technology and telecommunications, shall be in compliance with this subdivision are exempt from (i) the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except as provided below in this section; (ii) the requirements of the Division of Purchases and Supply of the Department of General Services as set forth in Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2; (iii) the requirements of the Division of Engineering and Buildings as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2; and (iv) the authority of the Chief Information Officer and the Virginia Information Technologies Agency as set forth in Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 regarding the review and approval of contracts for (a) the construction of Medical Center capital projects and (b) information technology and telecommunications projects; however, the provisions of this subdivision may not be implemented by the University until such time as the Board of Visitors has adopted.~~

b. The University shall adopt and at all times maintain guidelines generally applicable to the procurement of goods, services, construction, and information technology and telecommunications projects by the Medical Center or by the University on behalf of the Medical Center. Such guidelines shall be based upon competitive principles and ~~shall~~ in each instance seek competition to the maximum practical degree. The guidelines shall (i) implement a system of competitive negotiation for professional services; shall (ii) prohibit discrimination because of race, religion, color, sex, or national origin of against the bidder or offeror in the solicitation or award of contracts on the basis of the race, religion, color, sex, or national origin of the bidder or offeror; and (iii) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354 and may (a) take into account in all cases the dollar amount of the intended procurement, the term of the anticipated contract, and the likely extent of competition; may (b) implement a prequalification procedure for contractors or products; may (c) include provisions for cooperative procurement arrangements with private health or educational institutions, or with public agencies or institutions of the several states, or territories of the United States or the

District of Columbia; ~~shall incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354; and may (d) implement provisions of law.~~

~~The following sections of the Virginia Public Procurement Act shall continue to apply to procurements by the Medical Center or by the University on behalf of the Medical Center: §§~~

~~c. Sections 2.2-4311, 2.2-4315, and 2.2-4342 (which section shall not be construed to require compliance with the prequalification application procedures of subsection B of § 2.2-4317), and 2.2-4330; and §§ 2.2-4333 through 2.2-4341; and 2.2-4367 through 2.2-4377 shall continue to apply to procurements by the Medical Center and the University on behalf of the Medical Center.~~

~~C. B. Subject to such conditions as may be that are prescribed in the budget bill under pursuant to § 2.2-1509 as enacted into law by the General Assembly, the State Comptroller shall credit, on a monthly basis, to the nongeneral fund operating cash balances of the University of Virginia Medical Center the imputed interest earned by the investment of such nongeneral fund operating cash balances, including but not limited to those balances derived from patient care revenues, on deposit with the State Treasurer.~~

**Drafting note: Technical changes made, including removing "without limitation" when used in conjunction with "including" in subsection B based on § 1-218, which states "'Includes' means includes, but not limited to."**

#### Article ~~3~~ 4.

#### Donations.

**Drafting note: Existing Article 3 (§ 23-81 et seq.) of Chapter 9 is reorganized as proposed Article 4 of Chapter 22, and technical changes are made.**

~~§ 23-81~~ 23.1-2214. Gifts, bequests, and devises.

Any person may (i) deposit in the state treasury, or; (ii) bequeath money, stocks, or public bonds of any kind to be so deposited; or (iii) grant, devise, or bequeath property, real or personal, to be sold and the proceeds to be so deposited, in sums not less than \$100, which that shall be invested in securities that are legal investments under the laws of the Commonwealth for public funds for the benefit of the University, and in such case the interest or dividends accruing on such investments shall be paid to the rector and visitors of the University, to be by them appropriated to the general purposes thereof, board and appropriated by the board for general purposes unless some particular appropriation shall have has been designated by the donor or testator, as hereinafter provided. The State Treasurer shall notify the board of any such deposit in the state treasury.

**Drafting note: Technical changes.**

~~§ 23-82 23.1-2215. When donations~~ Donations for special purposes or objects, how applied, etc.

If any particular purpose or object connected with the University ~~be~~ is specified by ~~the~~ a donor pursuant to § 23.1-2214 at the time of such deposit; (i) by writing filed in the State Treasurer's office ~~(, which may also be recorded in the clerk's office of the Circuit Court of Albemarle County, as a deed for land is recorded),~~ or (ii) in the will of such testator, the interest, income, and profits of such fund shall be appropriated to such purpose and object; and none other; ~~or, if.~~ If the donor or testator ~~shall so direct~~ directs in such writing or will, the interest accruing on such fund shall be reinvested by the State Treasurer every six months, in the manner prescribed in § ~~23-81, 23.1-2214~~ and ~~the interest thereon shall be, from time to time, reinvested in like manner~~ for such period as such writing or will ~~shall prescribe~~ prescribes, not exceeding ~~thirty~~ 30 years; ~~and at.~~ At the expiration of the time so prescribed or ~~thirty~~ 30 years, whichever ~~shall happen~~ occurs first, the fund, with its accumulations, ~~shall be paid over to the rector and visitors of the University, or~~ and the interest, income, and profits ~~thereafter~~ accruing upon the aggregate fund shall be paid to ~~them~~ the board as ~~the same shall they~~ accrue, ~~according as the one or the other disposition shall be~~ and as directed by such writing or will; and ~~in either case the same shall be appropriated and employed according to the provisions of such writing or will; and not otherwise; and the rector and visitors of the University.~~ The board shall render to the General Assembly, at each regular session, an account of the disbursement of any funds so derived.

**Drafting note: Technical changes, including striking the superfluous term "from time to time" per Code Commission policy.**

~~§ 23-83 23.1-2216. Donations irrevocable; disposition thereof, if refused, etc~~ Disposition of donations.

~~Such donations shall be~~ Donations made pursuant to § 23.1-2214 are irrevocable by the donor or his representatives; ~~but if the authorities of the University, within one year after being notified thereof (which it shall be the duty of the State Treasurer to do immediately upon the making of such deposit with him), shall give~~ board gives notice, in writing, to the State Treasurer; ~~that they decline within one year of being notified of the donation by the Treasurer that it declines~~ to receive the benefit of such deposit, ~~the same, with whatever~~ deposit and any interest and profits ~~that may have accrued thereon,~~ shall ~~thereupon~~ be held subject to the order of such donor or his legal representatives; ~~and if.~~ If at any time the object ~~for~~ of such donation or deposit ~~is intended,~~ fails by the legal destruction of the University, or by any other means, ~~shall fail,~~ so that the purpose of the gift, bequest, or devise ~~shall be~~ is permanently frustrated, the whole fund, including unexpended principal and interest, ~~then unexpended as it shall then be,~~ shall revert to and be vested in the donor or his legal representatives.

**Drafting note: Technical changes.**

~~§ 23-84~~ 23.1-2217. Reservation of nomination by donor.

~~If the a donor shall, in such writing, filed as aforesaid, reserve pursuant to § 23.1-2214 reserves in writing as set forth in § 23.1-2215 to himself or to any other person the power to (i) nominate to any professorship, scholarship, or other place or appointment in the University; or to (ii) do any other act connected therewith, with such nomination and he or such other person shall fail at any time for six months fails to make such nomination in writing; or to do such other act within six months, the board of visitors may proceed to make such appointment or to do such act at their discretion.~~

**Drafting note: Technical changes.**

~~§ 23-85~~ 23.1-2218. Commonwealth to be trustee of donations; liability of State Treasurer.

~~The Commonwealth is hereby constituted the trustee for the safekeeping and due application of all funds which that may be deposited in the treasury in pursuance of pursuant to § 23-84 23.1-2214. The State Treasurer and the sureties in his official bond shall be are liable for the money or other funds deposited as aforesaid, and the accounting officers of the Commonwealth shall keep separate accounts of each such deposit shall be kept by the accounting officers of the Commonwealth in the same manner as are other public funds.~~

**Drafting note: Technical changes.**

~~Article 4.~~

~~Mary Washington College.~~

~~§§ 23-86 through 23-91.~~

**Drafting note: Repealed by Acts 1972, c. 861.**

~~Article 5.~~

~~Clinch Valley College and Northern Virginia Branch College.~~

~~§§ 23-91.1 through 23-91.4.~~

**Drafting note: Repealed by Acts 1966, c. 68.**

~~Article 6.~~

~~Patrick Henry College of the University of Virginia.~~

~~§§ 23-91.5 through 23-91.8.~~

**Drafting note: Repealed by Acts 1983, c. 63.**

~~Article 7.~~

~~Eastern Shore Branch of School of General Studies.~~

~~§§ 23-91.9 through 23-91.12.~~

**Drafting note: Repealed by Acts 1983, c. 63.**

~~§ 23-91.13. [Reserved.]~~

**Drafting note: This section is stricken because it is carried as reserved in the existing title.**

Article 8.

~~George Mason College.~~

~~§§ 23-91.14 through 23-91.17.~~

**Drafting note: Repealed by Acts 1972, c. 550.**

~~§§ 23-91.18, 23-91.19. [Reserved.]~~

**Drafting note: These sections are stricken because they are carried as reserved in the existing title.**

Article 10.

~~Branch Campus in Qatar.~~

**Drafting note: Existing Article 10 (§ 23-91.23:1) of Chapter 9, relating to the branch campus in Qatar, is recommended for repeal as obsolete because the University of Virginia has not established such branch campus in the 17 years since it was given the authority to establish the campus.**

~~§ 23-91.23:1. Establishment of branch campus in the State of Qatar.~~

~~In recognition that global educational opportunities benefit the intellectual and economic interests of the Commonwealth, the board of visitors of the University of Virginia is authorized to establish, operate, and govern a branch campus of the University of Virginia in the State of Qatar. The board of visitors shall have the same powers with respect to operation and governance of its branch campus in Qatar as vested in the board by the Code of Virginia with respect to the University of Virginia in Virginia, including, but not limited to, the fixing of fees and charges,<sup>2</sup> the establishment of academic standards,<sup>2</sup> and the conferral of degrees. In operating such branch campus, the board of visitors shall provide appropriate professional opportunities for Virginia-based faculty to teach or conduct research on the Qatar campus and educational opportunities for Virginia-based students to study or conduct research on the Qatar campus.~~

~~Nothing contained in this section shall be deemed a waiver of the sovereign immunity of the Commonwealth or of the University of Virginia.~~

~~In its operation of any branch campus established in the State of Qatar, the board of visitors and its employees shall not discriminate on the basis of race, color, religion, national origin, or sex, and shall not abridge the constitutional rights of freedom of speech and religion. Any agreement the board of visitors enters to establish, operate, or govern the branch campus in Qatar shall contain contractual assurances to the board that the branch campus shall operate without discrimination on the basis of race, color, religion, national origin, or sex, and without abridging the constitutional rights of freedom of speech and religion.~~

**Drafting note: The provisions of existing § 23-91.23:1 are recommended for repeal as obsolete because the University of Virginia has not established such branch campus in the 17 years since it was given the authority to establish the campus.**



CHAPTER 5.1.

~~RICHMOND PROFESSIONAL INSTITUTE.~~

~~§§ 23-49.2 through 23-49.10.~~

**Drafting note: Repealed by Acts 1968, c. 93.**

CHAPTER 6.

~~MEDICAL COLLEGE OF VIRGINIA.~~

~~§§ 23-50 through 23-50.3.~~

**Drafting note: Repealed by Acts 1968, c. 93.**

CHAPTER ~~6.1~~ 23.

VIRGINIA COMMONWEALTH UNIVERSITY.

**Drafting note: Existing Chapter 6.1 (§ 23-50.4 et seq.) is logically reorganized as proposed Chapters 13 and 23 of Title 23.1. Existing provisions that apply generally to governing boards of public institutions of higher education are consolidated in Chapter 13. Existing provisions relating to the incorporation, powers and duties, and membership and meetings of the board of visitors that are unique to Virginia Commonwealth University are retained in Chapter 23.**

~~§ 23-50.4 23.1-2300. Corporation established~~ Corporate name; name of the University.

~~There is hereby established a corporation consisting of the A. The~~ board of visitors of the Virginia Commonwealth University (the board) is a corporation under the name and style of "Virginia Commonwealth University," and has, 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 Commonwealth University (the University).

**Drafting note: Subsection A incorporates a portion of existing § 23-50.8. Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-50.7 23.1-2301. Purpose of corporation; redesignation of Medical College of Virginia board.~~

The corporation board is formed for the purpose of establishing and maintaining a university consisting of colleges, schools, and divisions offering undergraduate and graduate programs in the liberal arts and sciences and ~~programs of education~~ courses of study for the professions and such other ~~branches of learning~~ courses of study as may be appropriate, and in connection ~~therewith, it is empowered to~~ with this purpose, the board may maintain and conduct hospitals, infirmaries, dispensaries, laboratories, research centers, power plants, and such other ~~necessary related~~ facilities as ~~in the opinion of the board of visitors are deemed~~ it deems proper. ~~The colleges, schools, and divisions heretofore existing as The Medical College of Virginia shall,~~

as of July 1, 1968, be designated The Medical College of Virginia, Health Sciences Division of Virginia Commonwealth University.

**Drafting note: Provisions relating to The Medical College of Virginia are logically relocated to proposed § 23.1-2308. Technical changes are made.**

~~§ 23-50.5 23.1-2302. Transfer of property, rights, duties, etc., Property and liabilities of Medical College of Virginia and Richmond Professional Institute.~~

All real estate and personal property ~~existing and standing~~ in the name of the corporate bodies designated "Medical College of Virginia" and "Richmond Professional Institute" ~~as of July 1, 1968, shall be transferred automatically to and, by virtue of this chapter, shall be,~~ known and taken as standing in the name of, and ~~to be~~ under the control of the ~~corporate body designated "Virginia Commonwealth University."~~ Such real estate and personal property ~~shall be~~ is the property of the Commonwealth. ~~All rights, duties, contracts and agreements of the Medical College of Virginia and Richmond Professional Institute as of July 1, 1968, are hereby vested in such corporate body designated "Virginia Commonwealth~~ The University, ~~which shall thenceforth be~~ is vested with all rights, duties, contracts, and agreements and is responsible and liable for all the liabilities and obligations of ~~each of the~~ its predecessor institutions.

**Drafting note: Technical changes.**

~~§ 23-50.6 23.1-2303. Appointment, terms, etc., of board of visitors; boards of predecessor institutions to serve as advisory boards~~ Membership.

~~(a) A. The board of visitors is to~~ shall consist of ~~sixteen~~ 16 members ~~to be~~ appointed by the Governor for four-year terms ~~except that vacancies other than by expiration of term shall be filled as provided in subsection (d) and except that the initial term of the member appointed to increase the board of visitors to sixteen members shall be three years.~~

~~(b) [Repealed.]~~

~~(c) Members shall be eligible for service for two consecutive terms of four years only (exclusive of that portion of any unexpired term or any term on the board of less than four years to which he may have been appointed).~~

~~(d) All vacancies shall be filled by the Governor for the unexpired terms.~~

~~(e) All appointments are subject to confirmation by the General Assembly if in session when such appointments are made, and if not in session, at its next succeeding session. Visitors shall continue to discharge their duties after their terms have expired until their successors have been appointed and have qualified.~~

~~(f), (g) [Repealed.]~~

B. Notwithstanding § 23.1-1300, members are eligible to serve for a total of two four-year terms which may be served consecutively; however, a member appointed by the Governor to serve an unexpired term is eligible to serve two additional four-year terms.

**Drafting note: Existing provisions relating to the terms and removal of members of the board that apply generally to governing boards of public institutions of higher**

education are stricken and incorporated instead into proposed § 23.1-1300. Technical changes are made to conform the language to that of each other baccalaureate public institution of higher education. The unique provisions of existing subsection (c) are retained in proposed subsection B and technical changes are made.

~~§ 23-50.9 23.1-2304. Principal office of corporation; meetings, etc., and; officers of board of visitors; executive committee; committees.~~

~~(a) A.~~ A. The principal office of the ~~corporation~~ board shall be located, and all meetings of the board ~~of visitors~~ held, as far as practicable, in the City of Richmond.

B. ~~The board shall fix the date for its annual meeting and such other meetings as it may deem advisable meet at least once a year and at such other times as it determines. Due notice~~ Notice of all meetings shall be ~~given~~ provided to each ~~visitor~~ member.

C. ~~A majority of the members serving at any time shall constitute a quorum. Such reasonable expenses as the visitors may incur in the discharge of their duties shall be paid out of the funds of the University.~~

~~(b) D.~~ D. The board shall ~~elect~~ appoint from its ~~members~~ membership a rector, a vice-rector, a secretary, and ~~such any~~ other officers as ~~it deems necessary or advisable, and determined by the board.~~ The board shall prescribe their duties, and term of office, and fix their compensation, if any.

E. ~~The board shall also designate determine the number of members of and appoint an executive committee, and determine the number of members thereof and the number which of the executive committee that shall constitute a quorum; such. The executive committee shall perform all the duties as are delegated to it prescribed by the board.~~

F. Reasonable expenses incurred by members shall be paid out of the funds of the University.

**Drafting note: Technical changes are made to conform provisions relating to meetings, officers, and committees of the board of visitors to those of each other baccalaureate public institution of higher education.**

~~§ 23-50.10 23.1-2305. Rights and powers of board generally; appointment, etc., of president, faculty and staff; rules and regulations Powers and duties.~~

~~The board of visitors shall be vested with all the rights and powers conferred upon it by this chapter insofar as the same are not inconsistent with the general laws of the Commonwealth.~~

A. ~~The board shall appoint the president, who shall be the chief executive officer of the University, and all professors, teachers, staff members, and agents, and shall fix their salaries, and shall prescribe their duties.~~

B. ~~The board shall make all rules and regulations it deems advisable concerning the University and shall generally direct the affairs and business of the University.~~

C. The board may confer degrees, including honorary degrees.

~~§ 23-50.8. Rights, powers and privileges of corporation generally.~~

~~The corporation is vested with all the rights, powers and privileges conferred upon and subject to all the provisions relating to similar corporations under the laws of this Commonwealth so far as they are applicable and shall have, in addition to those other powers, all the corporate powers given to nonstock corporations by the provisions of Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, except in those cases where by the express terms of the provisions thereof it is confined to corporations created under Title 13.1. D. The corporation shall also have the power to board may take, hold, receive, and enjoy any gift, grant, devise, or bequest to Virginia Commonwealth the University or its predecessors, the same to be held for the uses and purposes designated by the donor, if any, or if not so designated, for the general purposes of the corporation, whether given directly or indirectly; and to accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust. The corporation shall control and expend the funds appropriated to it by the Commonwealth provided by law.~~

**Drafting note: The provisions of existing § 23-50.10 relating to the president, professors, and regulations are stricken and incorporated instead into proposed § 23.1-1303. Subsection B incorporates the provisions of existing § 23-50.12. The provisions of existing § 23-50.8 relating to corporate powers are stricken and incorporated instead into proposed §§ 23.1-2300. Proposed subsection C incorporates the provisions of existing § 23-50.12. The provisions of existing § 23-50.8 relating to controlling and expending funds are stricken and incorporated instead into proposed § 23.1-1301. The provisions of existing § 23-50.8 relating to gifts, grants, devises, and bequests are retained in subsection D of this proposed section. Technical changes are made.**

~~§ 23-50.10:01 23.1-2306. Investment of endowment funds, endowment income, and gifts; standard of care; liability; exemption from the Virginia Public Procurement Act etc.~~

A. As used in this section:

"Derivative" means a contract or financial instrument or a combination of contracts and financial instruments, including any contract commonly known as a "swap," that gives the University the right or obligation to deliver, receive delivery of, or make or receive payments based on changes in the price, value, yield, or other characteristic of a tangible or intangible asset or group of assets or changes in a rate, index of prices or rates, or other market indicator for an asset or group of assets.

"Financial security" means (i) any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; (ii) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof; (iii) any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency;

(iv) in general, any interest or instrument commonly known as a "security"; or (v) any certificate of interest or participation in, temporary or interim security for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any financial security.

"Option" means an agreement or contract whereby the University may grant or receive the right to purchase, sell, or pay or receive the value of any personal property asset, including any agreement or contract that relates to any security, contract, or agreement.

B. ~~The board of visitors~~ shall invest and manage the endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the University in accordance with this section and the provisions of the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

~~B.C.~~ No member of the board of visitors shall be is personally liable for losses suffered by ~~an any~~ an endowment fund, endowment income, ~~gifts gift, all~~ gift other nongeneral fund ~~reserves reserve and balances balance,~~ or local funds of or held by the University; arising from investments made pursuant to the provisions of subsection A.

~~C.D.~~ The investment and management of endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the University shall is not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

~~D.E.~~ In addition to the investment practices authorized by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board of visitors may also invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the University in derivatives, options, and financial securities.

~~1. In this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments, including, without limitation, any contract commonly known as a "swap," which gives the University the right or obligation to deliver or receive delivery of, or make or receive payments based on, changes in the price, value, yield or other characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.~~

~~2. In this section, an "option" means an agreement or contract whereby the University may grant or receive the right to purchase or sell, or pay or receive the value of, any personal property asset including, without limitation, any agreement or contract that relates to any security, contract, or agreement.~~

~~3. In this section, "financial security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, collateral trust certificate, preorganization certificate of subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating~~

~~to foreign currency, or in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim security for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

~~E.—F. The authority as provided in this section as it relates to invest and reinvest nongeneral fund reserves and balances of or held by the University is predicated upon an approved management agreement between the University and the Commonwealth of Virginia.~~

**Drafting note: Technical changes.**

~~§ 23-50.11. Tuition, fees and other charges.~~

~~The board may fix the rates charged the students of the University for tuition, fees and other necessary charges, and may fix and collect fees and charges for services rendered by or through any facilities maintained or conducted by the corporation.~~

**Drafting note: The provisions of existing § 23-50.11 are stricken and incorporated instead into proposed § 23.1-1301.**

~~§ 23-50.12. Degrees.~~

~~The board of visitors shall have the right to confer all degrees heretofore conferred by the Medical College of Virginia and the Richmond Professional Institute and such other degrees including honorary degrees as it may deem proper.~~

**Drafting note: The provisions of existing § 23-50.12 are stricken and incorporated instead into proposed subsection C of § 23.1-2305.**

~~§ 23-50.13. Conveyance of real property and interests therein.~~

~~The board of visitors of Virginia Commonwealth University, with the approval of the Governor first obtained, is hereby authorized to sell and convey any and all real estate or interests therein including easements for roads, streets, sewers, water lines, electric and other utility lines or other purposes to which it has acquired title by gift, devise or purchase. The proceeds derived from any such sale or sales shall be held by the University upon the identical trusts, and subject to the same uses, limitations and conditions, if any, that are expressed in the original instrument under which its title was derived, or if there be no such trusts, uses, limitations or conditions expressed in such original instrument, then such funds shall be applied by the board to such purposes as it may deem best for the University.~~

**Drafting note: The provisions of existing § 23-50.13 are stricken and incorporated instead into proposed § 23.1-1301.**

~~§ 23-50.14 23.1-2307. Process or notice.~~

~~Process against or notice to the corporation may board shall be served only in the City of Richmond upon the rector, vice-rector, or secretary of the board; or ~~upon~~ the president of Virginia Commonwealth the University.~~

**Drafting note: Technical changes.**

~~§ 23-50.15:1. [Expired.]~~

**Drafting note: Expired pursuant to Acts 1989, c. 257, cl. 3, effective July 1, 1992.**

§ 23.1-2308. The Medical College of Virginia; Health Sciences Schools of the University.

The colleges, schools, and divisions previously existing as The Medical College of Virginia are designated the Health Sciences Schools of the University.

**Drafting note: Proposed § 23.1-2309 incorporates the provisions of the last sentence of existing § 23-50.7.**

~~§ 23-50.16~~ 23.1-2309. Operations of Medical Center.

~~A. In enacting this section, the General Assembly recognizes that the ability of Virginia Commonwealth The University to~~ may provide medical and health sciences education and related research ~~is dependent upon the maintenance of high quality through~~ teaching hospitals and related health care and health maintenance facilities, collectively referred to in this section as the Medical Center, ~~and that the maintenance of a medical center serving such purposes requires specialized management and operation that permit the Medical Center to remain economically viable and to.~~ The Medical Center may participate in cooperative arrangements reflective of changes in health care delivery.

~~B. Without limiting the powers provided in §§ 23-50.8 and 23-50.10, Virginia Commonwealth The University~~ may create, own in whole or in part, or otherwise control corporations, partnerships, insurers, or other entities whose activities ~~will~~ promote the operations of the Medical Center and its mission, ~~may~~ cooperate or enter into joint ventures with such entities ~~and government bodies and may~~; and enter into contracts in connection ~~therewith~~ with such joint ventures. Without limiting the power of ~~Virginia Commonwealth the~~ University to issue bonds, notes, guarantees, or other evidence of indebtedness ~~under~~ pursuant to subsection C in connection with such activities, no such creation, ownership, or control shall create any responsibility of the University, the Commonwealth, or any ~~other~~ agency ~~thereof~~ of the Commonwealth for the operations or obligations of any entity or in any way make the University, the Commonwealth, or any ~~other~~ agency ~~thereof~~ of the Commonwealth responsible for the payment of debt or other obligations of such entity. All such interests shall be reflected on the financial statements of the Medical Center.

~~C. Notwithstanding the provisions of Chapter 3 11 (§ 23-14 23.1-1100 et seq.) of this title, Virginia Commonwealth the~~ University may issue bonds, notes, guarantees, or other evidence of indebtedness without the approval of any other governmental body subject to the following provisions:

1. Such debt is used solely for the purpose of paying not more than ~~forty~~ 50 percent of the cost of capital improvements in connection with the operation of the Medical Center or related issuance costs, reserve funds, and other financing expenses, including interest during construction or acquisition and for up to one year thereafter;

2. ~~The only~~ No revenues of the University are pledged to the payment of such debt ~~are~~ except those revenues derived from the operation of the Medical Center and related health care and educational activities, and ~~there are pledged therefor~~ no general fund appropriation and special Medicaid disproportionate share payments for indigent and medically indigent patients who are not eligible for the Virginia Medicaid Program; are pledged to the payment of such debt.

3. Such debt states that it does not constitute a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth;.

4. Such debt is not sold to the public;.

5. The total principal amount of such debt outstanding at any one time does not exceed ~~twenty five~~ \$25 million ~~dollars~~;.

6. The Treasury Board ~~has approved~~ approves the terms and structure of such debt;.

7. The purpose, terms, and structure of such debt are promptly communicated to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees; ~~and~~.

8. All such indebtedness is reflected on the financial statements of the Medical Center.

Subject to meeting the conditions set forth ~~above~~ in subsection C, such debt may be in such form and have such terms as the board ~~of visitors~~ may provide and shall be in all respects debt of the University for the purposes of §§ ~~23-23~~ 23.1-1110, ~~23-25~~ 23.1-1115, and ~~23-26~~ 23.1-1116.

**Drafting note: Statements of policy in subsection A are stricken per the Code Commission policy regarding such statements. Technical changes are made.**

§ ~~23-50.16:04~~ 23.1-2310. Authority to create Virginia Commonwealth University School of Medicine-Northern Virginia Division; ~~authority to create.~~

A. The board ~~of visitors of Virginia Commonwealth University is authorized to~~ may establish the Virginia Commonwealth University School of Medicine-Northern Virginia Division, ~~hereinafter referred to as~~ (the Division). If established, the board shall operate the Division ~~shall be operated with~~ in the areas of program and service emphasis ~~as may be approved by that the State Council of Higher Education for Virginia approves~~ pursuant to subdivision 7 of § ~~23-9.6:1~~ 23.1-203.

B. The board ~~of visitors shall have~~ has the same powers with respect to the operation of the Division as are vested in the board regarding ~~Virginia Commonwealth the~~ University ~~pursuant to this chapter.~~

**Drafting note: Technical changes.**

§ ~~23-50.15~~ 23.1-2311. Virginia Center on Aging.

~~Chapter 170 of the Acts of 1978, relating to the Virginia Center on Aging at Virginia Commonwealth University, is incorporated in this Code by this reference.~~

A. The Virginia Center on Aging (the Center) shall be located at the University and shall be an interdisciplinary study, research, information, and resource facility for the Commonwealth. The Center shall utilize the full capability of the faculty, staff, libraries, laboratories, and clinics



of the University for the benefit of older Virginians and the expansion of knowledge relating to the aged and the aging process.

B. The Center is subject to the supervision and control of the board.

C. The board shall appoint an advisory committee for the Center.

D. The board shall appoint an executive director for the Center who shall:

1. Exercise all powers and perform all duties imposed upon him by law;

2. Perform all duties imposed upon him by the board; and

3. Employ such personnel and contract for such services as may be required to carry out the purposes of this section.

E. The Center, under the direction of the executive director, shall:

1. Develop and promote programs of continuing education and in-service training for persons who work with or provide services to the elderly;

2. Develop educational and training programs for persons 60 years old or older to assist them in adjusting to the aging process, including retirement planning, health maintenance, employment opportunities, recreation, and self-development;

3. Foster development of educational courses for students at institutions of higher education in disciplines other than gerontology to increase their understanding of the process of aging in humans;

4. Conduct research in the field of gerontology and make the research findings available to interested public and private agencies;

5. Collect and maintain data on a statewide and regional basis on the characteristics and conditions of persons over the age of 60 and make such data available to the Department for Aging and Rehabilitative Services and all other organizations and state agencies involved in planning and delivering services to persons over the age of 60;

6. Coordinate the functions and services of the Center with the Department for Aging and Rehabilitative Services (i) in such a manner that the knowledge, education, and research programs in the Center constitute a readily available resource for the Department in planning and service delivery and (ii) to prevent any duplication of effort;

7. Apply for and accept grants from the United States government, state government, state agencies, or any other source to carry out the purposes of this section. The Center may execute such agreements and comply with such conditions as may be necessary to apply for and accept such grants;

8. Accept gifts, bequests, and any other thing of value to be used to carry out the purposes of this section;

9. Receive, administer, and expend all funds and other assistance made available to the Center to carry out the purposes of this section; and

10. Do all other things necessary or convenient to carrying out the purposes of this section.

**Drafting note: Chapter 170 of the Acts of Assembly of 1978, previously incorporated by reference in existing § 23-50.15, is instead set out in full in proposed § 23.1-2311. Technical changes are made.**

~~CHAPTER 6.3.  
BRANCH CAMPUS IN QATAR.~~

**Drafting note: Existing Chapter 6.3 (§ 23-50.16:36) is relocated as § 23.1-2312 in proposed Chapter 23.**

~~§ 23-50.16:36~~ 23.1-2312. Establishment of a branch campus in the State of Qatar.

A. In recognition that global educational opportunities benefit the intellectual and economic interests of the Commonwealth, the board ~~of visitors of the Virginia Commonwealth University is authorized to~~ may establish, operate, and govern a branch campus of ~~Virginia Commonwealth the~~ University in the State of Qatar. The board ~~of visitors shall have~~ has the same powers with respect to operation and governance of its branch campus in Qatar as are vested in the board by ~~the Code of Virginia law~~ with respect to ~~Virginia Commonwealth the~~ University ~~in Virginia, including, but not limited to, the fixing of fees and charges, the establishment of academic standards, and the conferral of degrees.~~ In operating such branch campus, the board ~~of visitors~~ shall provide appropriate professional opportunities for Virginia-based faculty to teach or conduct research on the Qatar campus and educational opportunities for Virginia-based students to study or conduct research on the Qatar campus.

B. Nothing contained in this section shall be deemed a waiver of the sovereign immunity of the Commonwealth or ~~of Virginia Commonwealth the~~ University.

C. In its operation of any branch campus established in the State of Qatar, the board ~~of visitors~~ and its employees shall not discriminate on the basis of race, color, religion, national origin, or sex, and shall not abridge the constitutional rights of freedom of speech and religion. Any agreement that the board ~~of visitors~~ enters to establish, operate, or govern the branch campus in Qatar shall contain contractual assurances to the board that the branch campus shall operate without discrimination on the basis of race, color, religion, national origin, or sex, and without abridging the constitutional rights of freedom of speech and religion.

**Drafting note: Technical changes.**

~~CHAPTER 6.2~~ 24.

VIRGINIA COMMONWEALTH UNIVERSITY HEALTH SYSTEM AUTHORITY.

**Drafting note: Existing Chapter 6.2 (§ 23-50.16:1 et seq.) is logically reorganized as proposed Chapter 24. Technical changes are made throughout the proposed chapter.**

~~§ 23-50.16:1.~~ Short title.

This chapter shall be known and may be cited as the "Virginia Commonwealth University Health System Authority Act."

**Drafting note: Existing § 23-50.16:1 is recommended for repeal because of the Code-wide application of § 1-244, which states that the caption of a subtitle, chapter, or article serves as a short title citation.**

~~§ 23-50.16:2. Findings and declaration of necessity.~~

~~The General Assembly finds that:~~

~~1. Provision of health care, including indigent care, is an essential governmental function protecting and promoting the health and welfare of the citizens of the Commonwealth;~~

~~2. Education of medical and health sciences professionals and the performance of medical and related research are essential to promote such health care;~~

~~3. Teaching hospitals and related facilities of high quality are essential both to provide high levels of health care and to promote medical and health sciences education, because such hospitals and related facilities (i) provide facilities necessary to train physicians and other health sciences professionals, (ii) provide medical services not generally available at other hospitals, and (iii) treat patients of the type and on the scale necessary to facilitate medical research and to attract physicians, faculty members, researchers and other persons necessary to maintain quality medical and health sciences education;~~

~~4. The missions of the Medical College of Virginia Hospitals are to (i) serve as a general hospital and health care facility, (ii) facilitate and support the health education, research and public service activities of the Health Sciences Schools of the Medical College of Virginia, Health Sciences Division of Virginia Commonwealth University, (iii) provide high quality patient care and other specialized health services not widely available in the Commonwealth, including the provision of medical care to indigent patients, (iv) serve as the principal teaching and training hospital for undergraduate and graduate students of the Schools of the Health Sciences Division of Virginia Commonwealth University, and (v) provide a site for faculty members of the Health Sciences Division of Virginia Commonwealth University to conduct medical and biomedical research, all of which missions constitute essential governmental functions for protecting and promoting the health and welfare of the citizens of the Commonwealth;~~

~~5. Such hospital, health care and related facilities require specialized management and operation to remain economically viable, to earn revenues necessary for their operation, and to engage in arrangements with public and private entities and other activities, taking into account changes that have occurred or may occur in the future in the provision of health care and related services; and~~

~~6. The needs of the citizens of the Commonwealth and the needs of the Health Sciences Division of Virginia Commonwealth University will best be served if the Medical College of Virginia Hospitals are transferred to and operated by an independent public authority charged with the missions of operating such Hospitals as teaching hospitals for the benefit of the Schools of the Health Sciences Division of Virginia Commonwealth University, providing high quality~~

patient care, and providing a site for medical and biomedical research, all in close affiliation with the Health Sciences Division of Virginia Commonwealth University so that the public authority does not duplicate or compete with the undergraduate and graduate programs, research, training and teaching facilities offered at or operated by the University.

The exercise of the powers permitted by this chapter shall be deemed the performance of essential governmental functions and matters of public necessity for the entire Commonwealth in the provision of health care, medical and health sciences education and research, for which public moneys may be borrowed, loaned, spent or otherwise utilized and for which private property may be utilized or acquired.

**Drafting note: Subdivisions 1 through 6 of existing § 23-50.16:2, specifying the functions of the Medical College of Virginia Hospitals, are logically relocated to proposed § 23.1-2401. The final paragraph of existing § 23-50.16:2 is logically relocated as subsection B of proposed § 23.1-2404.**

~~§ 23-50.16:4~~ 23.1-2400. Definitions.

As used in this chapter, ~~the following terms have the following meanings~~, unless the context requires otherwise a different meaning:

"Authority" means the Virginia Commonwealth University Health System Authority.

"Board" means the ~~Board of Directors~~ board of directors of the Authority.

"Bonds" means bonds, notes, revenue certificates, lease participation certificates, or other evidences of indebtedness or deferred purchase financing arrangements.

"Chief executive officer" means the chief executive officer of the Virginia Commonwealth University Health System Authority.

"Costs" means (i) costs of (a) construction, reconstruction, renovation, site work, and acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights and interests; (b) demolition, removal, or relocation of buildings or structures; (c) labor, materials, machinery, and all other kinds of equipment; financing charges; costs of (d) engineering and inspections; (e) financial, legal, and accounting services; (f) plans, specifications, studies, and surveys; (g) estimates of costs and of revenues; (h) feasibility studies and administrative expenses, including administrative expenses during the start-up of any project; (i) issuance of bonds, including printing, engraving, advertising, legal, and other similar expenses; (ii) financing charges; (iii) administrative expenses, including administrative expenses during the start-up of any project; (iv) credit enhancement and liquidity facility fees; (v) fees for interest rate caps, collars, swaps, or other financial derivative products; (vi) interest on bonds in connection with a project prior to and during construction or acquisition thereof and for a period not exceeding one year thereafter; (vii) provisions for working capital to be used in connection with any project; (viii) redemption premiums, obligations purchased to provide for the payment of bonds being refunded, and other costs necessary or incident to refunding of bonds; (ix) operating and maintenance reserve funds, debt reserve funds, and other

reserves for the payment of principal and interest on bonds; ~~and~~ (x) all other expenses necessary, desirable, or incidental to the operation of the Authority's facilities or the construction, reconstruction, renovation, acquisition, or financing of projects ~~or~~, other facilities, or equipment appropriate for carrying out the purposes of this chapter and the placing of the same in operation; or (xi) the refunding of bonds.

~~"Chief executive officer" means the chief executive officer of the Virginia Commonwealth University Health System Authority.~~

"Hospital facilities" means all property or rights in property, real and personal, tangible and intangible, including all facilities suitable for providing hospital and health care services and ~~including any and~~ all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities, ~~now or hereafter~~ owned, leased, operated, or used, in whole or in part, by Virginia Commonwealth University as part of, or in connection with, ~~the Medical College of Virginia MCV Hospitals~~ in the normal course of its operations as a teaching, research, and medical treatment facility.

"Hospital obligations" means all debts or other obligations, contingent or certain, owing to any person or other entity on the transfer date, arising out of the operation of ~~the Medical College of Virginia MCV Hospitals~~ as a medical treatment facility or ~~arising out of~~ the financing or refinancing of hospital facilities; and including all bonds and other debts for the purchase of goods and services, whether or not delivered, and obligations for the delivery of services, whether or not performed.

"Project" means any health care, research, or educational facility or equipment necessary or convenient to or consistent with the purposes of the Authority, whether ~~or not~~ owned by the Authority, including, ~~without limitation,~~ hospitals; nursing homes; continuing care facilities; self-care facilities; wellness and health maintenance centers; medical office facilities; clinics; ~~out-patient~~ outpatient clinics; surgical centers; alcohol, substance abuse, and drug treatment centers; laboratories; sanitariums; hospices; facilities for the residence or care of the elderly, the handicapped, or the chronically ill; residential facilities for nurses, interns, and physicians; other kinds of facilities for the treatment of sick, disturbed, or infirm ~~persons or~~ individuals, the prevention of disease, or maintenance of health; colleges, schools, or divisions offering undergraduate or graduate programs for the health professions and sciences and such other ~~branches of learning~~ courses of study as may be appropriate, together with research, training, and teaching facilities; all necessary or desirable related and supporting facilities and equipment ~~necessary or desirable in connection therewith or incidental thereto~~; or equipment alone, including, ~~without limitation,~~ (i) parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational facilities; (ii) power plants and equipment; (iii) storage space; (iv) mobile medical facilities; (v) vehicles; (vi) air transport equipment; and (vii) other equipment necessary or desirable for the transportation of medical

equipment, medical personnel, or patients; and all lands, buildings, improvements, approaches, and appurtenances necessary or desirable in connection with or incidental to any project.

"Transfer date" means a date or dates agreed to by the ~~Board of Visitors~~ board of visitors of Virginia Commonwealth University and the Authority for the transfer of employees to the Authority and for the transfer of hospital facilities, or any parts thereof, to and the assumption, directly or indirectly, of hospital obligations by the Authority, which dates for the various transfers and the various assumptions may be different, but in no event shall any date be later than June 30, 1997.

"University" means Virginia Commonwealth University.

**Drafting note: Technical changes are made, including moving "chief executive officer" into alphabetical order and removing "without limitation" twice in the definition of "project" when used in conjunction with "including" on the basis of the Code-wide application of § 1-218, which states, "'Includes' means includes, but not limited to."**

~~§ 23-50.16:3~~ 23.1-2401. Authority-~~created~~ established; powers, purposes, and duties.

A. ~~There~~ The Virginia Commonwealth University Health System Authority is hereby ~~created~~ established as a public body corporate, public instrumentality, and ~~as a~~ political subdivision of the Commonwealth, ~~the Virginia Commonwealth University Health System Authority, referred to in this chapter as the Authority,~~ with such public and corporate powers as are set forth in this chapter.

B. The purpose of the Authority is hereby constituted a public instrumentality, exercising to exercise public and essential governmental functions ~~with the power and purpose to provide for the health, welfare, convenience, knowledge, benefit, and prosperity of the residents of the Commonwealth and such other persons~~ individuals who might be served by the Authority by delivering and supporting the delivery of medical care and related services to such residents and ~~persons~~ individuals, ~~by providing educational opportunities in the medical field and related disciplines, by conducting and facilitating research in the medical field and related disciplines, and by enhancing the delivery of health care and related services to the Commonwealth's indigent population.~~ The Authority may perform such public and essential government functions with the power and purpose to:

1. Provide health care, including indigent care, to protect and promote the health and welfare of the citizens of the Commonwealth;

2. Serve as a high quality teaching hospital to provide and promote health care by educating medical and health sciences professionals, providing medical services not widely available in the Commonwealth, and treating patients of the type and on the scale necessary to facilitate medical research and attract physicians, faculty members, researchers, and other individuals necessary to maintain quality medical and health sciences education;

3. Facilitate and support the health education, research, and public service activities of the Health Sciences Schools of the University;

4. Serve as the principal teaching and training hospital for undergraduate and graduate students of the Health Sciences Schools of the University;

5. Provide a site for faculty members of the Health Sciences Schools of the University to conduct medical and biomedical research; and

6. Operate and manage general hospital and other health care facilities, engaging in specialized management and operational practices to remain economically viable, earning revenues necessary for operations, and participating in arrangements with public and private entities and other activities, taking into account changes that have occurred or may occur in the future in the provision of health care and related services.

~~B. C. The Authority is authorized to provide, promote, support and sponsor education, public knowledge and scientific research in medicine, public health and related fields; to administer programs to assist in the delivery of medical and related services to the citizens of the Commonwealth and others; and to participate in and administer federal, state and local programs affecting, supporting or carrying out any of its purposes. The Authority is further authorized to exercise independently the powers conferred by this chapter in furtherance of its corporate and public purposes, and the Authority is directed to undertake the operation of shall operate, maintain, and expand, as appropriate, teaching hospitals and related facilities and to maintain and, as appropriate, to expand the same, all for the benefit of the Commonwealth, and its citizens and such other persons individuals who might be served by the Authority.~~

**Drafting note: Proposed subdivisions B 1 through 6 are relocated from subdivisions 1 through 6 of existing § 23-50.16:2. Portions of existing subsection B are relocated to proposed § 23.1-2404. Technical changes are made.**

~~§ 23-50.16:5 23.1-2402. Board of Directors directors; appointment membership; meetings; officers; employees.~~

A. The Authority shall be governed by a Board of Directors consisting board of directors with a total of 21 members as follows: that consists of 19 appointed members and two ex officio members. The 19 appointed members shall consist of six nonlegislative citizen members to be appointed by the Governor, including of whom two shall be physician-faculty members, to be appointed by the Governor; five members to be appointed by the Speaker of the House of Delegates, including of whom two shall be physician-faculty members, to be appointed by the Speaker of the House of Delegates; three members to be appointed by the Senate Committee on Rules, including of whom one shall be a physician-faculty member, to be appointed by the Senate Committee on Rules; and five nonlegislative citizen members of the Board of Visitors board of visitors of Virginia Commonwealth the University, to be appointed by the Rector rector of the board of visitors of the University, all of whom shall also be members of the Board of Visitors board of visitors of the University at all times while serving on the Board; the board. The President of the University and the Vice-President for Health Sciences of the University, or the person individual who holds such other title as subsequently may be established by the Board

~~of Visitors~~ board of visitors of the University for the chief academic and administrative officer for the Health Sciences ~~Campus Schools~~ of the University, ~~both of whom~~ shall serve as ex officio with voting members during their respective terms of office privileges.

All appointed members except those who are members of the board of visitors of the University shall have demonstrated experience or expertise in business, health care management, or legal affairs.

B. The five appointed physician-faculty members shall be faculty members of ~~Virginia Commonwealth~~ the University with hospital privileges at ~~Medical College of Virginia MCV~~ Hospitals at all times while serving on the ~~Board~~ board.

~~After the initial staggering of terms, all appointments shall be for terms of three years each, except appointments to fill unexpired vacancies which shall be made for the remainder of the unexpired terms.~~

C. The Governor, the Speaker of the House of Delegates, and the Senate Committee on Rules shall appoint ~~faculty physicians~~ physician-faculty members after consideration of ~~the~~ names from lists submitted by the faculty physicians of the School of Medicine of ~~Virginia Commonwealth~~ the University through the Vice-President for Health Sciences of the University. The list shall contain ~~not less than~~ at least two names for each ~~expired or unexpired~~ vacancy ~~that~~ occurs.

~~No person shall be eligible to serve more than two consecutive full three-year terms as an appointed member, but after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, or after one year following the expiration of a second full three-year term, two additional three-year terms may be served by a member if so appointed. The terms of members serving by virtue of their office shall expire upon termination of their holding such office. All members shall continue to hold office until their successors have been appointed and have qualified.~~

~~All appointed members, other than those who are members of the Board of Visitors, shall have demonstrated experience or expertise in business, health care management or legal affairs. Immediately after their appointments, members shall enter upon the performance of their duties.~~

D. Members shall serve for terms of three years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member shall serve for more than two consecutive three-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive three-year terms. Members who serve two consecutive three-year terms are eligible for reappointment one year after the expiration of their second term. All appointments are subject to confirmation by the General Assembly. Members shall continue to hold office until their successors have been appointed and confirmed. Ex officio members shall serve a term coincident with their term of office.

~~The Board~~ E. Neither the board members appointed from the ~~Board of Visitors and~~ board of visitors of the University ~~nor~~ the ex officio members shall ~~not~~ vote on matters that ~~shall~~ require them to breach their fiduciary duties to the University or to the Authority.



~~B. All appointments, including the initial appointments to the Board and appointments to fill vacancies, are subject to confirmation by the affirmative vote of a majority of those voting in each house of the General Assembly if in session when such appointments are made and, if not in session, at its first regular session subsequent to such appointment. Any member whose nomination is subject to confirmation during a regular session of the General Assembly shall be deemed terminated when the General Assembly rejects the nomination or when it adjourns without confirming the nomination, whichever is earlier. No such termination shall affect the validity of any action taken by such member prior to such termination.~~

~~C. A Board~~ F. Any member may be removed for malfeasance, misfeasance, incompetence, or gross neglect of duty by the individual or entity that appointed him or, if such appointing individual no longer holds the office creating the right of appointment, by the current holder of that office.

~~D. G.~~ The President of the University shall serve as the chairman of the ~~Board of Directors~~ board. The ~~Board of Directors of the Authority~~ board shall elect annually a vice-chairman from among its membership. The ~~Board~~ board shall also elect a secretary and treasurer and such assistant secretaries and assistant treasurers as the ~~Board~~ board may authorize for terms determined by the ~~Board~~ board, each of whom may or may not be a member of the ~~Board~~ board. The same ~~person~~ individual may serve as both secretary and treasurer.

~~H.~~ The ~~Board~~ board may ~~also~~ appoint an executive committee and other standing or special committees and prescribe their duties and powers, and any executive committee may exercise all such powers and duties of the ~~Board~~ board under this chapter as the ~~Board~~ board may delegate.

~~E. I.~~ The ~~Board~~ board may provide for the appointment, employment, term, compensation, and removal of ~~a director~~, officers, employees, and agents of the Authority, including engineers, consultants, lawyers, and accountants, as the ~~Board~~ board deems appropriate.

~~F. J.~~ The ~~Board~~ board shall meet at least four times each year and may hold such special meetings as it deems appropriate.

~~K.~~ The ~~Board~~ board may adopt, amend, and repeal such ~~rules~~ policies, regulations, procedures, and bylaws, not contrary to law or inconsistent with this chapter, as it deems expedient for its own governance and for the governance and management of the Authority.

~~L.~~ A majority of the ~~Board~~ board shall constitute a quorum for meetings, and the ~~Board~~ board may act by a majority of those present at any meeting.

~~G. M.~~ Legislative board members ~~shall be~~ are entitled to such compensation as provided § 30-19.12 and nonlegislative citizen board members ~~shall be~~ are entitled to such compensation for the performance of their duties as provided in § 2.2-2813 ~~for their services~~. All members ~~shall be~~ are entitled to reimbursement for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

~~H. N.~~ The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the ~~Board~~ board and the employees of the Authority.

**Drafting note: Technical changes are made, including referring to "policies" instead of "rules" per board practice.**

~~§ 23-50.16:7 23.1-2403.~~ Appointment, salary and powers of the Chief Executive Officer executive officer of the Authority.

A. The Authority shall be under the immediate supervision and direction of a ~~Chief Executive Officer~~ chief executive officer, subject to the policies and direction established by the ~~Board~~ board. The ~~Chief Executive Officer~~ chief executive officer shall be the ~~person~~ individual who holds the title of Vice-President for Health Sciences of Virginia Commonwealth University, or such other title as subsequently may be established by the ~~Board of Visitors~~ board of visitors of the University for the chief academic and administrative officer for the Health Sciences ~~Campus Schools~~ of the University, ~~subject to the following: notwithstanding.~~ Notwithstanding any other provision of law to the contrary, the selection and removal of the ~~Chief Executive Officer~~ chief executive officer, ~~as well as~~ and the conditions of appointment, including salary, shall be made jointly by the ~~Board~~ board and the ~~Board of Visitors~~ board of visitors of the University at a joint meeting of the ~~Board~~ board and the ~~Board of Visitors~~ board of visitors of the University upon a vote of a majority of the members of each board; present and voting at the aforementioned joint meeting, acting separately in accordance with applicable provisions of law.

B. In the event that a majority of the members of each board do not agree upon the selection, removal, or conditions of appointment, including salary, of the ~~Chief Executive Officer~~ chief executive officer as provided in subsection A, then each board shall appoint a committee of three members of its respective board to consider the matter ~~or matters~~ upon which the boards disagree. The selection, removal, or conditions of appointment shall be made jointly by the two committees at a joint meeting of the committees upon a vote by a majority of the members of each committee present and voting at the joint meeting. In the event that a majority of the members of each committee agree upon the selection, removal, or conditions of appointment of the ~~Chief Executive Officer~~ chief executive officer, then the decision shall be reported to the ~~Board~~ board and the ~~Board of Visitors~~ board of visitors of the University, each of which shall be bound by the decision of the committees. In the event that a majority of the members of each committee do not agree on the selection, removal, or conditions of appointment of the ~~Chief Executive Officer~~ chief executive officer within 30 days of the appointment of the committees by each board, then the ~~President~~ president of the University shall decide upon the matter ~~or matters~~ upon which the committees disagree. The ~~President~~ president of the University shall report his decision to both boards, each of which shall be bound by the decision of the ~~President~~ president.

C. The ~~Chief Executive Officer~~ chief executive officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

D. ~~The Chief Executive Officer~~ chief executive officer shall supervise and administer the operation of the Authority in accordance with the provisions of this chapter.

**Drafting note: Technical changes.**

~~§ 23-50.16:6~~ 23.1-2404. Powers ~~generally of the Authority~~.

A. The Authority ~~shall have~~ has all the powers necessary or convenient to carry out the purposes and provisions of this chapter, including, ~~without limitation, the following powers:~~

1. ~~To sue~~ Sue and be sued in its own name;:
2. ~~To have~~ Have and alter an official seal;:
3. ~~To have~~ Have perpetual duration and succession in its name;:
4. ~~To locate~~ Locate and maintain offices at such places as it may designate;:
5. ~~To make~~ Make and execute contracts, guarantees, or any other instruments and agreements necessary or convenient for the exercise of its powers and functions, including, ~~without limitation, to make and execute~~ contracts with hospitals or ~~health care~~ health care businesses to operate and manage any or all of the hospital facilities or operations, and ~~to incur~~ liabilities and secure the obligations of any entity or individual;:
6. ~~To conduct~~ Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;:
7. ~~To exercise~~ Exercise, in addition to its other powers, all powers that are (i) granted to corporations by the provisions of Title 13.1 or similar provisions of any successor law, except in those cases ~~where, by the express terms of the provisions thereof, in which~~ the power is confined to corporations created under such title, and ~~that are~~ (ii) not inconsistent with the purposes and intent of this chapter or the limitations included in this chapter;:
8. ~~To accept~~ Accept, hold, and enjoy any gift, devise, or bequest to the Authority or its predecessors, ~~the same~~ to be held for the uses and purposes designated by the donor, if any, or if not so designated, for the general purposes of the Authority, whether given directly or indirectly; and ~~to accept, execute, and administer~~ any trust or endowment fund in which it has or may have an interest under the terms of the instrument creating the trust or endowment fund;:
9. ~~To borrow~~ Borrow money and issue bonds as provided in this chapter and ~~to purchase~~ such bonds;:
10. ~~To seek~~ Seek financing from, incur or assume indebtedness to, and enter into contractual commitments with, the Virginia Public Building Authority and the Virginia College Building Authority, which authorities are authorized to borrow money and make and issue negotiable notes, bonds, and other evidences of indebtedness to provide such financing relating to the hospital facilities or any project;:
11. ~~To seek~~ Seek financing from, incur or assume indebtedness to, and enter into contractual commitments with the Commonwealth ~~of Virginia~~ as otherwise provided by law relating to the hospital facilities or any project;:

~~12. To procure~~ Procure such insurance, participate in such insurance plans ~~and/or,~~ or provide such self-insurance as it deems necessary or convenient to carry out the purposes and provisions of this chapter. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority ~~shall is not be deemed~~ a waiver or relinquishment of any sovereign immunity to which the Authority or its officers, directors, employees, or agents are otherwise entitled;

~~13. To develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2.~~

~~14. To develop~~ Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;

~~§ 23-50.16:11. Acquisition and disposition of property; acceptance of grants and loans.~~

~~A. 14.~~ Except as to those hospital facilities or any ~~parts thereof~~ part of such facilities that are leased to the Authority by the University, the control and disposition of which shall be determined by such lease instruments, ~~the Authority may:~~

~~1. a.~~ Own, hold, improve, use, and otherwise deal with real or personal property, tangible or intangible, or any right, easement, estate, or interest ~~therein in such property,~~ acquired by purchase, exchange, gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of law, or other means on such terms and conditions and in such manner as it may deem proper;

~~2. b.~~ Sell, assign, lease, encumber, mortgage, or otherwise dispose of any project ~~or,~~ any other real or personal property, tangible or intangible, ~~or any right, easement, estate, or interest therein in such property,~~ or any deed of trust or mortgage lien interest owned by that it owns, that is under its control or custody or in its possession. ~~The Authority may release~~

~~c.~~ Release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in property foreclosed by it; and

~~3. Do d.~~ Take any of the foregoing action pursuant to subdivision 14 by public or private sale, ~~or~~ with or without public bidding, notwithstanding the provisions of any other law;

~~B. The Authority may accept~~ 15. Accept loans, grants, contributions, or other assistance from the federal government, the Commonwealth ~~or,~~ any political subdivision ~~thereof~~ of the Commonwealth, or ~~from~~ any other public or private source to carry out any of the purposes of this chapter. ~~The Authority may and~~ enter into any agreement or contract regarding ~~or relating to~~ the acceptance, use, or repayment of any such loan, grant, contribution, or assistance ~~and may enter into such other agreements with any such entity~~ in furtherance of the purposes of this chapter;

~~Counties, cities and towns are hereby authorized to lend or donate money or other property to the Authority for any of its purposes. The local government making the grant or loan may restrict the use of such grants or loans to a specific project, within or without that locality.~~

~~§ 23-50.16:12. Eminent domain.~~

~~The Authority may exercise~~ 16. Exercise the power of eminent domain pursuant to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 to acquire by condemnation any real

property, including fixtures and improvements, ~~which that~~ it may deem necessary to carry out the purposes of this chapter, upon (i) its adoption of a resolution declaring that the acquisition of such property is in the public interest and necessary for public use and ~~upon (ii)~~ the approval of the Governor. The Authority may acquire property already devoted to a public use, provided that no property belonging to any ~~city, town or county, government or to any locality,~~ religious corporation, unincorporated church, or charitable corporation may be acquired without its consent;

~~§ 23-50.16:13. Fees, rentals and other charges.~~

~~The Authority may fix~~ 17. Fix, revise ~~from time to time,~~ charge, and collect rates, rentals, fees, and other charges for the services or facilities furnished by or on behalf of the Authority, and establish policies, procedures, and regulations regarding any such service rendered or the use, occupancy or operation of any such facility. Such charges and policies, procedures, and regulations ~~shall are~~ not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth except as otherwise provided by law for the providers of health care;

~~§ 23-50.16:14. Creation of entities; participation in joint ventures; provision of assistance by Authority; moneys; investments.~~

~~A. 18.~~ Consistent with ~~§ 23-50.16:15~~ 23.1-2407, ~~the Authority may create, or assist in the creation of; may, own in whole or in part or otherwise, control; may, participate in or with any entities, public or private; and may entity,~~ purchase, receive, subscribe for, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise acquire or dispose of any (i) shares or obligations of, or other interests in, any entities organized for any purpose within or ~~without outside~~ the Commonwealth; and (ii) obligations of any person or corporation;

~~B. The Authority may participate~~ 19. Participate in joint ventures with individuals, corporations, governmental bodies or agencies, partnerships, associations, insurers, or other entities to facilitate any activities or programs consistent with the public purposes and intent of this chapter;

~~C. The Authority may create~~ 20. Create a nonprofit entity ~~or entities~~ for the purpose of soliciting, accepting, and administering grants, outright gifts and bequests, endowment gifts and bequests, and gifts and bequests in trust, ~~which entity or entities shall not engage in trust business; however, the Authority. Such entity shall not be empowered to create a nonprofit entity or entities that would in any way engage in trust business or~~ duplicate such activities by the University or its related foundations.

~~D. In carrying out any activities authorized by this chapter, the Authority may provide~~ 21. Provide appropriate assistance, including making loans and providing time of employees, to corporations, partnerships, associations, joint ventures, or other entities; ~~whether or not such corporations, partnerships, associations, joint ventures or other entities are owned or controlled in whole or in part, or~~ directly or indirectly; by the Authority.

~~E. Effective July 1, 1997, all moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other orders of the treasurer of the Authority or such other person or persons as the Authority may authorize to execute such warrants or orders.~~

~~F. Notwithstanding any provision of law to the contrary, the Authority may, effective July 1, 1997, invest its operating funds in any obligations or securities that are considered legal investments for public funds in accordance with Chapter 45 (§ 2.2 4500 et seq.) of Title 2.2. The Board shall adopt written investment guidelines and shall retain an independent investment advisory firm or consultant to review, a minimum of every five years, the suitability of the Authority's investments and their consistency with the investment guidelines.~~

22. Provide, promote, support, and sponsor education and scientific research in medicine, public health, and related fields and promote public knowledge in medicine, public health, and related fields.

23. Administer programs to assist in the delivery of medical and related services to the citizens of the Commonwealth and others;

24. Participate in and administer federal, state, and local programs affecting, supporting, or carrying out any of its purposes; and

25. Exercise independently the powers conferred by this chapter in furtherance of its corporate and public purposes.

B. The exercise of the powers permitted by this chapter shall be deemed the performance of essential governmental functions and matters of public necessity for the entire Commonwealth in the provision of health care, medical and health sciences education, and research for which public moneys may be borrowed, loaned, spent, or otherwise utilized and private property may be utilized or acquired.

**Drafting note: Subdivisions A 14 and 15 are derived from subsections A and B of existing § 23-50.16:11 (the second paragraph of subsection B of existing § 23-50.16:11 is relocated to proposed § 23.1-2409), subdivision A 16 is derived from existing § 23-50.16:12, subdivision A 17 is derived from existing § 23-50.16:13, subdivisions A 18 through 21 are derived from subsections A through D of existing § 23-50.16:14 (subsections E and F are relocated to proposed § 23.1-2408), subdivisions A 22 through 25 are derived from subsection B of existing § 23-50.16:3, and subsection B is derived from the second paragraph of existing § 23-50.16:2. Subdivision 13 of existing § 23-50.16:6 is removed as inconsistent with the exemption from the Virginia Public Procurement Act contained in existing § 23-50.16:34. Technical changes are made, including (i) removing "without limitation" when used in conjunction with "including" in subdivision A 5 on the basis of the Code-wide application of § 1-218, which states, "'Includes' means includes, but not**

**limited to" and (ii) striking the superfluous term "from time to time" in proposed subdivision A 17 per Code Commission policy**

~~§ 23-50.16:9 23.1-2405. Operation~~ Additional powers of the Authority; operation of projects.

A. The Authority may acquire, plan, design, construct, own, rent as landlord or tenant, operate, control, remove, renovate, enlarge, equip, and maintain, directly or through stock or nonstock corporations or other entities, any project as defined in this chapter. Such projects may be owned or operated by the Authority or other parties, or jointly by the Authority and other parties, and may be operated within or ~~without~~ outside the Commonwealth, so long as (i) their operations are necessary or desirable to assist the Authority in carrying out its public purposes within the Commonwealth, and ~~so long as~~ (ii) any private benefit resulting to any such other private parties from any such project is merely incidental to the public benefit of ~~such the~~ the project.

B. In the operation of hospitals and other ~~health care~~ health care and related facilities, the Authority may make and enforce all ~~rules policies, procedures,~~ and regulations necessary or desirable for such operation, including those relating to the conditions under which the privilege of practicing may be available ~~therein~~ in such facilities, the admission and treatment of patients, the procedures for determining the qualification of patients for indigent care or other programs, and the protection of patients and employees, provided that such ~~rules policies, procedures,~~ and regulations ~~shall do~~ not discriminate on the basis of race, religion, color, sex, or national origin.

**Drafting note: Technical changes are made, including referring to "policies" instead of "rules" per board practice.**

~~§ 23-50.16:10 23.1-2406. Police power~~ Additional powers of the Authority; police.

A. The Authority ~~is empowered to~~ may adopt and enforce reasonable ~~rules policies,~~ procedures, and regulations governing (i) access to, conduct in or on, and use of its property and facilities and the surrounding streets, sidewalks, and other public areas; and ~~governing~~ (ii) other matters affecting the safety and security of Authority property and ~~of those~~ individuals using or occupying Authority property. Such ~~rules policies, procedures,~~ and regulations ~~shall~~ have the force and effect of law ~~(i) (a)~~ (a) after publication one time in full in a newspaper of general circulation in the ~~city or county~~ locality where the affected property is located and ~~(ii) (b)~~ (b) when posted where the ~~public~~ individuals using such property may conveniently see them.

B. The campus police department of ~~Virginia Commonwealth~~ the University, established in accordance with the provisions of ~~Chapter 17 Article 3~~ (§ 23-232 23.1-809 et seq.) of ~~this title~~ Chapter 8, may enforce on Authority property the laws of the Commonwealth and ~~rules policies~~ and regulations adopted pursuant to subsection A ~~of this section~~. To the extent that such police services are not provided by the University, the Authority ~~is authorized to~~ may establish a police department in accordance with the provisions of Chapter ~~17 of this title~~ 8, except that the

employment of such personnel by the Authority ~~shall~~ is not ~~be~~ subject to the Virginia Personnel Act (§ 2.2-2900 et seq.).

**Drafting note: Technical changes are made, including referring to "policies" instead of "rules" per board practice.**

~~§ 23-50.16:15~~ 23.1-2407. Public purpose.

The exercise of the powers granted by this chapter ~~shall be~~ is in all respects for the benefit of the inhabitants of the Commonwealth and ~~for~~ the promotion of their safety, health, welfare, knowledge, convenience, and prosperity. No part of the assets or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private individual, except that reasonable compensation may be paid for services rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are in conformity with ~~said~~ its purposes, ~~and no~~. No private individual ~~shall be~~ is entitled to share in the distribution of any of the corporate assets ~~on~~ upon dissolution of the Authority.

**Drafting note: Technical changes.**

~~§ 23-50.16:14~~ 23.1-2408. ~~Creation of entities; participation in joint ventures; provision of assistance by Authority; moneys; investments~~ Moneys of the Authority.

A. ~~Consistent with § 23-50.16:15, the Authority may create or assist in the creation of; may own in whole or in part or otherwise control; may participate in or with any entities, public or private; and may purchase, receive, subscribe for, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise acquire or dispose of any (i) shares or obligations of, or other interests in, any entities organized for any purpose within or without the Commonwealth, and (ii) obligations of any person or corporation.~~

B. ~~The Authority may participate in joint ventures with individuals, corporations, governmental bodies or agencies, partnerships, associations, insurers or other entities to facilitate any activities or programs consistent with the public purposes and intent of this chapter.~~

C. ~~The Authority may create a nonprofit entity or entities for the purpose of soliciting, accepting and administering grants, outright gifts and bequests, endowment gifts and bequests, and gifts and bequests in trust, which entity or entities shall not engage in trust business; however, the Authority shall not be empowered to create a nonprofit entity or entities that would in any way duplicate such activities by the University or its related foundations.~~

D. ~~In carrying out any activities authorized by this chapter, the Authority may provide appropriate assistance, including making loans and providing time of employees, to corporations, partnerships, associations, joint ventures or other entities, whether or not such corporations, partnerships, associations, joint ventures or other entities are owned or controlled in whole or in part, directly or indirectly, by the Authority.~~

E. ~~Effective July 1, 1997, all~~ A. All moneys of the Authority, derived ~~from whatever~~ any source ~~derived~~, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special



accounts. All banks and trust companies are authorized to give security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other orders of the treasurer of the Authority or such other person ~~or persons~~ as the Authority may authorize to execute such warrants or orders.

~~F. B.~~ Notwithstanding any provision of law to the contrary, the Authority may, ~~effective July 1, 1997,~~ invest its operating funds in any obligations or securities that are considered legal investments for public funds in accordance with ~~Chapter 45 the Investment of Public Funds Act~~ (§ 2.2-4500 et seq.) ~~of Title 2.2.~~ The ~~Board~~ board shall adopt written investment guidelines and shall retain an independent investment advisory firm or consultant to review, ~~a minimum of at least every five years,~~ the suitability of the Authority's investments and ~~their~~ the consistency of such investments with the investment guidelines.

**Drafting note: Subsections A through D of existing § 23-50.16:14 are relocated to proposed § 23.1.2404 on powers of the Authority. Technical changes are made, including removing an obsolete effective date for proposed subsections A and B and removing "or persons" in subsection A because § 1-227 provides that throughout the Code any word in the singular includes the plural and vice versa.**

~~§ 23-50.16:14~~ 23.1-2409. ~~Acquisition and disposition of property; acceptance of grants~~  
Grants and loans from localities.

~~A. Except as to those hospital facilities or any parts thereof that are leased to the Authority by the University, the control and disposition of which shall be determined by such lease instruments, the Authority may:~~

~~1. Own, hold, improve, use and otherwise deal with real or personal property, tangible or intangible, or any right, easement, estate or interest therein, acquired by purchase, exchange, gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of law or other means on such terms and conditions and in such manner as it may deem proper;~~

~~2. Sell, assign, lease, encumber, mortgage or otherwise dispose of any project or any other real or personal property, tangible or intangible, or any right, easement, estate or interest therein, or any deed of trust or mortgage lien interest owned by it, under its control or custody or in its possession. The Authority may release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it; and~~

~~3. Do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law.~~

~~B. The Authority may accept loans, grants, contributions or other assistance from the federal government, the Commonwealth or any political subdivision thereof, or from any other public or private source to carry out any of the purposes of this chapter. The Authority may enter into any agreement or contract regarding or relating to the acceptance, use or repayment of any~~

~~such loan, grant, contribution or assistance and may enter into such other agreements with any such entity in furtherance of the purposes of this chapter.~~

Counties, cities and towns Localities are hereby authorized to lend or donate money or other property to the Authority for any of ~~its~~ the Authority's purposes. The local ~~government governing body~~ making the grant or loan may restrict the use of such grants or loans to a specific project; within or ~~without~~ outside that locality.

**Drafting note: Existing subsections A and B of § 23-50.16:11 are relocated to proposed § 23.1.2404 on powers of the Authority. Technical changes are made.**

~~§ 23-50.16:8~~ 23.1-2410. Audit.

~~The accounts of the Authority shall be audited annually by select through a process of competitive negotiation either the (i) Auditor of Public Accounts, or his legally authorized representatives, or by (ii) a certified public accounting firm, as selected by the Authority to annually audit the Authority's accounts. The Authority shall select a certified public accounting firm or the Auditor of Public Accounts through a process of competitive negotiation.~~

~~Copies~~ B. The Authority shall distribute copies of the annual audit ~~shall be distributed~~ to the Governor and ~~to the chairmen~~ Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

C. The Auditor of Public Accounts and his legally authorized representatives ~~are hereby authorized and empowered from time to time to~~ may examine the accounts and books of the Authority; however, the Authority ~~shall is~~ is not ~~be deemed to be~~ a state or governmental agency, advisory agency, public body or agency, or instrumentality for purposes of Chapter 14 (§ 30-130 et seq.) of Title 30.

D. The Authority ~~shall be~~ is subject to periodic external review under the provisions of the Legislative Program Review and Evaluation Act (§ 30-65 et seq.).

**Drafting note: Technical changes, including striking the superfluous term "from time to time" in proposed subsection C per Code Commission policy.**

~~§ 23-50.16:16~~ 23.1-2411. Exemption from taxation.

~~As set forth in § 23-50.16:3, the Authority will be performing essential governmental functions in the exercise of the powers conferred upon it by this chapter. Accordingly, the A. The Authority shall is~~ not be required to pay any taxes or assessments upon any (i) project or any, property, or upon any operations of the Authority or the income therefrom, from such projects, property, or operations or any taxes or assessments upon any (ii) project or any, property, or local obligation acquired or used by the Authority under the provisions of this chapter or upon the income therefrom from such projects, property, or local obligations. ~~The Such~~ exemptions ~~hereby granted~~ shall not extend to persons or entities conducting ~~on the Authority's property businesses~~ on the Authority's property for which payment of state or local taxes would otherwise be required.

B. Any bonds issued by the Authority under the provisions of this chapter, the transfer thereof of such bonds, and the income therefrom, from such bonds and all rents, fees, charges, gifts, grants, revenues, receipts, and other moneys received or pledged to pay or secure the payment of such notes or bonds, shall at all times be free are exempt from taxation and assessment of every kind by the Commonwealth and by the local governments governing bodies and other political subdivisions of the Commonwealth.

**Drafting note: Technical changes.**

~~§ 23-50.16:17~~ 23.1-2412. ~~Assistance by the University; transfer~~ Transfer of existing hospital facilities.

A. ~~The University is hereby authorized to~~ may lease, convey, or otherwise transfer to the Authority any or all assets and liabilities appearing on the balance sheet of ~~the Medical College of Virginia~~ MCV Hospitals and any or all of the hospital facilities, except real estate ~~which that~~ that may be leased to the Authority for a term not to exceed ~~ninety-nine~~ 99 years, upon such terms as may be approved by the University.

B. Any transfer of hospital facilities ~~shall be~~ pursuant to subsection A is conditioned upon the ~~following~~ existence of a binding agreement between the University and the Authority:

1. ~~The existence of a binding agreement between the University and the Authority that~~ That requires the Authority to assume, directly or indirectly, ~~those~~ hospital obligations that are directly related relating to the hospital facilities; or any parts thereof, part of the hospital facilities that are transferred, which including rentals as provided in subsection C or a combination of rentals and other obligations in the case of a lease of hospital facilities may take the form of rental, as provided in subsection C of this section, or a combination of assumption and such rental;

2. ~~The existence of a binding agreement between the University and the Authority that~~ That provides that, effective on the transfer date ~~and thereafter~~, the Authority shall assume responsibility for ~~and shall~~ defend, indemnify, and hold harmless the University and its officers and directors with respect to:

a. All liabilities and duties of the University pursuant to contracts, agreements, and leases for commodities, services, and supplies used by ~~the Medical College of Virginia~~ MCV Hospitals, including property leases;

b. All claims ~~related~~ relating to the employment relationship between employees of the Authority and the University on and after the transfer date;

c. All claims for breach of contract resulting from the Authority's action or failure to act on and after the transfer date; and

d. All claims ~~related~~ relating to the Authority's errors and omissions, including, ~~but not limited to,~~ medical malpractice, directors' and officers' liability, workers' compensation, automobile liability, and premises liability, completed operations liability, and products liability, resulting from the Authority's action or failure to act on and after the transfer date; and

~~3. The existence of a binding agreement between the University and the Authority by~~ By which the Authority shall accept and agree to abide by provisions that ensure the continued support of the education, research, patient care, and public service missions of ~~the Medical College of Virginia MCV Hospitals, specifically including, without limitation:~~

a. A requirement that the Authority continue to provide emergency and inpatient indigent care services on the ~~Medical College of Virginia MCV~~ campus of the University in ~~a location or~~ locations including, ~~without limitation,~~ downtown Richmond; and

b. A requirement that the Authority continue to act as the primary teaching facility for the ~~Medical College of Virginia Commonwealth University School of Medicine and the Health Sciences Center Schools~~ of the University.

C. Any lease of hospital facilities, ~~or any parts thereof,~~ from the University to the Authority may include a provision that requires the Authority to pay the University a rental payment for the hospital facilities, ~~or any parts thereof,~~ that are leased. For those hospital facilities for which rental rent is paid, the rental rent shall be ~~an amount that may not be less than~~ at least equal to the greater of the following:

1. ~~An amount equal to the~~ The debt service accruing during the term of the lease on all outstanding bonds issued for the purpose of financing the acquisition, construction, or improvement of the hospital facilities, ~~or any parts thereof,~~ on which rental rent is paid; or

2. A nominal amount determined by the parties to be necessary to prevent the lease from being unenforceable because of a lack of consideration.

D. Any lease of hospital facilities, ~~or any parts thereof,~~ shall include a provision that requires the Authority to continue to support the education, research, patient care, and public service missions of ~~the Medical College of Virginia MCV Hospitals, specifically including, without limitation:~~

1. A requirement that the Authority continue to provide emergency and inpatient indigent care services on the ~~Medical College of Virginia MCV~~ campus of the University in ~~a location or~~ locations including, ~~without limitation,~~ downtown Richmond; and

2. A requirement that the Authority continue to act as the primary teaching facility for the ~~Medical College of Virginia School of Medicine and Health Sciences Center Schools~~ of the University.

E. All other agencies and officers of the Commonwealth ~~are authorized and directed to~~ shall take such actions as may be necessary or desirable in the judgment of the University to permit such conveyance and the full use and enjoyment of the hospital facilities, including, ~~without limitation,~~ the transfer of property of any type held in the name of the Commonwealth or ~~some an~~ an instrumentality or agency thereof of the Commonwealth but used by the University in the operation of the hospital facilities.

F. The Authority may pay to or on behalf of the University some or all of the costs of the hospital facilities. The University may apply some or all of such proceeds to the payment or

defeasance of its obligations issued to finance the hospital facilities, and the Authority may issue its bonds to finance or refinance such payment ~~to or on behalf of the University.~~

G. Funds held by or for the University or any ~~predecessor or division thereof~~ of its predecessors or divisions, ~~specifically including, without limitation,~~ funds held by the University Foundation or the ~~Medical College of Virginia MCV~~ Foundation for the benefit of ~~the Medical College of Virginia MCV~~ Hospitals or any ~~predecessor thereof~~, of its predecessors for use in operating, maintaining, or constructing hospital facilities, providing medical and health sciences education, or conducting medical or related research may be transferred, in whole or in part, to the Authority if the University or any foundation determines that the transfer is consistent with the intended use of the funds. The University may direct in writing that all or part of the money or property representing its beneficial interest under a will, trust agreement, or other donative instrument be distributed to the Authority if the University determines that such direction ~~will further~~ further any of the original purposes of the will, trust agreement, or other instrument. Such a direction shall not be considered a waiver, disclaimer, renunciation, assignment, or disposition of the beneficial interest by the University. A fiduciary's distribution to the Authority pursuant to such a written direction from the University ~~shall be deemed~~ is a distribution to the University for all purposes relating to the donative instrument, and the fiduciary ~~shall have~~ has no liability for distributing any money or property to the Authority pursuant to such a direction. ~~None of the foregoing~~ Nothing in this section shall deprive any court of its jurisdiction to determine whether such a distribution is appropriate, under its cy pres powers or otherwise.

~~§ 23-50.16:20. Operation of hospital facilities.~~

H. The Authority shall not operate any ~~of the hospital facilities~~ pursuant to this section prior to execution of the lease ~~or leases~~ and agreement ~~or agreements~~ required by ~~§ 23-50.16:17, this section~~ and such other agreements as may be necessary or convenient in the University's judgment to provide for the transfer of the operations of the hospital facilities to the Authority, unless, and to the extent that, the University approves otherwise.

~~§ 23-50.16:21. Assignment of agreements.~~

I. The University may assign, and the Authority may accept the rights and assume the obligations under, any ~~contracts~~ contract or other ~~agreements~~ agreement of any type relating to ~~the financing or the operating of~~ the hospital facilities. Upon evidence that such assignment and acceptance ~~have~~ has been made, all agencies and instrumentalities of the Commonwealth ~~are directed to~~ shall consent to such assignment and ~~to~~ accept the substitution of the Authority for the University as a party to such ~~agreements~~ agreement to the extent that the University's obligations ~~thereunder~~ under such agreement relate to the ownership, operation, or financing of the hospital facilities. Indebtedness previously incurred by the Commonwealth, the Virginia Public Building Authority, the Virginia College Building Authority, and any other ~~agencies and instrumentalities~~ agency or instrumentality of the Commonwealth to finance the hospital facilities may continue to remain outstanding after the transfer and ~~the assignment of the agreements relating thereto~~ such agreement by the University to the Authority.

~~§ 23-50.16:22. Licenses and permits.~~

J. The transfer of the hospital facilities from the University to the Authority ~~shall~~ does not require a certificate of public need pursuant to Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1. All licenses, permits, certificates of public need, or other authorizations of the Commonwealth ~~or, any agency thereof or of~~ of the Commonwealth, or any ~~county, city or town~~ locality held by the University in connection with the ownership or operation of the hospital facilities ~~shall be deemed to be~~ are transferred, without further action, to the Authority ~~as and~~ to the extent that the Authority undertakes the activity ~~thereby~~ permitted by such authorizations. All agencies and officers of the Commonwealth and all ~~agencies and officers of counties, cities and towns are directed to~~ localities shall confirm such transfer by the issuance of new or amended licenses, permits, certificates of public need, or other authorizations upon the request of the University and the Authority.

~~§ 23-50.16:23. Agent for University.~~

K. If for any reason the Authority cannot replace the University as a party to any agreement in connection with the financing, ownership, or operation of the hospital facilities, the Authority and the University may ~~provide that~~ require the Authority ~~shall~~ to act as agent for the University in carrying out its obligations under such agreement or ~~in~~ receiving the benefits ~~thereunder~~ under such agreement, or both.

**Drafting note: Existing § 23-50.16:20 is relocated as subsection H of proposed § 23.1-2412. Existing § 23-50.16:21 is relocated as subsection I of proposed § 23.1-2412. Existing § 23-50.16:22 is relocated as subsection J of proposed § 23.1-2412. Existing § 23-50.16:23 is relocated as subsection K of proposed § 23.1-2412. Technical changes are made, including:**

**1. Removing "but not limited to" and "without limitation" when used in conjunction with "including" in multiple subsections and subdivisions on the basis of the Code-wide application of § 1-218, which states "'Includes' means includes, but not limited to," and removing "location or" in subdivision D 1 on the basis of the Code-wide application of § 1-227, which provides that any word in the singular includes the plural and vice versa.**

**2. Removing "or leases" and "or agreements" on the basis of the Code-wide application of § 1-227, which provides that any word in the singular includes the plural and vice versa.**

**3. Changing references to "counties, cities, and towns" to "localities" pursuant to the Code-wide application of § 1-221, which states that "locality" means a county, city, or town.**

~~§ 23-50.16:18~~ 23.1-2413. Capital projects.

A. All capital projects of the Authority shall be approved by the ~~Board~~ board. Within ~~thirty~~ 30 days after approval of any capital project in excess of \$5 million, the ~~Board~~ board shall

notify the House Appropriations and Senate Finance Committees of the scope, cost, and construction schedule of the proposed capital project. ~~The Board~~ board may undertake the project unless ~~objections are raised by either Committee~~ raises objections within ~~thirty~~ 30 days of the notification. ~~If objections are made, in which case the Authority may~~ shall not undertake the project until ~~the~~ such objections are resolved.

B. ~~No~~ Before the Authority materially increases the size or materially changes the scope of any capital project that has been presented to the Committees without objection, no capital project for which objections were raised and resolved, and no capital project for which construction has commenced, such project shall be materially increased in size or materially changed in scope without following the procedure of subsection A of this section be approved again by the board in accordance with subsection A and, in the case of any capital project in excess of \$5 million, presented again to the House Appropriations and Senate Finance Committees in accordance with subsection A.

C. ~~Notwithstanding any laws or regulations~~ provision of law to the contrary, the Authority ~~shall~~ is not be subject to any further process or procedure that requires the submission, review, or approval of any capital project; however, the Authority shall ensure that BOCA Code and fire safety inspections ~~of any capital project~~ are conducted for any capital project and that such projects are inspected by the State Fire Marshal or his designee prior to certification for building occupancy.

**Drafting note: Technical changes.**

§ ~~23-50.16:19~~ 23.1-2414. Leases of property.

~~The Leases of real property that the Authority shall be~~ enters into are exempt from the provisions of § 2.2-1149 and from any ~~rules policies,~~ regulations, and guidelines of the Division of Engineering and Buildings ~~in relation to leases of real property into which it enters.~~

**Drafting note: Technical changes are made, including referring to "policies" instead of "rules" per board practice.**

§ ~~23-50.16:24~~ 23.1-2415. Employees of the Authority.

A. ~~Until July 1, 2001, employees of the Authority shall be considered employees of the Commonwealth.~~ Employees of the Authority shall be employed on such terms and conditions as established by the Authority. ~~The Board of Directors of the Authority~~ board shall develop and adopt policies and procedures that ~~will~~ afford its employees grievance rights, ensure that employment decisions ~~shall be~~ are based upon the merit and fitness of applicants, and ~~shall~~ prohibit discrimination ~~because~~ on the basis of race, religion, color, sex, or national origin. ~~Any grievance procedure adopted by the Board other than that contained in § 2.2-1202.1 shall take effect no earlier than July 1, 1997; however, such grievance procedure shall not take effect unless the Authority delivers copies of such grievance procedure to the chairmen of the House Committee on Appropriations and the Senate Committee on Finance on or before January 1, 1997.~~

B. The Authority shall issue a written notice to all ~~persons~~ individuals whose employment ~~will be~~ is transferred to the Authority. The date upon which such written notice is issued ~~shall be~~ is referred to ~~herein in this section~~ as the "Option Date." Each ~~person~~ individual whose employment ~~will be~~ is transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of ~~the Medical College of Virginia MCV~~ Hospitals who (i) elects not to become employed by the Authority ~~and who~~; (ii) is not reemployed by any department, institution, board, commission, or agency of the Commonwealth; ~~(ii) (iii)~~ (iii) is not offered ~~the opportunity to transfer to alternative~~ employment by the Authority; ~~or (iii) (iv)~~ (iv) is not offered a position with the Authority for which the employee is qualified; or (v) is offered a position by the Authority that requires relocation or a reduction in salary, ~~shall be~~ is eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority ~~shall not be considered to be involuntarily~~ has voluntarily separated from state employment and ~~shall is~~ is not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act.

C. Without limiting its power generally with respect to employees, the Authority may employ any ~~person employed by the University~~ employee utilized in the operation of the hospital facilities and ~~may~~ assume obligations under any employment agreement for such ~~person~~ employee, and the University may assign any such contract to the Authority.

D. The Authority and the University may ~~also~~ enter into agreements providing for the purchase of services of University employees ~~of the University~~ utilized in the operation of the hospital facilities by ~~payment of such~~ paying agreed-upon amounts ~~as may be agreed upon~~ to cover all or part of the salaries and other costs of such employees.

E. Notwithstanding any other provision of law to the contrary, any ~~person~~ employee whose employment is transferred to the Authority as a result of this chapter and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2; shall continue to be a member of such health insurance plan under the same terms and conditions ~~as if no transfer had occurred~~ of such plan.

F. Notwithstanding subsection A of § 2.2-2818, the costs of providing health insurance coverage to ~~such~~ employees who elect to continue to be members of the state employees' health insurance plan shall be paid by the Authority. ~~Alternatively, an~~

G. Any employee of the Authority may elect to become a member of any health insurance plan established by the Authority. The Authority ~~is authorized to~~ may (i) establish a health insurance plan for the benefit of its employees, residents, and interns and (ii) enter into ~~agreements~~ an agreement with the Department of Human Resource Management providing for the coverage of its employees, interns, and residents under the state employees' health insurance plan, provided that such agreement ~~shall require~~ requires the Authority to pay the costs of providing health insurance coverage under such plan.



F. Notwithstanding any other provision of law to the contrary, any ~~person~~ employee whose employment is transferred to the Authority as a result of this chapter and who is a member of the Virginia Retirement System; or ~~other~~ another retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1; shall continue to be a member of the Virginia Retirement System or ~~other~~ such other authorized retirement plan under the same terms and conditions ~~as if no transfer had occurred of such plan. Alternatively, such~~ Any such employee (and any employee employed by the Authority between July 1, 1997, and June 30, 1998, who elected to be covered by the Virginia Retirement System) may elect, during an open enrollment period from April 1, 2001, through April 30, 2001, to become a member of the retirement program established by the Authority for the benefit of its employees pursuant to ~~§ 23-50.16:24.1~~ 23.1-2416 by transferring assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. The Authority shall reimburse the Virginia Retirement System for the actual cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who elect to transfer to the Authority's retirement plan. The following rules shall apply to such transfers:

1. With respect to any transferred employee who elects to remain a member of the Virginia Retirement System or ~~other such~~ another authorized retirement plan, the Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or such ~~other such~~ authorized retirement plan for retirement in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for such transferred employees.

2. Transferred employees who elect to become members of the retirement program established by the Authority for the benefit of its employees shall be given full credit for their creditable service as defined in § 51.1-124.3, vesting and benefit accrual under the retirement program established by the Authority. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1.

3. For transferred employees who elect to become members of the retirement program established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Authority assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. For the purposes hereof of such calculation, the basic benefits ~~shall be~~ is the benefit accrued under the Virginia Retirement System or ~~other such~~ another authorized retirement plan; based on creditable service and average final compensation as defined in § 51.1-124.3 and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or such ~~other such~~ authorized retirement plan; so that the transfer of assets to the retirement plan established by the Authority ~~will have~~ has no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

**Drafting note: The first and last sentences of subsection A are stricken as obsolete because they refer to a status that expired on July 1, 2001 and a 1997 effective date for certain grievance procedures. Technical changes are made.**

~~§ 23-50.16:24.1~~ 23.1-2416. Retirement benefits for employees of the Authority.

A. The Authority may establish and determine the effective date of one or more retirement plans covering in whole or in part its employees, including employees who, prior to the effective date of any plan established pursuant to this section, ~~had been participants participated~~ in any plan established pursuant to §§ 51.1-126, or 51.1-126.1; or former § 51.1-126.2. The Authority ~~is authorized to~~ may make contributions for the benefit of its employees who elect to participate in such plan or arrangement rather than in any other retirement system established by Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1. ~~Any such alternative retirement plan shall become effective at such time as determined by the Authority.~~

B. ~~Notwithstanding any other provision of law to the contrary, any employee of the Authority employed prior to July 1, 1998, may make~~ Except in the case of an employee of the Authority hired prior to July 1, 1998, who made an irrevocable election to participate in the retirement plan established by Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 or any plan previously established by the Authority; in accordance with guidelines established by the Authority. ~~The election herein provided shall, as to any employee of the Authority employed following the effective date of any plan established pursuant to this section, be exercised not later than thirty one days from the time of entry upon the performance of his duties. Any employee of the Authority hired on or after July 1, 1998, each eligible employee of the Authority shall participate in a plan established by the Authority, subject to the plan's eligibility criteria pursuant to subsection A.~~

C. No employee of the Authority who is an active member of a plan established ~~under this section~~ pursuant to subsection A shall also be an active member of the retirement system established pursuant to Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 or a beneficiary of such retirement system other than as a contingent annuitant.

D. Notwithstanding any other provision of law to the contrary, the contribution by the Authority to any other retirement plan established pursuant to subsection A on behalf of employees of the Authority hired before July 1, 1998, ~~pursuant to subsection A~~ shall be (i) equal to the lesser of (i) the contribution the Commonwealth would be required to make if the employee were a member of the retirement system established by Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 or (ii) eight percent of creditable compensation, ~~whichever is less~~. The contribution by the Authority to any retirement plan established pursuant to subsection A on behalf of employees of the Authority hired on or after July 1, 1998, ~~pursuant to subsection A~~ shall be determined by the ~~Board~~ board.

E. ~~If the institution of higher education with which the Authority is affiliated~~ University has adopted a retirement plan under § 51.1-126 for its employees who are engaged in the

performance of teaching, administrative, or research duties, the plan established ~~under this section~~ by the Authority pursuant to subsection A shall offer similar investment opportunities as are available to the participants of the plan established pursuant to § 51.1-126.

F. The Authority shall develop policies and procedures for the administration of any retirement plan established by the Authority ~~under this section~~ pursuant to subsection A. A copy of such policies and procedures shall be filed with the Board of Trustees of the Virginia Retirement System.

**Drafting note: Technical changes.**

§ ~~23-50.16:24.2~~ 23.1-2417. Insurance for employees of the Authority.

The Authority shall purchase group life, accidental death and dismemberment, and disability insurance policies covering in whole or in part its employees. Authority employees ~~shall~~ are not be required to present at their own expense evidence of insurability satisfactory to an insurance company for basic group life insurance coverage. Any employee hired prior to July 1, 1998, shall be provided basic group life insurance at the same level of coverage as provided by the Virginia Retirement System. Any employee hired on or after July 1, 1998, shall be provided basic group life insurance at a level of coverage determined by the ~~Board, provided that the level of coverage shall~~ board that is not be less than the equivalent of ~~one times~~ the employee's annual salary. The Authority may require employees hired on or after July 1, 1998, to pay all or a portion of the required basic group life insurance coverage, ~~which~~. Such payment may be collected through a payroll deduction program. The Authority may increase the insurance coverage under such policies to make available to active insured employees optional life, accidental death and dismemberment, and disability insurance. Authority employees ~~shall~~ are not be covered by the Virginia Retirement System's group insurance program under § 51.1-501.

**Drafting note: Technical changes.**

§ ~~23-50.16:25~~ 23.1-2418. Power to issue bonds.

A. The Authority may issue bonds ~~from time to time~~ for any of its purposes, including (i) financing or refinancing all or any part of its programs or general operations; (ii) costs of any project, including the hospital facilities, whether or not owned by the Authority; or (iii) to refund bonds or other obligations issued ~~therefor~~ by or on behalf of the Authority, the University, or otherwise, including bonds or obligations not then subject to redemption, ~~and~~. The Authority may guarantee, assume, or otherwise agree to pay, in whole or in part, indebtedness issued by the University or any other party resulting in the acquisition or construction of facilities for the benefit of the Authority or the refinancing ~~thereof~~ of such indebtedness.

B. Notwithstanding Article 1 (§ 2.2-1800 et seq.) of Chapter 18 of Title 2.2, bonds may be issued under the provisions of this chapter without (i) obtaining the consent of any commission, board, bureau, political subdivision, or agency of the Commonwealth ~~or of any political subdivision~~, and without or (ii) any proceedings ~~or the happening of~~, conditions, or things other than those proceedings, conditions, or things that are specifically required by this

chapter; however, each debt offering shall be submitted to the State Treasurer sufficiently prior to the sale of such offering to allow the State Treasurer to undertake a review for the sole purposes of determining ~~(i)~~ (a) whether the offering may constitute tax-supported debt of the Commonwealth and ~~(ii)~~ (b) the potential impact of the offering on the debt capacity of the Commonwealth. After such review, the State Treasurer shall determine if the offering constitutes tax-supported debt of the Commonwealth and the potential impact of the offering on the debt capacity of the Commonwealth. If the State Treasurer determines that the debt offering may constitute tax-supported debt of the Commonwealth; or may have an adverse impact on the debt capacity of the Commonwealth, then the debt offering shall be submitted to the Treasury Board for review and approval of the terms and structure of the offering in a manner consistent with § 2.2-2416.

C. The Authority may issue ~~such types of bonds as it may determine, including, without limitation,~~ bonds payable as to principal and interest from any ~~one or more~~ of the following sources: (i) its revenues generally; (ii) income and revenues derived from the operation, sale, or lease of a particular project or projects, whether or not they are financed or refinanced from the proceeds of such bonds; (iii) funds realized from the enforcement of security interests or other liens or obligations securing such bonds; (iv) proceeds from the sale of bonds; (v) payments under letters of credit, policies of municipal bond insurance, guarantees, or other credit enhancements; (vi) any reserve or sinking funds created to secure such payment; (vii) accounts receivable of the Authority; or (viii) other available funds of the Authority.

D. Any bonds may be ~~additionally~~ guaranteed by, or secured by a pledge of, any grant, contribution, or appropriation from a participating political subdivision, the University, the Commonwealth or any political subdivision, agency, or instrumentality ~~thereof,~~ of the Commonwealth or from any federal agency or any unit, private corporation, partnership, association, or individual.

**Drafting note: Technical changes are made, including (i) striking the superfluous term "from time to time" in proposed subsection A per Code Commission policy and (ii) removing "without limitation" when used in conjunction with "including" on the basis of the Code-wide application of § 1-218, which states "'Includes' means includes, but not limited to."**

~~§ 23-50.16:26~~ 23.1-2419. Liability on bonds.

No member of the ~~Board of Directors or board;~~ officer, employee, or agent of the Authority; ~~or any person executing bonds of the Authority shall be~~ is liable personally on the bonds by reason of ~~their issuance~~ issuing or execution ~~executing such bonds.~~ Bonds of the Authority ~~shall~~ are not be a debt of the Commonwealth or any political subdivision ~~thereof~~ of the Commonwealth other than the Authority and shall so state on their face. Neither the Commonwealth nor any political subdivision ~~thereof~~ of the Commonwealth other than the Authority ~~shall be~~ is liable for payment of bonds of the Authority, nor shall such bonds be

payable out of any funds or properties of the Commonwealth or any political subdivision ~~thereof of the Commonwealth~~ other than those of the Authority, except as permitted by ~~§ 23-50.16:25 23.1-2418~~. Bonds of the Authority are ~~declared to be~~ issued for an essential public and governmental purpose.

**Drafting note: Technical changes.**

~~§ 23-50.16:27 23.1-2420~~. Form of bonds.

A. Bonds of the Authority shall (i) be authorized by resolution setting forth the maximum principal amount issuable ~~and may be issued in one or more series, shall,~~ (ii) be dated, ~~shall and~~ (iii) mature ~~at such time or times not exceeding forty~~ more than 40 years from their date and may be (a) issued in one or more series and (b) made redeemable or subject to tender before maturity, at the option of the Authority, at such price or ~~prices and~~ under such terms and conditions as may be fixed by the Authority or its agents prior to issuance.

B. Bonds of the Authority shall bear interest payable at such times and ~~at such rates as may be determined by the Authority, or as may be determined~~ and in such manner as the Authority or its agents may ~~provide~~ determine, including rates approved by officers of the Authority under authorization of the ~~Board~~ board, rates tied to indices, rates of other securities, or other standards and determinations by agents designated by the Authority under guidelines established by the Authority.

C. The Authority shall determine the form ~~of its bonds and the~~, manner of execution, ~~and shall fix the denominations thereof~~ of its bonds and the place ~~or places~~ of payment of principal and interest, which may be at any bank or trust company or securities depository within or ~~without~~ outside the Commonwealth. The bonds may be issued in coupon or registered form, or both, and provision may be made for their registration in whole or in part. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payments ~~thereon~~ on the bonds.

D. If any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears on any bonds or coupons ~~shall cease~~ ceases to be such officer hold such office before delivery of such bond, such signature or ~~such~~ facsimile ~~shall~~ is nevertheless ~~be~~ valid and sufficient for all purposes.

E. The Authority may contract for the services of one or more banks, trust companies, financial institutions, or other entities or persons, within or outside the Commonwealth, for the authentication, registration, transfer, exchange, and payment of bonds, or ~~may~~ provide such services itself. The Authority may sell such bonds ~~in such manner, either~~ at public or private sale, and for such price, as it ~~may determine~~ determines.

F. Notwithstanding any ~~of the other provisions~~ provision of this chapter or any recitals in any bonds issued under the provisions of this chapter, all such bonds ~~shall be deemed to be~~ are negotiable instruments under the laws of the Commonwealth.

G. Prior to the preparation of definitive bonds, the Authority may issue interim receipts or temporary bonds, that are exchangeable for definitive bonds when such bonds ~~shall have been~~ are executed and ~~are~~ available for delivery.

H. The Authority may ~~also~~ provide for the replacement of any mutilated, destroyed, stolen, or lost bonds.

**Drafting note: Technical changes.**

~~§ 23-50.16-28~~ 23.1-2421. Trust indentures and mortgages; security for the bonds.

A. Any bond issued under this chapter may be issued pursuant to or secured by (i) a trust indenture, deed of trust, or mortgage of any project ~~or projects~~ or ~~any~~ other property of the Authority, whether or not financed, in whole or in part, from the proceeds of such bonds, ~~by;~~ (ii) a trust or other agreement with a corporate trustee, which may be any trust company or bank having the powers of a trust company within or ~~without~~ outside the Commonwealth, ~~or other~~ another agent for bondholders; or (iii) any combination ~~thereof~~ of issuance or security set forth in clause (i) or (ii). Any such trust indenture or other agreement, or the resolution providing for the issuance of bonds, may pledge or assign fees, rents, and other charges to be received and ~~may~~ contain reasonable, proper, and lawful provisions for protecting and enforcing the rights and remedies of the bondholders ~~as may be reasonable and proper and not in violation of law. Such provisions may include, including~~ covenants: ~~(i)~~ (a) providing for the collection and application of revenues and the repossession and sale of any project or other property by the Authority; or any trustees under any trust indenture or agreement, ~~of any project or other property~~ upon default; ~~(ii)~~ (b) setting forth duties of the Authority in relation to the acquisition, construction, maintenance, operation, and insurance of any project or other property of the Authority and the amounts amount of fees, rents, and other charges to be charged; ~~(iii)~~ (c) providing for the collection of such fees, rents, and other charges; and the custody, safeguarding, and application of all moneys of the Authority; ~~(iv)~~ (d) providing for the creation of sinking funds and the creation and maintenance of reserves; and ~~(v)~~ (e) setting forth conditions or limitations with respect to ~~the inurrence of~~ incurring indebtedness or ~~the granting of~~ mortgages or other liens. Such trust indenture, trust, or other agreement or resolution may set forth the rights and remedies of the bondholders ~~and of the~~ trustee, or other agent for bondholders and ~~may~~ restrict the individual right of action by bondholders.

~~In addition, the~~ B. The Authority may grant mortgages, deeds of trust, security interests, and other liens on its real and personal property, including its accounts receivable, to secure bonds. All pledges of revenues of the Authority for payment of bonds ~~shall be~~ are valid and binding from the time ~~when~~ the pledge is made, ~~and the~~ The revenues pledged and ~~thereafter~~ received by the Authority ~~shall be~~ are subject immediately to the lien of such pledge without any physical delivery ~~thereof~~ of such pledge or further act, ~~and the~~ The lien of any such pledge ~~shall be~~ is valid and binding ~~as~~ against all parties having claims of any kind in tort, contract, or otherwise against the Authority, ~~irrespective of whether~~ or not such parties have notice ~~thereof~~ of

the lien. The Authority may ~~also~~ provide for the recording or filing of any mortgage, deed of trust, security interest ~~or~~, other lien, ~~or any~~ financing statement, or other instrument, necessary or desirable to create, perfect, or evidence any lien created pursuant to this chapter.

C. ~~It shall be~~ is lawful for any bank or trust company within or ~~without~~ outside the Commonwealth to (i) serve as depository of the proceeds of bonds ~~or of~~ other revenues of the Authority ~~and to~~, (ii) furnish indemnifying bonds, or ~~to~~ (iii) pledge such securities as may be required by the Authority.

D. All expenses incurred in carrying out the provisions of such trust indenture ~~or~~, agreement ~~or~~, resolution, or other agreements relating to any project, including those to which the Authority may not be a party, may be treated as a part of the costs of a project.

**Drafting note: Technical changes.**

§ ~~23-50.16:29~~ 23.1-2422. Remedies of obligees of Authority.

Except to the extent that the rights ~~herein given~~ granted by this chapter may be restricted by such trust indenture or trust or other agreement, any (i) holder of bonds or coupons issued under the provisions of this chapter ~~and the~~ (ii) trustee or other agent for bondholders under any trust indenture or trust or other agreement may, either at law or in equity, by suit, action, injunction, mandamus, or other proceedings, (a) protect and enforce any and all rights granted by this chapter or under the laws of the Commonwealth ~~or granted by this chapter or under~~, such trust indenture, trust, or other agreement, or the resolution authorizing the issuance of such bonds, and ~~may~~ (b) enforce and compel the performance of Authority or any agent or officer of the Authority to perform all duties required by this chapter ~~or by~~ such trust indenture, trust, or other agreement or resolution ~~to be performed by the Authority or by any officer or agent thereof~~, including the fixing, charging, and collecting of fees, rents, and other charges.

**Drafting note: Technical changes.**

§ ~~23-50.16:30~~ 23.1-2423. Bonds to be legal investments.

Bonds issued by the Authority under the provisions of this chapter are ~~hereby made~~ securities (i) in which all public officers and public bodies of the Commonwealth and its political subdivisions, ~~all~~ insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. ~~Such bonds are hereby made securities~~ and (ii) that may properly and legally be deposited with and received by any state ~~or municipal~~ officer or officer of a locality ~~or any~~ agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is ~~now or may hereafter~~ be authorized by law.

**Drafting note: The language "now or may hereafter be" in the last sentence of proposed § 23.1-2423 is stricken as unnecessary. Technical changes are made.**

~~§ 23-50.16:31~~ 23.1-2424. Existing bonds.

The Authority may assume, or ~~may~~ agree to make payments in amounts sufficient for the University to pay, some or all of the hospital obligations incurred under resolutions previously adopted by the University with respect to the hospital facilities and may issue bonds to refund bonds issued under such resolutions or ~~to~~ refinance such payment obligations. If the Authority ~~has assumed~~ assumes all hospital obligations under any such bond resolution and ~~commenced its operation of~~ operates substantially all of the hospital facilities financed or refinanced ~~thereby by such bond resolution~~, the University, ~~the~~ State Treasurer, ~~the~~ Virginia Public Building Authority, and ~~the~~ Virginia College Building Authority shall take such steps as are appropriate to provide for the substitution of the Authority for the University under such resolution and ~~to~~ transfer to the Authority any funds payable to the University under the terms of such resolution.

**Drafting note: Technical changes.**

~~§ 23-50.16:32~~ 23.1-2425. Confidential and public information.

A. The Authority ~~shall be~~ is subject to the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.), ~~which shall include~~ including the exclusions set forth in subdivision 15 of § 2.2-3705.7 and subdivision ~~A 23 of subsection A~~ of § 2.2-3711.

B. For purposes of the Freedom of Information Act (§ 2.2-3700 et seq.), meetings of the ~~Board shall~~ board are not be considered meetings of the ~~Board of Visitors~~ board of visitors of the University. Meetings of the ~~Board~~ board may be conducted through telephonic or video means as provided in § 2.2-3708 ~~or similar provisions of any successor law~~.

**Drafting note: Technical changes.**

~~§ 23-50.16:33~~ 23.1-2426. Chapter liberally construed.

This chapter shall constitute full and complete authority, without regard to the provisions of any other law, for the ~~doing performance of the acts and things herein~~ authorized in the chapter and shall be liberally construed to effect the purposes ~~hereof~~ of the chapter. Insofar as the provisions of this chapter are inconsistent with the provisions of any other ~~law~~, general, specific, or local law, the provisions of this chapter ~~shall be controlling~~ control.

**Drafting note: Technical changes.**

~~§ 23-50.16:34~~ 23.1-2427. ~~Exemption of Authority from Personnel Act, Workforce Transition Act, Administrative Process Act, and Public Procurement Act Exemptions.~~

The provisions of ~~Chapter 29 the Virginia Personnel Act~~ (§ 2.2-2900 et seq.) ~~of Title 2.2, Chapter 32 the Workforce Transition Act~~ (§ 2.2-3200 et seq.) ~~of Title 2.2, Chapter 40 the Administrative Process Act~~ (§ 2.2-4000 et seq.) ~~of Title 2.2, and Chapter 43 the Virginia Public Procurement Act~~ (§ 2.2-4300 et seq.) ~~of Title 2.2 shall do~~ not apply to the Authority in the its exercise of any power conferred to it under this chapter.

**Drafting note: Technical changes.**



~~§ 23-50.16:35 23.1-2428.~~ Reversion Assets of Authority; reversion to University.

Upon dissolution of the Authority, all assets of the Authority, after satisfaction of creditors, shall revert to the University.

**Drafting note: Technical changes.**

#### CHAPTER ~~10~~ 25.

#### VIRGINIA MILITARY INSTITUTE.

**Drafting note: Existing Chapter 10 (§ 23-92 et seq.) is logically reorganized as proposed Chapters 13 and 25. 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 board of visitors that are unique to Virginia Military Institute are retained in proposed Chapter 25.**

~~§ 23-92 23.1-2500.~~ Virginia Military Institute continued Corporate name; name of the Institute.

A. The military school established in the County of Rockbridge, at the Town of Lexington, shall be continued, and the board of visitors thereof and their successors shall be and remain of Virginia Military Institute (the board) is a corporation under the name and style of "Virginia Military Institute," and has, 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 be at all times subject to be under the control of the General Assembly.

B. The institution shall be known as Virginia Military Institute (the Institute).

~~For the support of the school there~~ C. There shall be paid out of the public treasury, from time to time, such sums as shall be appropriated therefor by the General Assembly for the support of the school.

**Drafting note: Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education, including striking the superfluous term "from time to time" per Code Commission policy.**

~~§ 23-93 23.1-2501.~~ Appointment of visitors generally Membership.

A. The board of visitors shall consist of sixteen visitors to be appointed by the Governor and the Adjutant General, ex officio 17 members, of whom 16 shall be appointed by the Governor and one shall be the Adjutant General, who shall serve ex officio. Of the visitors 16 members appointed by the Governor, twelve (i) 12 shall be alumni of the Institute, of whom eight shall be residents of the Commonwealth and four shall be nonresidents, and (ii) four shall not be alumni of the Institute be nonalumni residents of the Commonwealth. The four visitors appointed by the Governor who are not alumni of the Institute shall be residents of the Commonwealth. Until June 30, 1985, nine of the twelve alumni visitors shall be residents of the

~~Commonwealth. Thereafter eight of the twelve alumni visitors shall be residents of the Commonwealth. The remaining alumni visitors shall be nonresidents.~~

~~B. Each appointive visitor in office on July 1, 1980, shall continue in office until the expiration of the term for which he was appointed. Of the visitors to be appointed for terms commencing July 1, 1980, four shall be appointed for terms of three years and four for terms of four years. One of such visitors appointed for a four-year term and one appointed for a three-year term shall not be alumni of the Institute. One of such visitors appointed for a four-year term and one appointed for a three-year term shall be nonresident alumni. Thereafter all appointments shall be for terms of four years and one visitor appointed each year shall not be an alumnus of the Institute. Beginning in 1985 and thereafter, one visitor appointed each year shall be a nonresident alumnus.~~

~~All appointments for full terms, as well as to fill vacancies, shall be made by the Governor subject to confirmation by the General Assembly. The alumni association of the Institute may submit to the Governor a list of not more than three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.~~

**Drafting note: Existing provisions relating to the membership of the board of visitors are logically combined in this proposed section, existing provisions relating to the terms and removal of members of the board are stricken and incorporated instead into proposed § 23.1-1300, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education.**

~~§ 23-94. Appointment of visitors from nominees of alumni association; nonalumni visitors.~~

~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him by the alumni association of the Virginia Military Institute, on or before the first day of April of any year in which the terms of any visitors will expire.~~

~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall certify this fact to the association and nominations may be submitted of qualified persons and the Governor may fill the vacancy, if his discretion so dictates, from among the eligible nominees of the association.~~

~~(c) Every list shall contain not more than three names for each vacancy to be filled.~~

~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

~~(e) [Repealed.]~~

**Drafting note: The provisions of existing § 23-94 are stricken and incorporated instead into proposed § 23.1-2501.**

~~§ 23-95. Eligibility to serve more than two successive terms.~~

~~No person except ex officio members shall be eligible to serve for or during more than two successive four-year terms; but after the expiration of the remainder of an unexpired term to~~

~~which appointed, two additional four year terms may be served by such a member if appointed thereto.~~

**Drafting note: The provisions of existing § 23-95 are stricken and incorporated instead into proposed § 23.1-1300.**

~~§ 23-96. Quorum.~~

~~Six visitors shall constitute a quorum for business.~~

**Drafting note: The provisions of existing § 23-96 are stricken and incorporated instead as subsection B of proposed § 23.1-2502.**

~~§ 23-97. Suits by and against board.~~

~~The board of visitors may sue and be sued for any cause or matters which have heretofore arisen, or which hereafter arise.~~

**Drafting note: The provisions of existing § 23-97 are stricken here: the board's power to sue and be sued is a corporate power that is already contemplated in the first section of this proposed chapter.**

~~§ 23-98 23.1-2502. Meetings of board; president and secretary; superintendent of Institute; officers; committees.~~

~~A. The board of visitors shall meet at the Institute at least once a year or more often and at any other times and places, ~~when, in its opinion, or that of the superintendent of the Institute, or president of the board of visitors, it shall be necessary to do so~~ as determined by the board, the superintendent of the Institute, or the president of the board. It shall appoint a superintendent of the Institute with such duties as may be prescribed by the board. Special meetings may also be called at any time by the superintendent of the Institute, or the president of the board of visitors, ~~when either may deem it advisable; and the board may adjourn from time to time.~~ Notice of the time and place of each meeting shall be provided to each member.~~

~~B. Six members shall constitute a quorum.~~

~~C. The board shall appoint from its own body membership a president; and shall also appoint a secretary to the board.~~

~~In D. The board may appoint a president pro tempore or secretary pro tempore to preside in the absence of the president or secretary at any meeting, the board may appoint a president or secretary pro tempore, and vacancies.~~

~~E. Vacancies in the offices of president ~~or~~ and secretary may be filled by the board for the unexpired term. Notice of the time and place of meeting shall be given to every member of the board.~~

~~§ 23-95.1. Executive committee.~~

~~F. The board of visitors may appoint an executive committee from its own body for the purpose of transacting transaction of business during the recess of the board. Such executive~~

~~committee shall consist, consisting of not less than at least three nor and not more than five members, one of whom shall be the president.~~

**Drafting note: Existing provisions relating to meetings, officers, and committees of the board of visitors are logically combined in this proposed section, including incorporating existing § 23-95.1 as subsection F. Technical changes are made to conform the language to that of each other baccalaureate public institution of higher education, including striking the superfluous term "from time to time" per Code Commission policy.**

~~§ 23-99. Bylaws and regulations.~~

~~The board may make bylaws and regulations for their own government and the management of the affairs of the Institute, and may, for the purpose of transacting such business as, in its opinion, can be properly transacted by a less number than the majority, authorize not less than four members to constitute a quorum.~~

**Drafting note: The quorum provisions of existing § 23-99 are stricken as inconsistent with subsection B of proposed § 23.1-2502, which was derived from existing § 23-96. The provisions on bylaws and regulations are stricken here and incorporated instead into proposed §§ 23.1-1303 and 23.1-1301, respectively.**

~~§ 23-100. Power to borrow money and secure its payment.~~

~~The act entitled "an act to authorize the Virginia Military Institute to borrow money and to secure the same by creating a lien on real estate," approved December 19, 1874; and the third and fourth sections of the act entitled "an act for the relief of the Virginia Military Institute," approved March 15, 1884, shall continue in force until all the objects of the acts shall have been fully accomplished.~~

**Drafting note: Existing § 23-100, which continues certain Acts of Assembly in force, is recommended for repeal as obsolete.**

~~§ 23-100.1 23.1-2503. Power to receive gifts, grants, devises, and bequests.~~

~~The Virginia Military Institute, or its the board of visitors on its behalf, upon the prior written consent of the Governor is empowered to, may receive, take, hold, and enjoy any ~~and~~ every gift, grant, devise, or bequest heretofore or hereafter made to the Institute or its board of visitors for charitable or educational purposes, and to use and administer ~~same~~ any such gift, grant, devise, or bequest for the uses and purposes designated by the donor ~~if designation be made,~~ or for the general purposes of the Institute if no such designation ~~be~~ is made.~~

**Drafting note: Technical changes.**

~~§§ 23-101, 23-102.~~

**Drafting note: Repealed by Acts 2005, c. 633, cl. 2.**

~~§ 23-103 23.1-2504. Appointment, Powers; removal and salaries of professors.~~

~~The A majority of the board of visitors shall appoint professors to give instruction in military science and in such other branches of knowledge as they may deem proper. The board shall fix the salaries of professors, and may remove them professors for good cause; but no order to remove a professor shall be made without the concurrence therein of a majority of the whole number of visitors, and the board shall forthwith communicate to the Governor a full statement of the reasons for making the removal.~~

**Drafting note: The provisions of existing § 23-103 relating to appointment and salaries of professors are stricken here and incorporated instead into proposed § 23.1-1301. The provisions of existing § 23-103 relating to the board of visitors communicating to the Governor the removal of professors for good cause are recommended for repeal as obsolete because such provisions are inconsistent with current board practice. Technical changes are made.**

~~§ 23-104 23.1-2505. Admission of pay Pay cadets; course of instruction, etc.~~

~~The board of visitors shall prescribe the terms upon which pay cadets may be admitted, their number, the course of their instruction, and the nature and duration of their service, and the duration thereof.~~

**Drafting note: Technical changes.**

~~§ 23-105 23.1-2506. Admission of state State cadets.~~

~~A. The board shall admit annually as state cadets upon evidence of fair moral character; a sufficient young men and women number of individuals selected from the Commonwealth at large; who shall be not less than sixteen nor are at least 16 but not more than twenty five 25 years of age old.~~

~~§ 23-106. Financial assistance for state cadets.~~

~~B. The board shall provide financial assistance equal to the a state cadet applicant's demonstrated need up to the Institute's prevailing charges for tuition and board, mandatory fees, and other necessary charges.~~

~~§ 23-107. Service requirement.~~

~~C. Each state cadet received on state account and who shall have remained remains enrolled in the Institute during the period of for two years or more, shall act in the capacity of teacher (i) teach in some a public elementary or secondary school in this the Commonwealth for two years, and such cadet shall be required to discharge his obligation as teacher within the three years immediately after leaving the Institute; and he shall report in writing to the superintendent of the Institute on or before the first day of June of each year succeeding the date of his leaving the Institute until he shall have has discharged fully such obligation to the Commonwealth; or, at his option, such cadet may, (ii) serve an enlistment in the National Guard of the Commonwealth, or (iii) serve for a period of two years as an engineer for the Commonwealth Transportation Board or for a period of, (iv) serve for two years as an engineer with the State Department of~~

Health, ~~or (v)~~ serve on active duty for a period of two years as a member of some component of the armed services of the United States ~~of America~~, or, ~~(vi)~~ with the approval of the board ~~of visitors~~, serve ~~for a period of two years~~ in any capacity as an employee of the Commonwealth ~~of Virginia~~.

D. Any cadet ~~failing who fails~~ to fulfill his ~~or her~~ obligation pursuant to subsection C shall repay all funds received from the Commonwealth. The board ~~of visitors~~ may excuse such cadet from any ~~and or~~ all of these obligations in such cases as ~~they deem proper~~ it determines is appropriate.

**Drafting note: The provisions of existing §§ 23-105, 23-106, and 23-107 are logically combined into this single section on state cadets. The term "young men and women" is stricken in favor of the more general "individuals." Technical changes are made.**

~~§ 23-107.1 23.1-2507. Admission of military~~ Military scholarship cadets.

A. The board ~~shall~~ may admit annually as military scholarship cadets, up to 40 ~~young men and women~~, individuals who ~~shall be not less than~~ are at least 16 ~~nor~~ but not more than 25 years of age.

B. The board shall provide financial assistance to such military scholarship cadets for tuition, mandatory fees, room and board and other necessary charges entirely from federal funds, Virginia National Guard funds, or private gifts. The federal funds, Virginia National Guard funds, or private gifts shall have no matching requirement.

~~§ 23-107.2. Military scholarship cadet to serve as a commissioned officer in the Virginia National Guard.~~

C. Each military scholarship cadet shall agree to serve as a commissioned officer in the Virginia National Guard for a term in accordance with Guard policy and regulation. Any cadet failing to fulfill his ~~or her~~ obligation to serve shall repay all funds received in support of his ~~or her~~ cost of education. The board ~~of visitors~~, in consultation with the Virginia National Guard, may excuse such cadet from any ~~and or~~ all of these obligations in such cases as ~~they deem proper~~ it determines is appropriate.

**Drafting note: The provisions of existing §§ 23-107.1 and 23-107.2 are logically combined into this single section on military scholarship cadets. The term "young men and women" is stricken in favor of the more general "individuals." Technical changes are made.**

~~§ 23-108. Commissioned officers may become students.~~

~~Any commissioned officer of the organized militia and Governor's military staff of the Commonwealth may become a student at any state institution of higher education for a period not exceeding 10 months, and receive instruction in any or all the departments of military science, emergency management, emergency services, public safety, and disaster management taught therein without being required to pay any fee or charge for tuition.~~

**Drafting note: The provisions of existing § 23-108 are stricken here and incorporated instead into proposed § 23.1-605 of Chapter 6.**

~~§ 23-109~~ 23.1-2508. Cadets a military corps; arsenal.

A. The cadets shall be a military corps under the command of the superintendent; and constitute the guard of the Institute.

B. The arsenal and all its grounds and buildings shall ~~be considered as belonging~~ belong to the Institute, and the board shall ~~cause the same and all the~~ guard and preserve the arsenal, all its grounds and buildings, and all arms and other property ~~therein, or belonging thereto, to be guarded and preserved~~ in its grounds and buildings.

**Drafting note: Technical changes.**

~~§ 23-110~~ 23.1-2509. Conferring of degrees.

A. The Governor ~~and~~, the board of visitors, and the faculty of the Institute may confer a degree upon any qualified graduate ~~found qualified to receive it, after examination upon such of the branches of the arts and sciences and of literature taught at the Institute as the board may deem requisite~~.

B. The board may ~~also, in its discretion,~~ confer honorary degrees or diplomas of distinguished merit.

**Drafting note: Technical changes.**

~~§ 23-111.~~

**Drafting note: Repealed by Acts 1984, c. 734.**

~~§ 23-112~~ 23.1-2510. Musicians, ~~how enlisted and paid~~.

The superintendent may enlist musicians for service at the Institute; to be paid out of the annual appropriation provided for in ~~§ 23-92~~ 23.1-2500.

**Drafting note: Technical changes.**

~~§ 23-113~~ 23.1-2511. Supply of water.

~~To enable the~~ The Institute ~~to procure a supply of water, it shall have authority to proceed under the provisions of Title 25.1 to~~ may acquire pursuant to Title 25.1 such springs, lands, and rights-of-way as may be necessary to procure a supply of water.

**Drafting note: Technical changes.**

## CHAPTER ~~11~~ 26.

### VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY.

**Drafting note: Existing Chapter 11 (§ 23-114 et seq.) is logically reorganized as proposed Chapters 13 and 26. 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 board of visitors that are unique to the University are retained in proposed Chapter 26.

Article 1.

General Provisions.

**Drafting note: Existing provisions relating to the incorporation, membership and meetings, and powers and duties of the board of visitors are consolidated in proposed Article 1 of Chapter 26 and technical changes are made.**

~~§ 23-114 23.1-2600. Board of visitors a corporation and under control of General Assembly~~ Corporate name; name of the University.

A. The board of visitors shall be and remain of Virginia Polytechnic Institute and State University (the board) is a corporation under the name and style of the "Virginia Polytechnic Institute and State University" and has, 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 Polytechnic Institute and State University (the University).

C. All acts and parts of acts and statutes laws relating to Virginia Polytechnic Institute, its predecessors by whatever name known, or to, its board of visitors, or the boards board of visitors thereof, of each of its predecessors shall be construed as relating to the Virginia Polytechnic Institute and State University.

**Drafting note: Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-115 23.1-2601. Appointment of visitors generally; number and eligibility~~ Membership.

A. The board of visitors is to shall consist of fourteen 14 members, thirteen of whom 13 shall be appointed by the Governor, and one of whom shall be the President president of the Board of Agriculture and Consumer Services, who shall serve ex officio. Of the 13 members appointed by the Governor, three may be nonresidents at least 10 members shall be residents of the Commonwealth and at least six members shall be alumni of the University. The visitors in the office on April 9, 1945, are continued in office until the end of their respective terms, or until June 30, 1945, whichever last occurs.

As soon as practicable after April 9, 1945, the Governor shall appoint four members to fill the unexpired portions of the terms which began on July 1, 1944, and shall appoint three additional members for new terms of two years and two for new terms of four years, each term beginning July 1, 1945. He shall, in addition, appoint the President of the State Board of Agriculture and Consumer Services as an ex officio member for a term of four years to begin



~~July 1, 1945; provided that, if the tenure in office as President of such ex officio member expires within that time, the Governor shall appoint such member's successor to fill the unexpired term. Such President shall remain eligible for appointment as an ex officio member so long as he continues in office as President. All appointments for full terms, as well as to fill vacancies, shall be made by the Governor are subject to confirmation by the Senate.~~

~~B. The alumni association of the University may submit to the Governor a list of three nominees for each vacancy on the board, whether it occurs by expired term or otherwise. The Governor may appoint a member from the list of nominees.~~

**Drafting note: Existing provisions relating to the membership of the board of visitors are logically combined in this proposed section, existing provisions relating to the terms and removal of members of the board are stricken and incorporated into proposed § 23.1-1300, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education. Obsolete language relating to 1945 board appointments is stricken.**

~~§ 23-116. Appointment of visitors from nominees of alumni association.~~

~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him by the alumni association of the University on or before the first day of April of any year in which the terms of any visitors will expire.~~

~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall certify this fact to the association and nominations may be submitted of qualified persons and the Governor may fill the vacancy, if his discretion so dictates, from among the eligible nominees of the association, whether or not alumni or alumnae.~~

~~(c) Every list shall contain at least three names for each vacancy to be filled.~~

~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

~~(e) At no time shall less than six of the appointive visitors be alumni or alumnae of the University.~~

**Drafting note: An April 1 deadline for alumni association nominations is recommended for repeal as obsolete because such provision is not enforced and is inconsistent with current practice. The provisions of existing § 23-116 are stricken and incorporated into proposed § 23.1-2601.**

~~§ 23-117. Eligibility to serve for more than two successive terms.~~

~~No person, except the ex officio member, shall be eligible to serve for or during more than two successive four year terms; but after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional four year terms may be served by such a member if appointed thereto. Incumbents on April 5, 1945, appointed for full terms prior to June 1, 1944, shall be deemed to be serving their first terms.~~

**Drafting note: The provisions of existing § 23-117 are stricken and incorporated into proposed § 23.1-1300.**

~~§ 23-118 23.1-2602. Officers and committees of the board; officers of the University Meetings; officers; committees.~~

~~A. The board shall meet in Blacksburg, in the County of Montgomery, at least once a year and at such other times and places as it determines. Special meetings of the board may be called by the Governor, the rector, or any three members. Notice of the time and place of each meeting shall be provided to each member.~~

~~B. A majority of the board shall constitute a quorum. A majority of each committee shall constitute a quorum.~~

~~C. The board of visitors shall appoint from their own body its membership a rector, who shall to preside at their its meetings; and, in his absence, a president pro tempore to preside at its meetings in the absence of the rector. The board may appoint a vice president of the University and, by appropriate regulations, prescribe his authority, duties, and compensation, if any, and he shall hold office at the pleasure of the board.~~

~~D. The board shall appoint a secretary.~~

~~E. The board shall also appoint from its membership an executive committee of not less than at least three nor but not more than six, which, during the interim between board meetings, shall be members that are empowered during the interim between board meetings to exercise all or such part of the such powers of the board as the board may by resolution prescribe by resolution.~~

~~F. The board may likewise appoint special committees and prescribe their duties and powers.~~

~~The executive G. Each committee, and other committees shall make reports report its actions to the board; at its the board's annual meeting or oftener if required, of the acts performed by them from time to time and at such other times as the board may require. The board shall also appoint a treasurer of the University and may appoint a secretary thereof, and also a clerk to the board, and such other officers, assistants and deputies as they deem advisable to conduct the business and affairs of the University.~~

**Drafting note: Technical changes are made to conform provisions relating to meetings, officers, and committees of the board of visitors to those of each other baccalaureate public institution of higher education, including striking the superfluous term "from time to time" per Code Commission policy.**

~~§ 23-119. Quorum of board and of committees.~~

~~A majority of the board and also of all committees appointed pursuant to § 23-118 shall constitute a quorum.~~

**Drafting note: The provisions of existing § 23-119 are stricken and incorporated into proposed § 23.1-2602.**

~~§ 23-120.~~

**Drafting note: Repealed by Acts 2015, c. 560.**

~~§ 23-121. Meetings of board.~~

~~The board shall meet at Blacksburg, in the County of Montgomery, at least once a year, and at such other times or places as they shall determine, the days of meeting to be fixed by them. Special meetings of the board may be called by the Governor, the rector, or any three members. In either of such cases, notice of the time and place of meeting shall be given to every other member.~~

**Drafting note: The provisions of existing § 23-121 are stricken and incorporated into proposed § 23.1-2602.**

~~§ 23-122 23.1-2603. Powers and duties of board generally; expenses.~~

~~A. The board shall be is charged with the care and, preservation, and improvement of the property belonging to the University, and with the protection and safety of students and other persons residing on the such property, and in pursuance thereof shall be empowered to. Pursuant to such duties, the board may change roads or driveways on the property belonging to the University or entrances thereto to such property, or to close temporarily or permanently the roads, and driveways on such property and entrances, to to such property, prohibit entrance to the property of undesirable and disorderly persons from entering such property, or to eject such persons from the such property, and to prosecute under the laws of the state law trespassers and persons committing offenses on the such property.~~

~~B. The board shall regulate the government and discipline of the students; and, generally, in respect to the government of the University, may make such regulations as they deem expedient, not contrary to law. Such reasonable expenses as the visitors may incur in the discharge of their duties shall be paid out of the funds of the University.~~

**Drafting note: Several provisions of existing the second paragraph of § 23-122 are stricken and incorporated into proposed §§ 23.1-1301 and 23.1-1307. Technical changes are made.**

~~§ 23-122.1 23.1-2604. Investment of endowment funds, endowment income, and gifts; standard of care; liability; exemption from the Virginia Public Procurement Act etc.~~

~~A. As used in this section:~~

~~"Derivative" means a contract or financial instrument or a combination of contracts and financial instruments, including any contract commonly known as a "swap," that gives the University the right or obligation to deliver, receive delivery of, or make or receive payments based on changes in the price, value, yield, or other characteristic of a tangible or intangible asset or group of assets or changes in a rate, index of prices or rates, or other market indicator for an asset or group of assets.~~

"Financial security" means (i) any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; (ii) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof; (iii) any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; (iv) in general, any interest or instrument commonly known as a "security"; or (v) any certificate of interest or participation in, temporary or interim security for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any financial security.

"Option" means an agreement or contract whereby the University may grant or receive the right to purchase, sell, or pay or receive the value of any personal property asset, including any agreement or contract that relates to any security, contract, or agreement.

B. ~~The board of visitors shall invest and manage the endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the University in accordance with this section and the provisions of the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).~~

~~B.C.~~ No member of the board of visitors shall be is personally liable for losses suffered by an any endowment fund, endowment income, gifts gift, all other nongeneral fund reserves reserve and balances balance, or local funds of or held by the University, arising from investments made pursuant to the provisions of subsection A.

~~C.D.~~ The investment and management of endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the University shall are not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

~~D.E.~~ In addition to the investment practices authorized by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board of visitors may also invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the University in derivatives, options, and financial securities.

1. In this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments, including, without limitation, any contract commonly known as a "swap," which gives the University the right or obligation to deliver or receive delivery of, or make or receive payments based on, changes in the price, value, yield or other characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

2. In this section, an "option" means an agreement or contract whereby the University may grant or receive the right to purchase or sell, or pay or receive the value of, any personal property asset including, without limitation, any agreement or contract that relates to any security, contract, or agreement.

~~3. In this section, "financial security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, collateral trust certificate, preorganization certificate of subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim security for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

~~E.-F. The authority as provided in this section as it relates to invest and reinvest nongeneral fund reserves and balances of or held by the University is predicated upon an approved management agreement between the University and the Commonwealth of Virginia.~~

**Drafting note: Technical changes.**

~~§ 23-123.~~

**Drafting note: Repealed by Acts 1981, c. 319.**

~~§ 23-124. Appointment of professors; removal of professors and officers.~~

~~The board shall appoint as many professors as they deem proper, and, with the assent of two thirds of the members of the board, may remove any professor or, subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, any other officer of the University.~~

**Drafting note: The provisions of existing § 23-124 relating to the appointment of professors are stricken and incorporated into proposed § 23.1-1301. The provisions of existing § 23-124 relating to the removal of professors are stricken and incorporated into proposed § 23.1-2605.**

~~§ 23-125. Prescribing duties of professors and course of instruction.~~

~~The board shall prescribe the duties of each professor and the course and mode of instruction.~~

**Drafting note: The provisions of existing § 23-125 are stricken and incorporated into proposed § 23.1-2605.**

~~§ 23-126 23.1-2605. Appointment of president; employment of agents or servants~~  
Employees.

~~The board shall appoint a president of the University and~~ A. The board shall appoint a treasurer of the University. The treasurer or the officer who controls the funds of the University shall give bond in the sum of \$50,000, payable to the Commonwealth, with condition for the faithful discharge of the duties of his office. The bond shall be approved by the board, entered on the board's journal, and transmitted to the Comptroller and shall remain filed in the Comptroller's office.

B. The board may appoint a vice-president of the University and prescribe his authority, duties, and compensation, if any. The vice-president shall hold office at the pleasure of the board.

C. The board may employ a secretary of the University, a clerk to the board, and such other agents or servants, officers, assistants, and deputies as may be necessary to conduct the business and affairs of the University.

D. The board may remove any officer of the University with the assent of two-thirds of its members, subject to such human resources programs as may be established by the board pursuant to § 23.1-1021.

E. The board shall prescribe the duties of professors and the course and mode of instruction. The board may remove any professor with the assent of two-thirds of its members.

**Drafting note: Provisions relating to specific employees and officers of the University contained in existing §§ 23-124, 23-125, § 23-126, and 23-127 are consolidated in proposed § 23.1-2605. Subsection D makes necessary reference to the board's power to establish an alternative human resources program pursuant to proposed § 23-38.1021. Technical changes are made.**

~~§ 23-127. Bond of treasurer.~~

~~The board shall require the treasurer, or the officer in whose hands the funds of the University may be placed, to give bond in the sum of \$50,000, payable to the Commonwealth, with condition for the faithful discharge of the duties of his office, which bond being approved by the board and entered at large on its journal, shall be transmitted to the Comptroller, and remain filed in his office.~~

**Drafting note: The provisions of existing § 23-127 are stricken and incorporated into proposed § 23.1-2605.**

~~§ 23-128. Professors' salaries; fees of students.~~

~~Each professor shall receive a stated salary, to be fixed by the board of visitors. The board shall fix the fees to be charged for tuition of students, other than those allowed scholarships under § 23-31, which shall be a credit to the fund of the University.~~

**Drafting note: The provisions of existing § 23-128 are stricken and incorporated into proposed § 23.1-1301.**

~~§ 23-129.~~

**Drafting note: Repealed by Acts 1981, c. 319.**

~~§ 23-130 23.1-2606. Curriculum Courses of study.~~

~~The curriculum of the Virginia Polytechnic Institute and State University shall embrace such branches of learning courses of study as relate to agriculture and the mechanic arts; without excluding other scientific and classical studies; and including military tactics.~~

**Drafting note: Technical changes.**

~~§ 23-131. School of mines continued.~~

~~The school of mines now established at the Virginia Polytechnic Institute and State University is continued, and shall receive for its support such sums as may be appropriated by law for the purpose.~~

**Drafting note: The provisions of existing § 23-131 are recommended for repeal as obsolete because such school is currently operated as the Department of Mining and Minerals Engineering in the College of Engineering.**

~~§ 23-132.~~

**Drafting note: Repealed by Acts 1972, c. 48.**

~~§ 23-155.05 23.1-2607. Purchase of electric power and energy; duration of contracts; source of payments.~~

A. For purposes of this section:

"Other party" means any other entity, including ~~but not limited to~~ any (i) ~~another~~ municipality ~~or~~ public institution of higher education, ~~or any~~ political subdivision, public authority, agency, or instrumentality of the Commonwealth, ~~another or~~ state, or the United States of America or (ii) ~~a~~ partnership, limited liability company, ~~not for profit nonprofit~~ corporation, electric cooperative, or investor-owned utility, whether created, incorporated, or otherwise organized and existing under the laws of the Commonwealth or ~~another~~ state or the United States of America.

"Project" means any (i) system or facilities for the generation, transmission, transformation, or supply of electrical power and energy by any means whatsoever, including ~~but not limited to~~ fuel, fuel transportation, and fuel supply resources ~~and other related facilities, any one or more;~~ (ii) electric generating ~~units~~ unit situated at a particular site, in the continental United States of America, ~~or any;~~ (iii) interest in ~~the foregoing~~ such system, facilities, or unit, whether an undivided interest as a tenant in common or otherwise; ~~or any~~ (iv) right to the output, capacity, or services ~~thereof of such system, facilities, or unit.~~

~~B. Virginia Polytechnic Institute and State~~ The University may contract with any other party to buy power and energy ~~required for to meet~~ its present or future requirements. ~~Such contracts~~ Any such contract may provide that (i) the source of such power and energy is limited to a specified project ~~or may include provision for;~~ (ii) replacement power and energy. ~~Any such contract may provide that~~ shall be provided; or (iii) the University shall be obligated to make payments required by the contract whether ~~or not a~~ the project is completed, operable, or operating and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the amount of power and energy contracted for, ~~and that such;~~ (iv) payments ~~under~~ required by the contract ~~shall~~ (a) are not be subject to any reduction, whether by offset or otherwise, ~~and shall~~ (b) are not be conditioned upon the performance or nonperformance ~~by of~~ any other party. ~~Such contracts, with respect to any project, may also provide, in the event of default by the University or any other party to any such contract for such~~

~~project in the performance of its obligations thereunder, for the University or other party to any such contract for such project to succeed to the rights and interests and assume the obligations of the defaulting party, pro rata or otherwise as may be agreed upon in such contracts. Such contracts may provide that the other party is not obligated to provide power and energy in the event that the project specified to be the source of power and energy to be purchased and sold under such contracts is inoperable or in the case of the suspension, interference, reduction or curtailment of the output of such project or in events of force majeure.~~

~~Notwithstanding the provisions of any other law or charter provision to the contrary, any such contract, with respect to the sale or purchase of capacity, output, power, or energy from a project, may extend for a period not exceeding 50 years from the date a project is estimated to be placed in normal continuous operation; and the execution and effectiveness thereof shall not be subject to any authorizations or approvals by the Commonwealth or any agency, commission, or instrumentality or political subdivision thereof except as specifically required by law.~~

~~Any such contract shall provide that payments by the University under any such contract, (c) shall be made solely from, and may be secured by a pledge of and lien upon, the revenues derived by the University from the ownership and operation of the electric system of the University, (d) may be secured by a pledge of and such payments lien upon the electric system of the University, and (e) shall constitute an operating expense of such the electric system of the University; (v) in the event of default by the University or any other party to the contract in the performance of its obligations for any project, the University or any other party to the contract for such project shall succeed to the rights and interests and assume the obligations of the defaulting party, either pro rata or as may be otherwise agreed upon in the contract; or (vi) no other party shall be obligated to provide power and energy in the event that (a) the project is inoperable, (b) the output of the project is subject to suspension, interference, reduction or curtailment, or (c) a force majeure occurs.~~

~~C. Notwithstanding any other charter or provision of law to the contrary, no such contract, with respect to the sale or purchase of capacity, output, power, or energy from a project, shall exceed 50 years from the date that the project is estimated to be placed in normal continuous operation.~~

~~D. The execution and effectiveness of any such contract are not subject to any authorizations and approvals by the Commonwealth or any agency, commission, instrumentality, or political subdivision of the Commonwealth except as specifically required by law.~~

~~E. No obligation under any such contract shall constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the University or upon any of its income, receipts, or revenues, except the revenues of its electric system, and the faith and credit of the University are not, or may shall not be, pledged for the payment of any obligation under any such contract.~~

~~F. The University shall be obligated to fix, charge, and collect rents, rates, fees, and charges for electric power and energy and other services, facilities, and commodities sold,~~



furnished, or supplied through its electric system sufficient to provide revenues adequate to meet its obligations under any such contract and to pay any and all other amounts payable from or constituting a charge and lien upon such revenues, including amounts sufficient to pay the principal of and interest on bonds of the University ~~heretofore or hereafter~~ issued for purposes ~~related~~ relating to its electric system. Any pledge made by the University pursuant to this ~~paragraph shall be~~ subsection is governed by the laws of the Commonwealth.

**Drafting note: The provisions of the single section in existing Article 7 (§ 23-155.05) of Chapter 11 are logically relocated as proposed § 23.1-2607 of Article 1 of Chapter 26. Technical changes are made.**

Article ~~1.1~~ 2.

Virginia Cooperative Extension Service and Agricultural Experiment Station Division; Hampton Roads and Eastern Shore Agricultural Research and Extension Centers.

**Drafting note: Proposed Article 2 of Chapter 26 logically combines provisions on the closely related Virginia Cooperative Extension and Agricultural Experiment Station Division and the Hampton Roads and Eastern Shore Agricultural Research and Extension Centers. Technical changes are made.**

§ ~~23-132.1~~ 23.1-2608. Definitions; Virginia Cooperative Extension Service and Agricultural Experiment Station Division established; Cooperative Extension Service Program recognized.

A. For the purposes of this article:

"Cooperative extension service" means the function traditionally associated with the term "extension" that traditionally focuses on agriculture, including horticulture and silviculture, agribusiness, home economics, community resource development, and 4-H Clubs.

"Extension" means the joint federal, state, and local program designed to aid the transfer of information and research capabilities of land-grant universities to citizens.

B. There is ~~hereby~~ established within the ~~Virginia Polytechnic Institute and State University~~ a division to be known as the Virginia Cooperative Extension Service and Agricultural Experiment Station Division, ~~hereinafter referred to as~~ (the Division), which shall encompass and administer the Virginia Cooperative Extension Service (the Service) and the Agricultural Experiment Station (the Station) with appropriate supporting programs.

~~Further, the~~ C. The Cooperative Extension Service Program within Virginia State University, ~~hereinafter referred to as~~ "(the ~~Service~~ Program,") is ~~hereby~~ recognized. The Cooperative Extension ~~Service~~ Program shall be operated cooperatively by ~~Virginia Polytechnic Institute and State~~ the University and Virginia State University, with ~~agreed-upon~~ agreed-upon areas of program and service emphasis as set forth in the unified plan submitted by the two institutions to the U.S. Department of Agriculture.

**Drafting note: Proposed subsection A incorporates explanatory statements contained in existing § 23-132.7. Technical changes are made.**

~~§ 23-132.2~~ 23.1-2609. Administration of the Division.

The board of visitors of the ~~Virginia Polytechnic Institute and State University~~ shall provide for the administration of ~~such~~ the Division through the regular administrative and fiscal officers of the ~~Virginia Polytechnic Institute and State University~~ and shall make appointments to the administrative and research staff on recommendation of the president of the ~~Virginia Polytechnic Institute and State University~~.

**Drafting note: Technical changes.**

~~§ 23-132.3~~ 23.1-2610. Duties of ~~Division; how work to be performed,~~ the Service, the Program, and the Station.

A. The ~~Virginia Cooperative Extension~~ Service shall provide the people of the Commonwealth with useful and practical information and knowledge on ~~subjects related to~~ agriculture, including horticulture and silviculture, agribusiness, home economics, community resource development, 4-H Clubs, and related subjects ~~relating thereto~~, through instruction and the dissemination of useful and practical information through demonstrations, conferences, courses, workshops, publications, meetings, ~~and mass media,~~ and other educational programs. The necessary printing and distribution of information in connection with ~~the foregoing and this work of the Service~~ shall be ~~carried on~~ performed in such manner as may be mutually agreed upon by ~~Virginia Polytechnic Institute and State the University for the work of the Division, the Virginia State University for the work of the Service Program, the Governor or his designated representative designee, the United States U.S. Secretary of Agriculture, the United States U.S. Secretary of Commerce, and other participating bodies.~~

B. The ~~Cooperative Extension Service~~ Program shall also conduct educational programs and disseminate useful and practical information to the people of the Commonwealth.

~~§ 3.2-503. Duties of Extension Division of Virginia Polytechnic Institute and State University.~~

~~A. C.~~ Personnel of the ~~Extension Division of Virginia Polytechnic Institute and State University~~ Service shall inform local governing bodies of the Commonwealth whenever agricultural conditions are present in such localities that would warrant the declaration of a disaster pursuant to Section 301 of Public Law 93-288, 42 U.S.C. § 5141.

~~B. D.~~ Personnel of the ~~Extension Division of Virginia Polytechnic Institute and State University~~ Service shall provide farmers and local governing bodies with such assistance and information as is available concerning federal and state disaster relief programs.

~~C. E.~~ The ~~Agricultural Experiment~~ Station shall conduct research and investigations and establish, publish, and distribute results in such forms as will tend to increase the economy, efficiency, and safety of the various enterprises and activities of interest to the Commonwealth and the nation; and promote the conservation and economic utilization of its natural and human resources.

**Drafting note: Subsections D and E logically incorporate the provisions of existing § 3.2-503. Technical changes are made.**

~~§ 23-132.4 23.1-2611. Selection of personnel; rules and regulations; work may be conducted with both adults and youth~~ Personnel; local units.

~~It shall be the duty of the Virginia Polytechnic Institute and State A. The University and of the Virginia State University, in cooperation with the departments and agencies of the federal government, to shall exercise great care in the selection of personnel to carry out and supervise the work and to supervise the work to see that it is properly done throughout the Commonwealth of the Service. The work shall be conducted under such rules and regulations as may be adopted by the Virginia Polytechnic Institute and State University for the work of the Division and by the University and Virginia State University, in cooperation with the U.S. Department of Agriculture, for the work of the Service in cooperative relation to the United States Department of Agriculture.~~

~~B. The Virginia Polytechnic Institute and State University through the Division and the Virginia State University through the Service are authorized to conduct~~ Program may work with both adults and youth through local units to be known as "departments of extension and continuing education."

**Drafting note: Technical changes are made, including use of "regulations" rather than "rules and regulations" per recommendation of the Code Commission.**

~~§ 23-132.5 23.1-2612. Sources from which moneys may be received; disposition of receipts~~ Division; funding sources.

~~The Division may receive moneys from the Commonwealth, the federal government or, and private sources and all. All receipts of the Division shall be deposited to the credit of the general fund of the state treasury and are hereby appropriated to the Virginia Polytechnic Institute and State University to be used exclusively for the purposes of the Division.~~

**Drafting note: Technical changes.**

~~§ 23-132.6 23.1-2613. Appropriations~~ The Division and the Program; appropriations by the General Assembly.

~~There is hereby authorized to be appropriated for the purposes of this chapter such sums as the A. The General Assembly may from time to time determine to be appropriate such funds to the Division and the Program as it deems necessary. Any money that may be appropriated from the general fund of the state treasury, or received and appropriated general funds and funds received from any agency or department of the federal government for the purposes of carrying out this chapter article shall be expended by the Virginia Polytechnic Institute and State University through the Division and by the Virginia State University through the Service, Program and shall be accounted for in the manner prescribed by applicable law or regulations.~~

B. Funds appropriated by the General Assembly shall be used by the University and Virginia State University for the purpose of conducting cooperative extension services in the Commonwealth. Such funds may be used to defray all necessary expenses, including salaries, travel expenses, equipment, supplies, or other authorized expenses.

**Drafting note: Subsection B incorporates the provisions of existing § 23-132.7 with the exception of the explanatory provisions contained in that section. Technical changes are made, including striking the superfluous term "from time to time" per Code Commission policy.**

~~§ 23-132.7. For what purposes funds may be used.~~

~~The funds appropriated by the General Assembly as provided in § 23-132.6 shall be used by the Virginia Polytechnic Institute and State University and by the Virginia State University for the purpose of conducting cooperative extension services in the Commonwealth of Virginia and in cooperation with the several counties, cities, and other participating bodies therein so far as said funds will permit. "Cooperative extension service" is the function traditionally associated with the term "extension," which is the joint federal, state, and local program designed to aid transfer of information and research capabilities of land grant universities to citizens. Traditionally, the cooperative extension services focus on agriculture, including horticulture and silviculture, agribusiness, home economics, community resource development, and 4-H Clubs. These funds may be used for defraying all necessary expenses, including the payment of salaries and travel expenses, buying of equipment and supplies, and for other authorized expenses in connection with carrying out the work.~~

**Drafting note: With the exception of explanatory statements, the provisions of existing § 23.1-132.7 are stricken and incorporated into proposed § 23.1-2613. Explanatory statements are stricken and incorporated into § 23.1-2608.**

~~§ 23-132.8 23.1-2614. Appropriations The Division; appropriations by local governing bodies.~~

~~The Any local governing bodies of the several counties and cities body of the Commonwealth are hereby authorized and empowered to may appropriate out of the county or city funds for the support of such, to be supplemented by funds appropriated by the General Assembly to the University for the Division and such other funds as the University may allocate, to support the activities of the Division such sums as said governing bodies may deem proper; the sums so appropriated are to be used in cooperation with the Virginia Polytechnic Institute and State University for paying such portions of the expenses of the Division and in such manner as may be agreed upon by the Virginia Polytechnic Institute and State University and the local governing body. Funds appropriated by the governing bodies of the county or city are to be supplemented by a sum or sums to be paid out of funds appropriated by the General Assembly to the Virginia Polytechnic Institute and State University for the Division and such funds as may be allotted from funds under its control.~~

**Drafting note: Technical changes.**

~~§ 23-132.9~~ 23.1-2615. Soil Station; soil survey.

For the purpose of continuing a survey of the soils of the Commonwealth ~~which that~~ was begun by the ~~United States~~ U.S. Department of Agriculture, ~~there is hereby authorized and directed to be made under the direction and supervision of such agricultural experiment station, the Station shall direct and supervise~~ a comprehensive soil survey of the Commonwealth of such a character and along such lines as to obtain an inventory of the soil resources of the Commonwealth and to determine their adaptability to various crops, forestry, and livestock enterprises ~~in order~~ to promote the utilization of the lands of the Commonwealth in the most practical and economical way. It is contemplated that the ~~experiment station~~ Station will make ~~this such soil~~ survey in cooperation with the ~~United States~~ U.S. Department of Agriculture.

**Drafting note: Technical changes.**

~~§ 23-132.10~~ 23.1-2616. Agricultural Station; agricultural survey.

~~There is authorized to be made under the direction and supervision of such agricultural experiment station, The Station may direct and supervise~~ a thorough and comprehensive agricultural survey of the Commonwealth according to the most approved methods in practice, ~~or which may be devised, for the purpose of gathering to gather~~ facts and information ~~in regard to~~ on existing agricultural conditions in ~~Virginia, the Commonwealth~~ and data upon which to base a study of agricultural economics and a constructive program for the development of agriculture and agricultural resources, ~~which survey shall include matters pertaining to. The survey shall~~ examine (i) soils and soil fertility and management; (ii) soil erosion and drainage problems affecting soil fertility and productivity; (iii) the adaptation of various soil types, elevations, and seasonable conditions to crops produced or ~~which that~~ may suitably be produced; (iv) farm layout and selection ~~and~~; (v) arrangement of fields for the use of labor-saving machinery, ~~and~~; (vi) economy and convenience in cultivation and farm operations; (vii) methods of cultivation, production, and handling of crops, ~~and~~; (viii) general farm management; (ix) the various crops produced on farms; ~~and~~ their yield and gross value compared with the cost of production and courses of low yield; (x) farm labor; ~~and~~ its distribution and efficiency; (xi) labor incomes of the various classes of farm labor; (xii) the relation of various farm products to public needs and local and general supply and demand; (xiii) farm incomes and income sources; (xiv) capital investment and return; (xv) distribution of capital investment; (xvi) the character and extent of idle lands and their suitability for cultivation or other agricultural purposes in the various localities and what, if any, profitable use may be made of them through the introduction of livestock or crops adapted to such soils, by individuals or on a community plan, with notations of elevation, topography, temperatures, and seasonal conditions ~~as affecting fruit production of~~ fruit, cotton, ~~or, and~~ other crops; and (xvii) any other information or studies ~~which that~~ may seem advisable in determining methods for the betterment of agricultural conditions and the development of the agricultural resources of the Commonwealth.

~~It is contemplated that in making the foregoing survey that the agricultural experiment station will, and is hereby authorized to, The Station may and it is contemplated that the Station will work in conjunction with and cooperate with similar agencies of the federal government to make such agricultural survey whenever a suitable and satisfactory arrangement can be made for such cooperation.~~

**Drafting note: Technical changes.**

~~Article 6.~~

~~Virginia Truck and Ornamentals Research Station.~~

**Drafting note: Existing Article 6 (§ 23-155.01 et seq.) of Chapter 11 is stricken and its four sections are relocated to this proposed Article 2 of Chapter 26 with technical changes to reflect its name in current use.**

~~§ 23-155.01 23.1-2617. Established Hampton Roads and Eastern Shore Agricultural Research and Extension Centers established.~~

~~The Virginia Truck and Ornamentals Hampton Roads and Eastern Shore Agricultural Research Station is hereby abolished as a permanent state institution and is reestablished and Extension Centers (Centers) are established as a component of the Virginia Agricultural Experiment Station which is, by the provisions of § 23-132.1, part of the Research Division at the Virginia Polytechnic Institute and State University and shall be retained as active research and extension centers.~~

**Drafting note: Existing § 23-155.01 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is logically relocated as proposed § 23.1-2617. This proposed section incorporates the last sentence of existing § 23-155.03. Technical changes are made.**

~~§ 23-155.02 23.1-2618. Function Centers; function.~~

~~The Virginia Truck and Ornamentals Research Station, at times hereafter referred to as the "Station," Centers shall conduct basic and applied research in the fields of horticulture, plant breeding and variety testing, entomology, nematology, plant pathology, plant physiology, and soil science which that may bear directly on the interests of commercial growers of vegetable and ornamental crops in Tidewater Virginia the Commonwealth. The station Centers shall coordinate its their research with related work of the Virginia Agricultural Experiment Station to avoid unnecessary duplication of effort. The information acquired Centers shall disseminate the results of their research conducted pursuant to this section shall be disseminated. The Norfolk and Eastern Shore branches of the station will be retained as active research stations.~~

**Drafting note: Existing § 23-155.02 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is logically relocated as proposed § 23.1-2618. Technical changes are made.**

~~§ 23-155.03 23.1-2619. Board of Directors Centers; Advisory board of directors.~~

~~A. A Board board of Directors directors (board) shall serve as an advisory body representing to the Centers that represents local agricultural interests. The Board will board shall~~

consist of five members, ~~all~~ appointed by the ~~Dean~~ dean of the College of Agriculture and Life Sciences. ~~Three of the appointive members shall be selected from the membership of the Association of Virginia Potato and Vegetable Growers, Incorporated. Two of the appointive members shall be selected from the membership of the Virginia Nurseryman's Association, Incorporated.~~ Each appointed member shall represent an industry that is relevant to the missions of the Centers.

~~The term of office of the appointive members~~ B. Members of the board shall be serve for terms of four years.

C. The members of the Board board shall name one of its members chairman and three.

D. Three members of the Board board shall constitute a quorum for the transaction of business.

E. The Board board shall hold at least one meeting annually at either the ~~Norfolk or Hampton Roads center or the Eastern Shore branch research stations~~ center and such other meetings as may be necessary at such times and places as the chairman or any three members may designate.

**Drafting note: A substantive change is made in subsection A to remove specific qualifications of advisory board members in favor of more general qualifications. This substantive change reflects the current appointment method for such advisory board. Technical changes are made.**

~~§ 23-155.04 23.1-2620. Executive Director~~ Centers; executive director.

~~An Executive Director~~ executive director shall be appointed to administer the ~~Norfolk and Eastern Shore branches of the station~~ Centers and to carry out the ~~station's program of research~~ research programs at the Centers. The ~~Executive Director~~ executive director shall serve at the pleasure of and be answerable to the Dean of the College of Agriculture and Life Sciences of the University.

**Drafting note: Existing § 23-155.04 of Article 6 (§ 23-155.01 et seq.) of Chapter 11 is logically relocated as proposed § 23.1-2620. Technical changes are made.**

~~§ 23-132.11 23.1-2621. Reports~~ The Division and the Program; reports.

A. The Virginia Polytechnic Institute and State University shall file such reports on the activities of the Division; the Virginia State University shall file such reports on the activities of the Service Program as may be required by law or requested by the Governor; and the two institutions.

B. Virginia State University shall file such reports on the activities of the Program as may be required by law or requested by the Governor.

C. The University and Virginia State University shall file such reports on the unified plan as may be required by law or requested by the Governor.

**Drafting note: Technical changes.**

~~§ 23-132.12 23.1-2622.~~ Construction of acts relating to the ~~Virginia Cooperative Extension Service and Agricultural Experiment Station Division of Virginia Polytechnic Institute and State University~~ Service and the Station.

All acts ~~and parts of acts~~ relating to the ~~Virginia Cooperative Extension Service and Agricultural Experiment Station Division of the Virginia Polytechnic Institute and State University~~ Service and the Station shall be construed as relating to the Division as established by this article; and no such act ~~or part of an act~~ shall be construed as limiting the provisions of this article.

**Drafting note: Technical changes.**

~~Article 2.~~

~~Research Division.~~

~~§§ 23-133 through 23-135.7.~~

**Drafting note: Repealed by Acts 1994, c. 433.**

~~Article 2.01 3.~~

Virginia Center for Coal and Energy Research.

**Drafting note: Existing Article 2.01 (§ 23-135.7:1 et seq.) of Chapter 11 is reorganized as proposed Article 3 of Chapter 26, and technical changes are made.**

~~§ 23-135.7:1 23.1-2623.~~ Created Virginia Center for Coal and Energy Research established.

The Virginia Center for Coal and Energy Research (the Center) ~~is hereby created to be located at Virginia Polytechnic Institute and State University, hereinafter referred to as the Center.~~

~~§ 23-135.7:2. Function.~~

~~The Center shall be established as~~ an interdisciplinary study, research, information, and resource facility for the Commonwealth of Virginia utilizing and shall utilize the full capabilities of faculty, staff, libraries, and laboratories for the benefit of Virginians and the expansion of knowledge pertaining to coal and energy research and development. The Center shall be located at the University.

**Drafting note: Existing §§ 23-135.7:1 and 23-135.7:2 are logically combined in proposed § 23.1-2623. Technical changes are made.**

~~§ 23-135.7:3 23.1-2624.~~ Control and supervision.

The Center ~~shall be~~ is subject to the control and supervision of the board ~~of visitors of Virginia Polytechnic Institute and State University.~~

**Drafting note: Technical changes.**



~~§ 23-135.7:4~~ 23.1-2625. ~~Appointment of executive~~ Executive director.

The board of visitors of Virginia Polytechnic Institute and State University shall appoint an executive director for the Center:

~~§ 23-135.7:5. Powers and duties of executive director.~~

~~The executive director with~~ who, subject to the approval of the board of visitors of Virginia Polytechnic Institute and State University, shall have the following powers and duties:

1. Exercise all powers and perform all duties imposed upon him by law; ~~and~~
2. Carry out the specific duties imposed upon him by the board of visitors of Virginia Polytechnic Institute and State University; and
3. Employ such personnel and contract for such services as may be required to carry out the purposes of this article.

**Drafting note: Existing §§ 23-135.7:4 and 23-135.7:5 are logically combined in this proposed § 23.1-2625. Technical changes are made.**

~~§ 23-135.7:6~~ 23.1-2626. Powers and duties of the Center.

The Center, under the direction of the executive director, shall ~~have the following powers and duties:~~

1. ~~To develop~~ Develop a degree program in energy production and conservation research at the master's level in conjunction with the State Council on Higher Education;
2. ~~To develop~~ Develop and provide programs of continuing education and in-service training for persons who work in the ~~field~~ fields of coal or other energy research, development, or production;
3. ~~To operate in conjunction~~ Collaborate with other departments of Virginia Polytechnic Institute and State the University, including ~~but not limited to~~ the Department of Mining and Minerals Engineering;
4. ~~To conduct~~ Conduct research in the fields of coal, coal utilization, migrating natural gases such as methane and propane, and other ~~energy-related~~ energy-related work;
5. ~~To collect~~ Collect and maintain data on energy production, development, and utilization;
6. ~~To foster~~ Foster the utilization of research information, discoveries, and data;
7. ~~To coordinate~~ Coordinate the functions of the Center with each of the Center's energy research facilities to prevent duplication of effort;
8. ~~To apply~~ Apply for and accept grants from the ~~United States~~ federal government ~~and the~~, state government and agencies and instrumentalities thereof, and from any other source ~~in carrying to carry out the purposes of this article. To these ends, the~~ The Center shall have the power ~~to~~ may comply with such conditions and execute such agreements as may be necessary to accept such grants;
9. ~~To accept~~ Accept gifts, bequests, and any other thing of value ~~to be used for carrying~~ carry out the purposes of this article;

10. ~~To receive~~ Receive, administer, and expend all funds and other assistance made available to the Center ~~for to carry out~~ the purposes of ~~carrying out~~ this article;

11. ~~To consult~~ Consult with the Division of Energy of the Department of Mines, Minerals and Energy in the preparation of the Virginia Energy Plan pursuant to § 67-201; and

12. ~~To do~~ Do all things necessary or convenient for the proper administration of this article.

**Drafting note: Technical changes.**

~~§ 23-135.7:7 23.1-2627. Advisory Committee continued as~~ Virginia Coal Research and Development Advisory Board.

~~The Virginia Coal Research and Development Advisory Committee is continued and shall hereafter be known as the~~ Virginia Coal Research and Development Advisory Board. ~~The~~ (the Advisory Board) shall serve in an advisory capacity to the ~~Executive Director~~ executive director of the ~~Virginia Center for Coal and Energy Research.~~

1. ~~The Advisory Board shall be authorized to advise on those matters set forth in § 23-135.7:2.~~

2. ~~Representatives to the Advisory Board shall be appointed by the~~ Board of Visitors of Virginia Polytechnic Institute and State University board.

3. ~~The Board of Visitors of Virginia Polytechnic Institute and State University~~ board shall also appoint such other individuals as ~~they deem~~ it deems necessary to the work of the Advisory Board.

4. ~~Representatives~~ Members shall include representatives from the Department of Conservation and ~~Historic Resources~~ Recreation, the Department of Small Business and Supplier Diversity, the Department of Mines, Minerals and Energy, the Department of Labor and Industry, the Virginia Port Authority, ~~the institutions and each~~ public institution of higher education, excluding ~~Virginia Polytechnic Institute and State~~ the University, and the Community College System shall serve as the Advisory Board.

**Drafting note: Technical changes are made, including correcting the name of the Department of Conservation and Recreation.**

~~Article 2.02~~ 4.

Virginia Water Resources Research Center.

**Drafting note: Existing Article 2.02 (§ 23-135.7:8 et seq.) of Chapter 11 is reorganized as proposed Article 4 of Chapter 26, and technical changes are made.**

~~§ 23-135.7:8. 23.1-2628. Established~~ Virginia Water Resources Research Center established.

The Virginia Water Resources Research Center, ~~which came into existence as the result of the Water Resources Research Act of 1964 (P.L. 88-379),~~ (the Water Center) is hereby established as the ~~Virginia Water Resources Research Center,~~ hereinafter referred to as the Water

~~Center, to be located at Virginia Polytechnic Institute and State University, for the purposes of developing, implementing and coordinating to develop, implement, and coordinate water and related land research programs in the Commonwealth and transferring transfer the results of research and new technology to potential users. The Water Center shall be located at the University.~~

**Drafting note: Technical changes.**

~~§ 23-135.7:10 23.1-2629. Control and supervision.~~

~~The Water Center shall be is a unit of Virginia Polytechnic Institute and State the University under the supervision and control of the University's Board of Visitors board.~~

**Drafting note: Technical changes.**

~~§ 23-135.7:9 23.1-2630. Functions, powers, and duties of the Water Center.~~

A. The Water Center shall: (i) consult with the General Assembly; federal, state, and local agencies; water user groups; private industry; and other potential users of research; (ii) establish and administer agreements with other ~~universities of the Commonwealth for the public institutions of higher education and private institutions of higher education to conduct of~~ research projects; (iii) ~~[Repealed.]~~ (iv) disseminate new information and facilitate the transfer and application of new technology; ~~(v)~~ (iv) be a liaison between ~~Virginia the Commonwealth~~ and the federal research funding agencies ~~as an and~~ advocate for ~~Virginia's the Commonwealth's~~ water research needs; ~~(vi) and~~ (v) encourage the development of academic programs in water resources management in conjunction with the ~~State Council on Higher Education.~~

B. ~~In addition, the~~ The Water Center shall facilitate and stimulate research that: (i) deals with policy issues facing the General Assembly; (ii) supports the state water resource agencies; and (iii) provides water planning and management organizations with tools to increase efficiency and effectiveness of water planning and management.

**Drafting note: Technical changes.**

~~§ 23-135.7:11 23.1-2631. Appointment of an executive Executive director.~~

A. The principal administrative officer of the Water Center shall be an executive director, who shall be appointed by the ~~President~~ president of ~~Virginia Polytechnic Institute and State the University with,~~ subject to the approval of the ~~Board of Visitors, and who~~ board. The executive director shall be under the supervision of the ~~President~~ president of ~~Virginia Polytechnic Institute and State the University.~~

~~§ 23-135.7:12. Powers and duties of the Executive Director.~~

B. ~~The Executive Director~~ executive director shall exercise all powers imposed upon him by law, carry out the specific duties imposed upon him by the ~~President~~ president of ~~Virginia Polytechnic Institute and State the University,~~ and develop appropriate policies and procedures, with the advice of the Virginia Water Resources Research Center Statewide Advisory Board, for (i) identifying priority research problems; (ii) collaborating with the General Assembly; federal,

state, and local governmental agencies; and water user groups in the formulation of its research programs; (iii) selecting projects to be funded; and (iv) disseminating information and transferring technology designed to help resolve water and related land problems of the Commonwealth. He shall employ such personnel and secure such services as may be required to carry out the purposes of this article and expend appropriated funds and accept moneys for cost-sharing on projects funded with federal and private funds.

**Drafting note: Existing §§ 23-135.7:11 and 23-135.7:12 are combined in proposed § 23.1-2631. Technical changes are made.**

~~§ 23-135.7:13 23.1-2632. Statewide Advisory Committee continued as~~ Virginia Water Resources Research Center Statewide Advisory Board.

~~The Virginia Water Resources Research Center Statewide Advisory Committee is continued and shall hereafter be known as the~~ Virginia Water Resources Research Center Statewide Advisory Board. ~~The~~ (the Statewide Advisory Board) shall serve in an advisory capacity to the ~~Executive Director~~ executive director of the Water Center. Representatives of the Statewide Advisory Board shall be appointed by the Governor, subject to confirmation by the General Assembly, and shall include balanced representation from industries; federal, state, and local agencies; water user groups; and concerned citizens. The Statewide Advisory Board shall (i) recommend policy guidelines for implementing the functions of the Water Center ~~and~~, (ii) evaluate the programs of the Water Center; ~~and~~ (iii) ~~advise and counsel with the Executive Director~~ executive director of the Water Center and make recommendations to assist him in carrying out the purposes of this article.

**Drafting note: Technical changes.**

~~Article 2.03~~ 5.

Virginia Center for Housing Research.

**Drafting note: Existing Article 2.03 (§ 23-135.7:14 et seq.) of Chapter 11 is reorganized as proposed Article 5 of Chapter 26, and technical changes are made.**

~~§ 23-135.7:14 23.1-2633. Virginia Center for Housing Research~~ established.

The Virginia Center for Housing Research, ~~hereinafter referred to as~~ (the Housing Center), ~~is hereby created to~~ established and shall be located at ~~Virginia Polytechnic Institute and State~~ the University.

**Drafting note: Technical changes.**

~~§ 23-135.7:15 23.1-2634. Functions, powers, and duties of the Housing Center.~~

A.—The Housing Center shall serve as an interdisciplinary study, research, and information resource on housing for the Commonwealth ~~of Virginia~~. The Housing Center shall: (i) consult with the General Assembly; federal, state, and local agencies; nonprofit organizations; private industry; and other potential users of research; (ii) establish and administer agreements with other ~~universities of the Commonwealth~~ public institutions of higher

education and private institutions of higher education to carry out research projects; (iii) disseminate new information and research results; ~~and~~ (iv) facilitate the application and transfer of new technologies to housing.

~~B. In addition, the Housing Center shall;~~ and (v) stimulate and perform research that ~~(i)~~ deals with housing policy issues facing the General Assembly and ~~(ii)~~ aids the Commonwealth's housing and housing finance agencies.

**Drafting note: Technical changes.**

~~§ 23-135.7:16 23.1-2635.~~ Control and supervision.

The Housing Center ~~shall be~~ is a unit of ~~Virginia Polytechnic Institute and State the~~ University under the supervision and control of the ~~University's Board of Visitors~~ board.

**Drafting note: Technical changes.**

~~§ 23-135.7:17 23.1-2636.~~ Appointment of a Director.

A. The ~~President~~ president of the ~~Virginia Polytechnic Institute and State~~ University, with the approval of the ~~Board of Visitors~~ board, shall appoint a director to serve as the principal administrative officer of the Housing Center. The ~~Director~~ director shall be under the supervision of the ~~President~~ president of the ~~Virginia Polytechnic Institute and State~~ University or his designee.

~~§ 23-135.7:18.~~ Powers and duties of the Director.

B. The ~~Director~~ director shall exercise all powers imposed upon him by law, carry out the specific duties imposed on him by the ~~President~~ president of ~~Virginia Polytechnic Institute and State the~~ University, and develop appropriate policies and procedures, with the advice of the ~~Research Advisory Board of Housing and Community Development~~, for (i) identifying priority research problems; (ii) cooperating with the General Assembly; federal, state, and local agencies; nonprofit organizations; and private industry in formulating its research programs; (iii) selecting research projects to be funded; and (iv) disseminating information and transferring technology ~~related~~ relating to housing and housing problems within the Commonwealth. The ~~Director~~ director shall employ such personnel and secure such services as may be required to carry out the purposes of this article, expend appropriated funds, and accept moneys from federal or private sources for cost-sharing on projects.

**Drafting note: Existing §§ 23-135.7:17 and 23-135.7:18 are combined as proposed § 23.1-2636. Technical changes are made.**

~~§ 23-135.7:19.~~

**Drafting note: Repealed by Acts 1992, c. 754.**

~~§ 23-135.7:20 23.1-2637.~~ ~~Board of Housing and Community Development to serve as advisory~~ Advisory board.

The Board of Housing and Community Development ~~established in § 36-135~~ shall ~~serve in an advisory capacity to advise~~ the ~~Director~~ director of the Housing Center ~~for Housing~~

~~Research. The Board of Housing and Community Development shall be and authorized to may advise the director on all matters set forth in § ~~23-135.7:15~~ 23.1-2634.~~

**Drafting note: Technical changes.**

~~Article 2.1.~~

~~Roanoke Technical Institute.~~

**Drafting note: Existing Article 2.1 (§§ 23-135.8 through 23-135.11) of Chapter 11 is recommended for repeal as obsolete because the University does not currently operate a Roanoke Technical Institute division.**

~~§ 23-135.8. Establishment and accreditation.~~

~~There is hereby established within the Virginia Polytechnic Institute and State University a division to be known as the "Roanoke Technical Institute," hereinafter referred to as the Institute. Such Institute shall be in all respects subject to the judgment, control and supervision of the governing board of the Virginia Polytechnic Institute and State University in cooperation with the State Board of Education, which said Institute shall offer courses appropriate to establish accreditation practices in its field.~~

**Drafting note: Existing § 23-135.8 is recommended for repeal as obsolete.**

~~§ 23-135.9. Purpose.~~

~~The purpose of the Institute shall be to train technicians in the industrial, scientific, electrical and the mechanical arts and sciences in order to increase the economic efficiency and safety of the manufacturing, engineering, and industrial enterprises of the Commonwealth and to promote the economic utilization of its natural and human resources.~~

**Drafting note: Existing § 23-135.9 is recommended for repeal as obsolete.**

~~§ 23-135.10. Administration.~~

~~The board of visitors of the Virginia Polytechnic Institute and State University in cooperation with the State Board of Education shall provide for the administration of such Institute through such persons as they determine proper and shall make such appointments to the administrative and technical staff of the Institute as in their judgment appear best.~~

**Drafting note: Existing § 23-135.10 is recommended for repeal as obsolete.**

~~§ 23-135.11. Contribution by City of Roanoke; gifts and donations.~~

~~The City of Roanoke shall provide a suitable site without cost to the Commonwealth and assume an appropriate share of the cost of operation. For such purpose the city may accept and expend gifts and donations from private individuals, firms, corporations and organizations, which shall be considered for the purpose of this section as a contribution on the part of the city.~~

**Drafting note: Existing § 23-135.11 is recommended for repeal as obsolete.**

~~Article 2.2.~~

~~Clifton Forge-Covington Branch.~~

**Drafting note: Existing Article 2.2 (§§ 23-135.12 through 23-135.16) of Chapter 11 is recommended for repeal as obsolete because the University does not currently operate a Clifton Forge-Covington Branch.**

~~§ 23-135.12. Establishment.~~

~~There is hereby established within the Virginia Polytechnic Institute and State University a division to be known as the "Clifton Forge-Covington Branch of the Virginia Polytechnic Institute and State University," hereinafter referred to as the division. Such division shall be in all respects subject to the judgment, control and supervision of the governing board of the Virginia Polytechnic Institute and State University.~~

**Drafting note: Existing § 23-135.12 is recommended for repeal as obsolete.**

~~§ 23-135.13. Administration.~~

~~The board of visitors of the Virginia Polytechnic Institute and State University shall have the same powers as to determining the fields of instruction to be offered; as to fixing tuition, fees and other charges; as to the appointment and removal of administrative officers, professors, agents and servants, and the making of rules and regulations as are now vested in said board with respect to Virginia Polytechnic Institute and State University. The board of visitors shall have the power of granting appropriate diplomas or certificates of successful completion of the two year curriculum of such division.~~

**Drafting note: Existing § 23-135.13 is recommended for repeal as obsolete.**

~~§ 23-135.14. Courses of instruction.~~

~~The curriculum offered by the division shall be limited to courses of instruction which are offered by the Virginia Polytechnic Institute and State University to resident students during their first two years of enrollment and to such other terminal courses of no more than two years' duration as may be authorized by the board of visitors to meet the post-high school educational needs of the community.~~

**Drafting note: Existing § 23-135.14 is recommended for repeal as obsolete.**

~~§ 23-135.15. Expenditure of appropriations.~~

~~Appropriations, directly or indirectly, from the Commonwealth to the division shall be expended as directed by the board of visitors of the Virginia Polytechnic Institute and State University.~~

**Drafting note: Existing § 23-135.15 is recommended for repeal as obsolete.**

~~§ 23-135.16. Care and preservation of property; acquisition of site; gifts and donations.~~

~~The board of visitors of the Virginia Polytechnic Institute and State University shall be charged with the care and preservation of all property, real and personal, belonging to the~~

~~division. To this end, the board is authorized to acquire, by gift or purchase, a suitable site for the division, and may accept and expend gifts and donations of any kind from individuals, firms, corporations and organizations.~~

**Drafting note: Existing § 23-135.16 is recommended for repeal as obsolete.**

~~Article 2.3.~~

~~Wytheville Branch.~~

**Drafting note: Existing Article 2.3 (§§ 23-135.17 through 23-135.21) of Chapter 11 is recommended for repeal as obsolete because the University does not currently operate a Wytheville Branch.**

~~§ 23-135.17. Establishment.~~

~~There is hereby established within the Virginia Polytechnic Institute and State University a division to be known as the "Wytheville Branch of the Virginia Polytechnic Institute and State University," hereinafter referred to as the division. Such division shall be in all respects subject to the judgment, control and supervision of the governing board of the Virginia Polytechnic Institute and State University.~~

**Drafting note: Existing § 23-135.17 is recommended for repeal as obsolete.**

~~§ 23-135.18. Administration.~~

~~The board of visitors of the Virginia Polytechnic Institute and State University shall have the same powers as to determining the fields of instruction to be offered; as to fixing tuition, fees and other charges; as to the appointment and removal of administrative officers, professors, agents and servants, and the making of rules and regulations as are now vested in said board with respect to Virginia Polytechnic Institute and State University. The board of visitors shall have the power of granting appropriate diplomas or certificates of successful completion of the two-year curriculum of such division.~~

**Drafting note: Existing § 23-135.18 is recommended for repeal as obsolete.**

~~§ 23-135.19. Courses of instruction.~~

~~The curriculum offered by the division shall be limited to courses of instruction which are offered by the Virginia Polytechnic Institute and State University to resident students during their first two years of enrollment and to such other terminal courses of no more than two years' duration as may be authorized by the board of visitors to meet the post-high school educational needs of the community.~~

**Drafting note: Existing § 23-135.19 is recommended for repeal as obsolete.**

~~§ 23-135.20. Expenditure of appropriations.~~

~~Appropriations, directly or indirectly, from the Commonwealth to the college shall be expended as directed by the board of visitors of the Virginia Polytechnic Institute and State University.~~



**Drafting note: Existing § 23-135.20 is recommended for repeal as obsolete.**

~~§ 23-135.21. Care and preservation of property; acquisition of site; gifts and donations.~~

~~The board of visitors of the Virginia Polytechnic Institute and State University shall be charged with the care and preservation of all property real and personal, belonging to the college. To this end, the board is authorized to acquire, by gift or purchase, a suitable site for the college, and may accept and expend gifts and donations of any kind from individuals, firms, corporations and organizations.~~

**Drafting note: Existing § 23-135.21 is recommended for repeal as obsolete.**

Article ~~3~~ 6.

Governmental Aid and Individual Donations.

**Drafting note: Existing Article 3 (§ 23-136 et seq.) of Chapter 11 is reorganized as proposed Article 6 of Chapter 26, and technical changes are made.**

~~§ 23-136 23.1-2638. Institutions receiving interest accruing on proceeds of land scrip.~~

~~The General Assembly having accepted the donation of lands proffered to Virginia by the act of Congress of July 2, 1862; and,~~

~~The authorities of the Commonwealth having received the land scrip it was entitled to under such act of Congress; and,~~

~~The Board of Education having, in conformity with the acts of February seventh, and March 19, 1872, made sale of the scrip and invested the proceeds in state bonds, which were directed to be set apart and to constitute an education fund:~~

~~The annual accruing interest from such fund the education fund resulting from the donation of lands by act of Congress on July 2, 1862, and the sale of such lands and the investment of the proceeds from such sale in state bonds by the Board of Education on February 7 and March 19, 1872, shall henceforth until otherwise provided by law be paid one-third thereof to the Virginia State University; and two-thirds to the board of visitors of the Virginia Polytechnic Institute and State University.~~

**Drafting note: Technical changes.**

~~§ 23-137 23.1-2639. Institutions receiving money allotted to Commonwealth under act of Congress.~~

~~The Comptroller shall receive from the U.S. Secretary of the Interior of the United States such sums of money as ~~shall be~~ are allotted to ~~Virginia~~ the Commonwealth under and in accordance with the act of Congress approved August 30, 1890, and shall pay ~~over the same as follows:~~ one-third to the treasurer of the Virginia State University; and two-thirds to the treasurer of the ~~Virginia Polytechnic Institute and State University~~, who shall receive and disburse the ~~same~~ sums as required by section two of the such act of Congress aforesaid.~~

**Drafting note: Technical changes.**

~~§ 23-138~~ 23.1-2640. Experimental farms.

A. A portion of the fund, not exceeding ten per centum 10 percent of the proportion each sum assigned to Virginia State University and Virginia Polytechnic Institute and State the University, may be expended, in the discretion of the governing boards board of visitors of the institutions, respectively each institution, in the purchase of lands for experimental farms for each of them.

B. The respective boards of visitors may use a portion of the accruing interest from such fund to purchase suitable and appropriate laboratories.

**Drafting note: Existing §§ 23-138 and 23-139 are logically combined as proposed § 23.1-2640. Technical changes are made.**

~~§ 23-139. Laboratories.~~

~~A portion of the accruing interest from such fund may be, from time to time, expended by the respective governing boards of such institutions in the purchase of laboratories suitable and appropriate for the institutions.~~

**Drafting note: The provisions of existing § 23-139 are stricken and incorporated into proposed § 23.1-2640.**

~~§ 23-140~~ 23.1-2641. Reversion of property on withdrawal of annuity.

If at any time such annuity should be withdrawn from the ~~Virginia Polytechnic Institute and State~~ University, the property, real and personal, conveyed and appropriated to its use and benefit by the trustees of the Preston and Olin Institute; and ~~by~~ the County of Montgomery; under the provisions of Chapter 234 of the Acts of Assembly of 1871-1872; shall revert to the trustees and ~~to~~ the county, respectively, from which it was conveyed and appropriated.

**Drafting note: Technical changes.**

~~§ 23-141~~ 23.1-2642. County subscriptions and individual donations.

~~It shall be lawful for the The board of visitors of the Institute to may accept (i) the subscription of any county made under an the act to authorize subscriptions in aid of the Institute, University approved March 21, 1872; and also the donation of any individual, (ii) individual donations in aid of the purposes and objects of the Institute; and such University. Such donations and subscriptions, when made, shall be held by the board in trust for the benefit of the Institute, on condition that the same University and shall revert to the several donors of and subscribers, pari passu, if at any time the Commonwealth should withdraw withdraws from the use of the Institute University the interest accruing on the proceeds of the land scrip; as provided in § 23-136 23.1-2638.~~

**Drafting note: Technical changes.**

~~Article 3-1.~~

~~Program on Food and Nutrition.~~

~~§§ 23-141.1 through 23-141.5. Expired.~~

**Drafting note: Expired pursuant to Acts 1982, c. 283, cl. 2, effective June 30, 1986.**

~~Article 4.~~

~~Nautical School.~~

**Drafting note: Existing Article 4 (§§ 23-142 through 23-146) of Chapter 11 is recommended for repeal as obsolete because the University does not currently operate a Nautical School.**

~~§ 23-142. Establishment, management, etc.~~

~~There shall be established and maintained under the management, direction and control of the board of visitors and faculty of the Virginia Polytechnic Institute and State University, a nautical school for instruction in the science and practice of navigation, seamanship and engineering and any such other subjects, to be prescribed by the proper authorities of the University, as may be necessary for proper training for the position of deck or engine-room officers of the merchant marine. Such school shall be open to residents of the several counties and cities of this Commonwealth, but the authorities of the University shall have the right to limit the number of students attending the nautical school and to prescribe the necessary physical and educational entrance requirements and standards of admission therefor, and the government and discipline thereof, and to fix the terms and conditions upon which students shall be received and instructed in the school and be graduated, discharged and suspended therefrom, and to make all necessary requirements for its management.~~

**Drafting note: Existing § 23-142 is recommended for repeal as obsolete.**

~~§ 23-143. Cost to students.~~

~~The students admitted to the nautical school shall have the privilege of attending the same without charge for tuition, or for use of laboratories or public buildings, but the cost of such students in the school for board, room, medical care and other necessary expenses shall be the same as the cost to students in the engineering departments of the Institute.~~

**Drafting note: Existing § 23-143 is recommended for repeal as obsolete.**

~~§ 23-144. Books and equipment; commander and instructors.~~

~~The authorities of the Institute shall provide the necessary books, charts, instruments, apparatus and supplies required in the work of the nautical school or they may accept gifts or loans of the same, and shall appoint and may remove a commander and all necessary instructors and fix their duties and compensation, or they may appoint as commander or as instructors therein such officers of the United States Navy as may be designated or detailed for that purpose.~~

**Drafting note: Existing § 23-144 is recommended for repeal as obsolete.**

~~§ 23-145. Governmental aid; donations, endowments, etc.~~

~~The authorities of the Institute shall likewise accept from the Commonwealth and from the federal government, or either, such aid in the maintenance and conduct of the nautical school as may be offered and which may be for the best interest of the school, including a suitable vessel with her apparel, charts, books and instruments of navigation, and may receive from other proper sources such funds, properties, donations and endowments as may be given, subscribed, loaned or bequeathed for the support and maintenance of the nautical school, and all moneys so appropriated or donated, subscribed or bequeathed shall be used or expended in accordance with the provisions governing the same, provided such use or expenditures shall further the purpose of the school and promote its usefulness and service.~~

**Drafting note: Existing § 23-145 is recommended for repeal as obsolete.**

~~§ 23-146. Practical training aboard ship.~~

~~The authorities of the Institute shall, moreover, make provision for the necessary practical training aboard ship or ships of students attending the nautical school in the science of navigation, seamanship and engineering and such other subjects as may be prescribed, and no student shall be received in the school until such provision has been made, nor shall any student be graduated from the school who has not had such practical training in these and in such other subjects as may be prescribed.~~

**Drafting note: Existing § 23-146 is recommended for repeal as obsolete.**

~~Article 5:~~

~~Radford College, Woman's Division of the Virginia Polytechnic Institute.~~

~~§§ 23-147 through 23-155.~~

**Drafting note: Repealed by Acts 1964, c. 50.**

~~Article 7:~~

~~Purchase of Electric Power and Energy.~~

**Drafting note: Existing Article 7 (§ 23-155.05) of Chapter 11 is stricken. Its single section is relocated to proposed § 23.1-2607 in Article 1 with technical changes.**

~~CHAPTER 13~~ 27.

VIRGINIA STATE UNIVERSITY.

**Drafting note: Existing Chapter 13 (§ 23-165 et seq.) is logically reorganized as proposed Chapters 13 and 27. 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 board of visitors 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 23.1-2700. 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) is a corporation under the name and style of "The Visitors of Virginia State University" in this chapter hereinafter referred to as the board and has, 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: Subsection A incorporates the provisions of existing § 23-166. Subsection B incorporates the provisions of existing § 23-174. Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-165.2. Name of University.~~

~~The University shall be known as Virginia State University.~~

**Drafting note: Existing § 23-165.2 is stricken and its provisions incorporated into § 23.1-2700.**

~~§ 23-165.3. Transfer of property.~~

~~All the real estate and personal property now existing and heretofore standing in the name of the Visitors of Virginia State College shall be transferred to and be known and taken as standing in the name, and to be under the control, of the Visitors of Virginia State University. Such real estate and personal property shall be the property of the Commonwealth.~~

**Drafting note: The provisions of existing § 23-165.3 are stricken here and incorporated instead into § 23.1-1310.**

~~§ 23-165.4 23.1-2701. Members of board; appointment; terms; vacancies Membership.~~

~~A. The board shall consist of 15 members appointed by the Governor, of whom at least three shall be alumni of the university, University and at least 10 shall be residents of Virginia the Commonwealth. All appointments shall be for a term of four years. No member shall serve for more than two consecutive four year terms. Vacancies shall be filled in the same manner as the original appointments. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for~~

~~reappointment. Of the four additional members appointed to the board on July 1, 2008, the Governor shall appoint two members for an initial term of four years, and two members for an initial term of two years. Thereafter, such members and their successors shall be appointed for a term of four years, in accordance with the provisions of this section.~~

~~B. The Governor may appoint alumni visitors from a list of qualified persons submitted to him upon the recommendation of the National Alumni Association of Virginia State University on or before July 1 of any year in which the terms of such visitors shall expire. The alumni association shall submit the names of at least three qualified alumni for each such vacancy. The alumni association of the University may submit to the Governor a list of three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.~~

~~C. All appointments shall be subject to the confirmation of the General Assembly. Members shall continue to hold office until their successors have been appointed and have qualified.~~

**Drafting note: Existing provisions relating to the membership of the board of visitors are logically combined in this proposed section, existing provisions relating to the terms and removal of members of the board are stricken and incorporated into proposed § 23.1-1300, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education.**

~~§ 23-165.5. Eligibility to serve more than two consecutive terms.~~

~~No person shall be eligible to serve more than two consecutive four-year terms, except that a member may be appointed to a term of less than four years immediately prior to or between the four-year terms.~~

**Drafting note: The provisions of existing § 23-165.5 are stricken and incorporated into proposed § 23.1-1300.**

~~§ 23-165.6. Rights, powers and duties of board.~~

~~The board shall be vested with all the rights and powers conferred by the provisions of this chapter insofar as the same are not inconsistent with the laws of the Commonwealth.~~

~~The board shall control and expend the funds of the University and any appropriation hereafter provided, and shall make all needful rules and regulations concerning the University, appoint the president, who shall be its chief executive officer, and all professors, teachers and agents, and fix their salaries, and generally direct the affairs of the University.~~

**Drafting note: Certain board duties set forth in existing § 23-165.6 are stricken and incorporated into proposed § 23.1-1303. Board duties relating to appointing of professors, teachers, and agents and generally directing the affairs of the University are stricken here and incorporated instead into proposed § 23.1-2702.**

~~§ 23-165.7. Tuition, fees and charges.~~

~~The board may fix the rates charged the students of the University for tuition, fees and other necessary charges.~~

**Drafting note: The provisions of existing § 23-165.7 are stricken and incorporated into proposed § 23.1-1301.**

~~§ 23-165.8 23.1-2702. Degrees Powers and duties.~~

~~A. The board shall appoint all professors, teachers, and agents, fix their salaries, and generally direct the affairs of the University.~~

~~B. The board shall have the right to may confer degrees.~~

**Drafting note: Subsection A incorporates board duties set forth in existing § 23-165.6. Subsection B incorporates the board's power to confer degrees set forth in existing § 23-165.8. Technical changes are made.**

~~§ 23-165.9 23.1-2703. Curriculum Courses of study.~~

~~The curriculum of Virginia State the University shall embrace branches of learning as relate to include agriculture, home economics, commerce, industrial business, education and technology, engineering, the liberal arts and sciences, teacher education, nursing education, and military science.~~

**Drafting note: Home economics, an obsolete branch of learning, is recommended for repeal. Remaining references to branches of learning are consolidated (in the case of education) or modernized (in the case of business and engineering). Technical changes are made.**

~~§ 23-165.10. School of agriculture to be continued.~~

~~The school of agriculture at Virginia State University shall be continued. The State Council of Higher Education and the institutions of higher education concerned shall execute such administrative actions as are necessary to carry out the purposes of this section.~~

**Drafting note: The provisions of existing § 23-165.10 are recommended for repeal as unnecessary in light of proposed § 23.1-2703 and federal land-grant statutes.**

~~§ 23-165.11 23.1-2704. Cooperative Extension Service Program recognized; funding authority; unified plan; reports.~~

~~A. A. For the purposes of this section:~~

~~"Cooperative extension service" means the function traditionally associated with the term "extension" that traditionally focuses on agriculture, including horticulture and silviculture, agribusiness, home economics, community resource development, and 4-H Clubs.~~

~~"Extension" means the joint federal, state, and local program designed to aid the transfer of information and research capabilities of land-grant universities to citizens.~~

~~B. As provided in Article 1.1 2 (§ 23-132.1 23.1-2608 et seq.) of Chapter 11 of Title 23 26 and subject to the federally required plan, the Cooperative Extension Service Program within~~

~~Virginia State the University, hereinafter referred to as "~~(the Service Program,") is hereby recognized. The ~~Virginia State University is hereby empowered to~~ may accept grants, gifts, or donations for the ~~Cooperative Extension Service Program from the local governing bodies of the several counties and cities of the Commonwealth, other public or private agencies, and individual donors. The Cooperative Extension Service Program shall be operated cooperatively by Virginia Polytechnic Institute and State University and Virginia State the University, with agreed upon~~ agreed-upon areas of program and service emphasis as set forth in the unified plan submitted by the two institutions to the U.S. Department of Agriculture. The ~~Virginia State University shall file such reports on the activities of the Service Program as may be required by law or requested by the Governor,~~ and the two institutions shall file such reports on the unified plan as may be required by law or requested by the Governor.

**Drafting note: Proposed subsection A incorporates explanatory statements contained in existing § 23-132.7. Technical changes are made.**

~~§ 23-166. University a body corporate under control of board.~~

~~The institution shall continue to be a body corporate under the name and style of the "Virginia State University." It shall be under the management, supervision and control of the board.~~

**Drafting note: The provisions of existing § 23-166 are stricken and incorporated into § 23.1-2700.**

~~§ 23-167. Further powers and duties of board.~~

~~The powers and duties of the board shall be to direct and do all things not inconsistent with the laws of this Commonwealth which to the board shall seem best adapted to accomplish the legitimate objects of the University; to designate depositories, provide for the proper bonding of financial officers and depositories, and provide for the disbursing of the funds of the University consistent with the laws of the Commonwealth; and to grant to such as excel in any field of knowledge or complete a prescribed course of study, such certificates, diplomas or degrees as shall be deemed expedient and proper. All of which several functions they shall be free to exercise by rules, bylaws, resolutions, orders, instructions, or otherwise.~~

**Drafting note: Certain powers set forth in § 23-167 are stricken and incorporated into proposed § 23.1-1301. The power to confer certificates, diplomas, and degrees is stricken as duplicative of subsection B of proposed § 23.1-2702.**

~~§ 23-168, 23-169.~~

**Drafting note: Repealed by Acts 1979, c. 147.**

~~§ 23-170~~ 23.1-2705. ~~Bequests and gifts~~ Gifts, grants, devises, and bequests; governmental aid.

The board ~~shall have power to~~ may take, hold, receive, and enjoy any gift, grant, devise, or bequest to the ~~Visitors of Virginia State University board~~ or to or for the benefit of the



University. Any such gift, grant, devise, or bequest shall be used for the purposes designated by the donor, ~~if any~~, or, if no purposes are so designated, for the general purposes of the board.

The University shall receive the governmental aid designated in §§ ~~23-136 and 23-137~~ 23.1-2638 and 23.1-2639.

**Drafting note: Technical changes.**

~~§ 23-171, 23-172.~~

**Drafting note: Repealed by Acts 1964, c. 70.**

~~§ 23-173.~~

**Drafting note: Repealed by Acts 1979, c. 147.**

~~§ 23-174. Control by General Assembly.~~

~~The University, and all its property and funds, shall, at all times and in all things, be under the control of the General Assembly.~~

**Drafting note: Existing § 23-174 is stricken and incorporated into proposed § 23.1-2700.**

#### CHAPTER ~~5~~ 28.

#### THE COLLEGE OF WILLIAM AND MARY AND IN VIRGINIA; RICHARD BLAND COLLEGE.

**Drafting note: Existing Chapter 5 (§ 23-39 et seq.) is logically reorganized as proposed Chapters 13 and 28. 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 board of visitors that are unique to The College of William and Mary in Virginia and Richard Bland College are retained in proposed Chapter 28.**

~~§ 23-39~~ 23.1-2800. Corporate name; name of the university.

A. The board of visitors of ~~the~~ The College of William and Mary in Virginia ~~shall be~~ (the board) is a corporation under the name and style of "The College of William and Mary in Virginia;" and has, in addition to its other powers, (i) all the corporate powers given to corporations by the provisions of Title 13.1 except those powers that are confined to corporations created pursuant to Title 13.1 and (ii) all powers conferred by the ancient royal charter of The College of William and Mary in Virginia. The board shall at all times be under the control of the General Assembly.

B. The institution shall be known as The College of William and Mary in Virginia (the university).

**Drafting note: Technical changes are made to conform the language in this section to that of each other baccalaureate public institution of higher education.**

~~§ 23-40. Property transferred to College of William and Mary and owned by State.~~

~~All the real estate and personal property relating to the College of William and Mary in Virginia, in Williamsburg, or relating to the Richard Bland College in Petersburg now existing and standing in the name of the corporate body designated "The Colleges of William and Mary" and all real estate and personal property standing in the name of or heretofore exclusively used by the Virginia Institute of Marine Science shall be transferred to and be known and taken as standing in the name, and to be under the control of the corporate body designated "The College of William and Mary in Virginia." Such real estate and personal property shall be the property of the Commonwealth.~~

**Drafting note: The provisions of existing § 23-40 are stricken here and incorporated instead into § 23.1-1310.**

~~§ 23-41. 23.1-2801. Appointment of visitors generally; number and terms; vacancies~~  
Membership.

~~A. The board of visitors is to~~ shall consist of 17 members ~~to be~~ appointed by the Governor, ~~four of whom may be nonresidents of Virginia~~ of whom at least 13 shall be residents of the Commonwealth.

~~B. The alumni association of the university may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. The Governor may appoint a member from the list of nominees.~~

~~All appointments shall be for terms of four years each, except appointments to fill unexpired vacancies which shall be made by the Governor for the remainder of the unexpired terms. However, the term of the member holding the office of Rector on March 1, 2005, shall be extended for one year to June 30, 2006. The Governor may make an appointment for the member whose term is so extended to June 30, 2006, as though this service extension had not been granted and the term had expired as scheduled.~~

~~The board of visitors may be expanded to no more than 18 members from July 1, 2005, to June 30, 2006. Thereafter, the membership shall revert to 17 members. Reappointment by the Governor of any member eligible for the service extension shall be for the term of four years.~~

~~No person shall be eligible to serve more than two consecutive four-year terms, except that a member may be appointed to a term of less than four years immediately prior to or between the four-year terms. For the purpose of determining service eligibility, any term of service extended to June 30 of the respective year pursuant to this section shall be treated as a four-year term. Hereafter, all appointments shall expire June 30 of the year in which the term expires.~~

~~All appointments are subject to confirmation by the General Assembly if in session when such appointments are made, and if not in session, at its next succeeding session.~~

**Drafting note: Existing provisions relating to the membership of the board of visitors are logically combined in this proposed section, existing provisions relating to the**

terms and removal of members of the board are stricken and incorporated into proposed § 23.1-1300, and technical changes are made to conform the language to that of each other baccalaureate public institution of higher education. Subsection B incorporates the provisions of existing § 23-42. In addition, obsolete language relating to the one-time extension of terms and the expansion of the board in 2005-2006 is stricken.

~~§ 23-42. Appointment of visitors from alumni.~~

~~(a) The Governor may appoint visitors from a list of qualified persons submitted to him, before or after induction into office, by the alumni association of the College of William and Mary in Virginia, on or before the first day of December of any year next preceding a year in which the terms of any visitors will expire.~~

~~(b) Whenever a vacancy occurs, otherwise than by expiration of term, the Governor shall certify this fact to the association and nominations may be submitted of qualified persons and the Governor may fill the vacancy, if his discretion so dictates, from among the eligible nominees of the association, whether or not alumni or alumnae.~~

~~(c) Every list shall contain at least three names for each vacancy to be filled.~~

~~(d) The Governor is not to be limited in his appointments to the persons so nominated.~~

**Drafting note: The provisions of existing § 23-42 are stricken and incorporated instead into proposed § 23.1-2801.**

~~§ 23-43.~~

**Drafting note: Repealed by Acts 1975, c. 484.**

~~§ 23-44. Rights, powers and duties of board in general.~~

~~The board of visitors shall be vested with all the rights and powers conferred by the provisions of this chapter and by the ancient royal charter of the College of William and Mary in Virginia, insofar as the same are not inconsistent with the provisions of this chapter and the general laws of the Commonwealth.~~

~~The board shall control and expend the funds of the colleges and any appropriation hereafter provided, and shall make all needful rules and regulations concerning the colleges, and generally direct the affairs of the colleges.~~

**Drafting note: The provisions of existing § 23-44 are stricken and incorporated instead into proposed § 23.1-2802 and proposed § 23.1-1301.**

~~§ 23-46 23.1-2802. Conferring of degrees Powers and duties.~~

~~A. The board shall generally direct the affairs of the university and Richard Bland College.~~

~~B. The board of visitors shall have the right to may confer degrees.~~

**Drafting note: Subsection A incorporates the board's duty to generally direct the affairs of the university and Richard Bland College set forth in existing § 23-44 and**

**subsection B incorporates the board's power to confer degrees set forth in existing § 23-46. Technical changes are made.**

~~§ 23-44.1~~ 23.1-2803. Investment of endowment funds, endowment income, ~~and gifts;~~ standard of care; liability; exemption from the Virginia Public Procurement Act etc.

A. As used in this section:

"Derivative" means a contract or financial instrument or a combination of contracts and financial instruments, including any contract commonly known as a "swap," that gives the university the right or obligation to deliver, receive delivery of, or make or receive payments based on changes in the price, value, yield, or other characteristic of a tangible or intangible asset or group of assets or changes in a rate, index of prices or rates, or other market indicator for an asset or group of assets.

"Financial security" means (i) any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate of subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, or fractional undivided interest in oil, gas, or other mineral rights; (ii) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof; (iii) any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; (iv) in general, any interest or instrument commonly known as a "security"; or (v) any certificate of interest or participation in, temporary or interim security for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any financial security.

"Option" means an agreement or contract whereby the university may grant or receive the right to purchase, sell, or pay or receive the value of any personal property asset, including any agreement or contract that relates to any security, contract, or agreement.

~~B.~~ The board of visitors shall invest and manage the endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the College university in accordance with this section and the provisions of the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

~~B.-C.~~ No member of the board of visitors shall be is personally liable for losses suffered by an any endowment fund, endowment income, gifts gift, all other nongeneral fund reserves reserve and balances balance, or local funds of or held by the College, university arising from investments made pursuant to the provisions of subsection A.

~~C.-D.~~ The investment and management of endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the College shall university are not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

~~D.-E.~~ In addition to the investment practices authorized by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board of visitors may also

invest or reinvest the endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, and local funds of or held by the College university in derivatives, options, and financial securities.

~~1. In this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments, including, without limitation, any contract commonly known as a "swap," which gives the College the right or obligation to deliver or receive delivery of, or make or receive payments based on, changes in the price, value, yield or other characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.~~

~~2. In this section, an "option" means an agreement or contract whereby the College may grant or receive the right to purchase or sell, or pay or receive the value of, any personal property asset including, without limitation, any agreement or contract that relates to any security, contract, or agreement.~~

~~3. In this section, "financial security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, collateral trust certificate, preorganization certificate of subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim security for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.~~

~~E. F.~~ The authority as provided in this section as it relates to invest and reinvest nongeneral fund reserves and balances of or held by the College university is predicated upon an approved management agreement between the College university and the Commonwealth of Virginia.

**Drafting note: Technical changes.**

~~§ 23-45. Board may fix tuition, fees and other charges.~~

~~The board of visitors may fix in their discretion, the rates charged the students of the colleges for tuition, fees and other necessary charges.~~

**Drafting note: The provisions of existing § 23-45 are stricken and incorporated instead into proposed § 23.1-1301.**

~~§ 23-47 23.1-2804. Courses for educating and training Program of instruction to educate and train teachers to be maintained.~~

The College university shall maintain in connection with its courses a system a program of instruction and training for the purpose of educating and training to educate and train teachers

for the public elementary and secondary schools of the Commonwealth without excluding other programs of instruction.

**Drafting note: Technical changes.**

~~§ 23-48.~~

**Drafting note: Repealed by Acts 1960, c. 180.**

~~§ 23-49 23.1-2805. Students Duties; student admissions; degrees.~~

~~The College university shall admit properly prepared men and women to its courses, individuals and upon completion of the requirements shall grant them degrees.~~

**Drafting note: Technical changes are made. The phrase "men and women" is stricken in favor of the more general "individuals."**

~~§ 23-49.1 23.1-2806. Constituent colleges; administration, bylaws, titles, etc Richard Bland College.~~

~~A. The College of William and Mary in Virginia, in Williamsburg, and the Richard Bland College, in Petersburg shall be subject to the supervision, management and control of the board of visitors of the College of William and Mary in Virginia. Such colleges shall be separate from each other and each college shall report directly to the board of visitors through the president in the case of the College of William and Mary in Virginia, and as the board of visitors may direct in the case of the Richard Bland College is a separate college under the supervision, management, and control of the board. Richard Bland College shall report to the board in such manner as the board may coordinate and direct.~~

~~B. The board shall establish and publish bylaws for Richard Bland College that define the school's functions.~~

~~C. All property, property rights, duties, contracts, and agreements of the colleges Richard Bland College are vested in the board of visitors of the College of William and Mary in Virginia. The chief executive officer of the College of William and Mary in Virginia shall be the president; the title of the~~

~~D. The board shall designate a chief executive officer of the Richard Bland College shall be designated by the board of visitors.~~

~~E. The board of visitors of the College of William and Mary in Virginia is charged with the care and preservation of shall care for and preserve all property belonging to the colleges Richard Bland College.~~

~~With respect to the Richard Bland College, the F. The board of visitors shall have the same powers as to fixing tuitions (i) fix tuition, mandatory fees, and other necessary charges, as to the appointment and removal of administrative officers, professors, agents, and employees; (ii) appoint, remove, and define the responsibilities of the chief executive officer; and the making of (iii) make such rules and regulations, as are now vested in them with respect to the College of William and Mary in Virginia as it deems appropriate for Richard Bland College.~~

~~C. Appropriations directly and indirectly from the Commonwealth to the colleges shall be expended as directed by the board of visitors of the College of William and Mary in Virginia.~~

~~D. The board of visitors of the College of William and Mary in Virginia is authorized and directed to prepare the bylaws for the colleges and to publish the same and to define the functions of the colleges, and to specify the responsibilities of the chief executive officers, all professors, teachers and agents of the colleges, as the board may deem necessary.~~

~~E. The board of visitors of the College of William and Mary in Virginia shall designate the organizational channel of coordination and supervision of the Richard Bland College for administration by the board of visitors.~~

~~F. The use of the library of the College of William and Mary in Virginia, in Williamsburg, shall be granted to the students and faculty of Christopher Newport University.~~

~~G. The board of visitors of the College of William and Mary in Virginia shall make cooperative agreements with the board of visitors of Christopher Newport University for the sharing of faculty and of laboratory and other facilities.~~

**Drafting note: Subsections C is stricken here and incorporated into proposed § 23.1-1303. Subsections F and G of existing § 23-49.1 are stricken as obsolete because the purposes of the original 1976 Act of Assembly that established requirements for shared faculty, library use, and laboratory and other facility use between Christopher Newport University and The College of William and Mary in Virginia have been accomplished by the respective boards of visitors. Technical changes are made.**

~~§ 23-49.1:1~~ 23.1-2807. Virginia Institute of Marine Science-subject to board of visitors.

The Virginia Institute of Marine Science shall be (the Institute) is subject to the supervision, management, and control of the board of visitors of the College of William and Mary in Virginia. The board of visitors university shall provide for the administration of the Institute and shall appoint and remove its administrative and professional staff.

**Drafting note: Technical changes.**

~~§ 23-4.04~~ 23.1-2808. Approval for transfer of ~~property~~ College Woods.

A. The property known as College Woods that includes Lake Matoaka and is possessed and controlled by ~~a college founded in 1693~~ the university, regardless of whether such property has been declared surplus property pursuant to § 2.2-1153, shall not be transferred or disposed of without the approval of the board of visitors of ~~such college~~ by a two-thirds vote of all ~~board~~ members at a regularly scheduled board meeting. The General Assembly shall also approve such disposal or transfer.

B. The provisions of subsection A shall not operate to prevent the transfer or dedication to the Virginia Department of Transportation (the Department) of a portion of the property described in subsection A, together with a temporary construction easement and a permanent easement for drainage, sufficient to permit the reconstruction of the intersection of Virginia Route 615 (Ironbound Road) and Virginia Route 321 (Monticello Avenue).

C. In order for any transfer or dedication set forth in subsection B to the Department to occur:

1. The Department shall remain within the boundaries or dedication area identified as a right-of-way addition of approximately 1.63 acres and easement areas as detailed on Exhibit A, labeled Proposed Right-of-Way and Easement Dedication by The College of William and Mary for Widening of the Intersection of Monticello Avenue and Ironbound Road and dated January 9, 2004, drawn by AES Consulting Engineers of Williamsburg, Virginia, in completion of any reconstruction of such intersection;

2. The Department shall employ and construct all required best management practices and erosion and sediment control measures to minimize and mitigate any impacts to College Woods and Lake Matoaka; and

3. The Department shall vacate, subject to a reserved drainage easement, approximately 3.22 acres of right-of-way and ~~re-designate~~ redesignate such to the ~~College~~ university so that the ~~College~~ university has confirmed encumbrances. This vacation shall create not less than a ~~78 foot~~ 78-foot right-of-way and shall not create or provide for any easements except for such reserved drainage easement from approximately 1,000 feet east of Virginia Route 615 (Ironbound Road) to approximately 4,000 feet east of Virginia Route 615 (Ironbound Road) along Virginia Route 321 (Monticello Avenue) identified on Exhibit A, labeled Proposed Right-of-Way and Easement Dedication by The College of William and Mary for Widening of the Intersection of Monticello Avenue and Ironbound Road and dated January 9, 2004, drawn by AES Consulting Engineers of Williamsburg, Virginia, as right-of-way abandonment. This vacation to create a right-of-way width shall not allow for a ~~road-widening~~ road-widening to add additional travel lanes for the remainder of Virginia Route 321 (Monticello Avenue).

D. The provisions of subsection A shall not operate to prevent the transfer or dedication to the Department of a portion of the property described in subsection A, together with easements for slope, drainage, and utilities, sufficient to permit the reconstruction and widening of Virginia Route 615 (Ironbound Road).

E. For any transfer or dedication to the Department to occur pursuant to subsection D, the Department shall:

1. ~~Shall remain~~ Remain within the boundaries identified as a proposed right-of-way dedication area of approximately 0.38 acres and easement areas as detailed on Exhibit B, labeled Proposed Right-of-Way and Easement Dedication by The College of William and Mary for Widening of Ironbound Road to Four Lanes and dated January 9, 2004, drawn by AES Consulting Engineers of Williamsburg, Virginia, in completion of the widening of Virginia Route 615 (Ironbound Road), except with respect to that portion of Virginia Route 615 (Ironbound Road) to be widened in connection with the reconstruction of the intersection as described, and as provided for, in subsections B and C; and



2. ~~Shall employ~~ Employ and construct all required best management practices and erosion and sediment control measures to minimize and mitigate any impacts to College Woods and Lake Matoaka.

F. The provisions of subsections B and C shall not become effective until a reconstruction of the intersection has been designed and fully funded as required by the Department.

G. The provisions of subsections D and E shall not become effective until the widening of the portion of Ironbound Road described therein has been designed and fully funded as required by the Department.

**Drafting note: Technical changes.**

#### CHAPTER ~~16~~ 29.

### STATE BOARD FOR COMMUNITY COLLEGES AND VIRGINIA COMMUNITY COLLEGE SYSTEM.

**Drafting note: Existing Chapter 16 (§ 23-192 et seq.) 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 recommended for repeal as obsolete. Proposed Chapter 29 contains provisions that relate to the powers and duties of the State Board for Community Colleges specifically. Provisions that relate to the powers and duties of the governing boards of public institutions of higher education generally and apply to the State Board for Community Colleges are consolidated in proposed Chapter 13.**

#### 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~~ 23.1-2900. Definitions.

As used in this chapter, unless the context requires a different meaning:

~~(a)~~ "Career and technical education" means the training or retraining under public supervision and control that is (i) given in school classes, including field or laboratory work incidental to such training or retraining, exclusive of those career and technical education programs provided and administered by or through the public school system and (ii) conducted as part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations.

"Chancellor" means the Chancellor of Community Colleges.

~~"Comprehensive community college" means an institution of higher education which offers instruction in one or more of the following fields:~~

~~(1) Freshman and sophomore courses in arts and sciences acceptable for transfer in baccalaureate degree programs;~~

~~(2) Diversified technical curricula including programs leading to the associate degree;~~

~~(3) Career and technical education leading directly to employment;~~

~~(4) Courses in general and continuing education for adults in the above fields;~~

~~(5) Noncredit training and retraining courses and programs of varying lengths to meet the needs of business and industry in the Commonwealth.~~

~~(b) "State Board" or "Board" means the State Board for Community Colleges.~~

~~(c) "Local community college board" means the board established to act in an advisory capacity to the State Board and to perform such duties with respect to the operation of a single comprehensive community college as may be delegated to it by the State Board.~~

~~(d) "Career and technical education" means the training, or retraining, which is given in school classes (including field or laboratory work incidental thereto), under public supervision and control, exclusive of those career and technical education programs provided and administered by, or through, the public school system and is conducted as part of a program designed to fit individuals for gainful employment as semiskilled or skilled, workers or technicians in recognized occupations.~~

~~(e) "Area career and technical school" means a career or technical school used exclusively, or principally, for providing career and technical education to persons who have completed, or left, high school, or are recommended for transfer by the school last attended, and who are available for full-time study in preparation for entering the labor market, or for part-time study after entering the labor market.~~

~~(f) "System" means the Virginia Community College System.~~

**Drafting note: Definitions are moved into alphabetical order and are no longer numbered, consistent with current Code style. A chapter-wide definition is added for "Chancellor." Definitions for "Board," "comprehensive community college," "local community college board," and "System" are stricken and incorporated into the proposed title-wide definitions section, § 23.1-100. The term "area career and technical school" is no longer used in this proposed chapter, and as such, its definition is stricken.**

~~§ 23-214.1. Meaning of statutory references to Department of Community Colleges.~~

~~Wherever the words "Virginia Community College System" are used in any law of this State, they shall mean the State Board for Community Colleges.~~

**Drafting note: Existing § 23-214.1 is recommended for repeal as inconsistent with proposed § 23.1-2901, which states that the State Board is a corporation that shall establish, control, and administer a statewide system of publicly supported comprehensive community colleges, which shall be known as the Virginia Community College System.**

~~§ 23-215 23.1-2901. Responsibilities of State Board and System for Community Colleges established; purpose; Virginia Community College System.~~

~~A. The State Board for Community Colleges heretofore established by law is continued. The Board shall be is a corporation under the style of "the State Board for Community Colleges." The State Board shall be responsible, through the exercise of the powers and performance of the duties set forth in this chapter, for the establishment, control, and administration of that shall establish, control, and administer a statewide system of publicly supported comprehensive community colleges, which shall be known as the Virginia Community College System.~~

~~B. The Virginia Community College System shall be the state agency with primary responsibility for coordinating workforce training at the postsecondary to the associate degree level, exclusive of the career and technical education programs provided through and administered by the public school system. This responsibility shall not preclude other agencies from also providing such services as appropriate, but these activities shall be coordinated with the community colleges.~~

~~C. In addition to other responsibilities of the Virginia Community College System, the community colleges shall (i) maximize noncredit course offerings made available to business and industry at a time and place that meet current and projected workforce needs and minimize the cost of noncredit offerings to business and industry to the extent feasible, (ii) deal directly with employers in designing and offering courses to meet real, current, and projected workforce training needs, and (iii) maximize the availability and use of distance learning courses addressing workforce training needs. The Virginia Community College System shall report on actions taken to meet the requirements of this subsection in its annual report to the General Assembly on workforce development activities required by the appropriation act.~~

**Drafting note: The provisions of subsection B and the last sentence of subsection C of existing § 23-215 are relocated to proposed § 23.1-2904. Technical changes are made.**

~~§ 23-216 23.1-2902. Number, terms and eligibility of members of State Board; membership.~~

~~(a) A. The State Board shall consist of fifteen 15 nonlegislative citizen members appointed by the Governor subject to confirmation by the General Assembly if in session, and if not, at its next succeeding session. The first appointments shall be four members for one year, four members for two years, four members for three years and three members for four years, and thereafter all such appointments shall be made for terms of four years each, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to serve more than two consecutive four year terms, except that a member may be appointed to a term of less than four years immediately prior to or between the four year terms. No person shall be eligible for reappointment following two consecutive four year terms for two years thereafter. Members shall continue to discharge their duties after their terms have expired until their successors have been appointed and have qualified.~~

~~(b) The State Board shall be composed of persons selected from B. Each member shall be a resident of the Commonwealth at large. No officer, employee, or member of the governing board of any public institution of higher education, or of any school subject to the control of the State Board, or any member of the General Assembly, or any and no member of the State Board of Education, shall be is eligible for appointment to the State Board. All members of the State Board shall be deemed are members at large charged with the responsibility of serving the best interests of the whole Commonwealth. No, and no member shall act as the representative of any particular region or of any particular institution of higher education.~~

**Drafting note: Language relating to the initial staggering of terms for State Board members is stricken as obsolete. Current language in existing subsection (a) that establishes terms and conditions of membership in the State Board is stricken and incorporated into proposed § 23.1-1300 relating to the terms and removal of members of the governing board of each public institution of higher education generally. The provision in existing subsection (a) relating to reappointment of members is stricken as inconsistent with the provisions of existing subsection C of § 23-2.06. The prohibition on membership by a member of the General Assembly is removed because the section is amended to classify all members as nonlegislative citizen members, which are defined for the Code in § 1-225 as "any natural person who is not a member of the General Assembly of Virginia." Technical changes are made.**

~~§ 23-217, 23.1-2903. Chairman and vice chairman of State Board; oath of members; officers, meetings; quorum; rules and, and regulations.~~

A. The State Board shall ~~select~~ elect a chairman from its membership; and may provide for the election of one of its members as vice-chairman.

~~B. Before entering upon the discharge of his duties, each member of the Board shall take an oath that he will faithfully and honestly execute the duties of his office during his continuance therein.~~

~~C.~~ The State Board shall meet at least four times annually; and on call of the chairman when in his opinion additional meetings are expedient or necessary.

~~D.~~C. Eight members of the State Board shall constitute a quorum for all purposes.

~~E.~~D. The main office of the State Board shall be in the Commonwealth.

~~F.~~E. The State Board is ~~empowered~~ authorized to ~~promulgate~~ adopt necessary ~~rules and regulations~~ for carrying out the purposes of this chapter.

**Drafting note: Technical changes are made, including use of "regulations" rather than "rules and regulations" per recommendation of the Code Commission. Subsection B of existing § 23-217 is removed as duplicative of § 49-1, which states that "[e]very person before entering upon the discharge of any function as an officer of this Commonwealth shall take and subscribe the following oath: 'I do solemnly swear (or affirm) that . . . I will faithfully and impartially discharge all the duties incumbent upon me . . . .'"**

~~§ 23-218 23.1-2904. Plan for comprehensive community colleges; appropriations; tuition fees and charges; grants or contributions; apprenticeships State Board; duties.~~

~~A. The~~ In addition to the duties of governing boards of public institutions of higher education set forth in Chapter 13 (§ 23.1-1300 et seq.), the State Board is authorized and directed to prepare shall:

1. Be the state agency with primary responsibility for coordinating workforce training at the postsecondary through the associate degree level, exclusive of the career and technical education programs provided through and administered by the public school system. This responsibility shall not preclude other agencies from also providing such services as appropriate, but these activities shall be coordinated with the comprehensive community colleges;

2. Report on actions that comprehensive community colleges have taken to meet the requirements of § 23.1-2906 in its annual report to the General Assembly on workforce development activities required by the general appropriation act;

3. Prepare and administer a plan providing standards and policies for the establishment, development, and administration of comprehensive community colleges under its authority. It shall determine the need for comprehensive community colleges, and develop a statewide plan for their location and a time schedule for their establishment. In the development of such plan, a principal objective shall be is to provide and maintain a system of comprehensive community colleges through which appropriate educational opportunities and programs to accomplish the purposes set forth in subdivision (a) of § 23-214 shall be made available throughout the Commonwealth, as that term is defined in § 23.1-2900 to make appropriate educational opportunities and programs available throughout the Commonwealth. In providing these offerings, the State Board shall recognize the need for excellence in all curricula and shall endeavor to establish and maintain standards appropriate to the various purposes the respective programs are designed to serve;

~~B. The Board shall have the authority to control and expend funds appropriated by law, and to fix tuition fees and charges. The Board may establish policies and guidelines providing for reduced tuition rates at Virginia's community colleges for employees of the Virginia Community College System. The Board may exercise the powers conferred by Chapter 3 (§ 23-14 et seq.) as any other educational institution as defined in § 23-14.~~

~~C. The Board shall be authorized, with the approval of the Governor, to accept from any government or governmental department or agency or any public or private body or from any other source, grants or contributions of money or property which the Board may use for or in aid of any of its purposes.~~

~~§ 23-220. Local community college boards.~~

~~The State Board shall establish~~ 4. Establish policies providing for the creation of a local community college board for each institution comprehensive community college established under this chapter and the procedures and regulations under which such local boards shall operate. A local community college board as defined in § 23-214 shall be established for each

~~college.~~ These boards shall assist in ascertaining educational needs, and enlisting community involvement and support, and shall perform such other duties as may be prescribed by the State Board;

5. Adhere to the policies of the Council for the coordination of higher education as required by law; and

~~§ 23-219.1. Mental health policies.~~

~~The Board shall develop~~ 6. Develop a mental health referral policy directing comprehensive community colleges to designate at least one individual at each college to serve as a point of contact with an emergency services system clinician at a local community services board, or another qualified mental health services provider, for the purposes of facilitating screening and referral of students who may have emergency or urgent mental health needs and of assisting the college in carrying out the duties specified by §§ ~~23-9.2-8~~ 23.1-802 and ~~23-9.2-10~~ 23.1-805.—A Each comprehensive community college may establish relationships with community services boards or other mental health providers for referral and treatment of persons with less serious mental health needs.

**Drafting note: Existing § 23-218 is logically reorganized as follows: Provisions in existing subsections B and C relating to State Board powers are stricken and incorporated into proposed § 23.1-2905. Provisions relating exclusively to State Board duties are retained as proposed § 23.1-2904, into which is incorporated the provisions of subsection B of existing § 23-215 as proposed subdivision 1; the last sentence of subsection C of existing § 23-215 as proposed subdivision 2; the provisions of existing § 23-220 as proposed subdivision 4; the provisions of the first paragraph of existing § 23-221 as subdivision 5; and the provisions of existing § 23-219.1 as proposed subdivision 6. Technical changes are made.**

§ 23.1-2905. State Board; powers.

In addition to the powers of governing boards of public institutions of higher education set forth in Chapter 13 (§ 23.1-1300 et seq.), the State Board may:

1. With the approval of the Governor, accept from any government or governmental department or agency or any public or private body or from any other source grants or contributions of money or property that the State Board may use for or in aid of any of its purposes;

2. Control and expend funds appropriated by law;

3. Fix tuition, mandatory fees, and other necessary charges;

4. Establish policies and guidelines providing for reduced tuition rates at comprehensive community colleges for employees of the System; and

~~§ 23-219. Diplomas, certificates and associate degrees.~~

~~The Board shall have the right to confer~~ 5. Confer diplomas, certificates, and associate degrees.

**Drafting note: Proposed § 23.1-2905 is created to consolidate provisions relating exclusively to State Board powers. Subdivisions 1 through 4 are derived from subsections B and C of existing § 23-218, and existing § 23-219 is incorporated as subdivision 5. Technical changes are made.**

§ 23.1-2906. Comprehensive community colleges; duties; workforce.

Each comprehensive community college shall:

1. Maximize noncredit course offerings made available to business and industry at a time and place that meet current and projected workforce needs and minimize the cost of noncredit offerings to business and industry to the extent feasible;

2. Deal directly with employers in designing and offering courses to meet real, current, and projected workforce training needs; and

3. Maximize the availability and use of distance learning courses addressing workforce training needs.

**Drafting note: The provisions of all but the last sentence of subsection C of existing § 23-215 are logically reorganized as proposed § 23.1-2906. Technical changes are made.**

~~§ 23-220.1. Expired.~~

**Drafting note: Expired pursuant to Chapter 875 of the Acts of Assembly of 1996.**

~~Article 2.~~

~~Community College Incentive Scholarship Program.~~

**Drafting note: The provisions of existing Article 2 (§§ 23-220.2, 23-220.3, and 23-220.4) of Chapter 16 are recommended for repeal as obsolete because such scholarship program is neither funded in the general appropriation act nor operated by the State Board.**

~~§ 23-220.2. Incentive scholarships program; Board to administer; promulgation of regulations.~~

~~There is hereby created the Community College Incentive Scholarship Program to provide incentive scholarships to eligible students attending comprehensive community colleges in Virginia. Funds may be paid to any comprehensive community college on behalf of students who have been awarded such scholarships pursuant to § 23-220.4.~~

**Drafting note: The provisions of existing § 23-220.2 are recommended for repeal as obsolete.**

~~§ 23-220.3. Community College Incentive Scholarship Fund created.~~

~~A. From such funds as are appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby created in the state treasury a special nonreverting fund to be known as the Community College Incentive Scholarship Fund, hereafter referred to as "the Fund." The Fund shall be established on the books~~

~~of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Funds may be paid to any comprehensive community college on behalf of students who have been awarded scholarships pursuant to § 23-220.4. The first such scholarships shall be awarded after July 1, 1998.~~

~~Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the State Board for Community Colleges.~~

~~B. The Board shall promulgate regulations for the implementation of the provisions of this article and shall award scholarships to eligible students meeting the criteria established pursuant to § 23-220.4.~~

**Drafting note: The provisions of existing § 23-220.3 are recommended for repeal as obsolete.**

~~§ 23-220.4. Eligible students; criteria for award of scholarships.~~

~~A. Only students who (i) are domiciled residents of Virginia as defined by § 23-7.4, (ii) are enrolled as second-year students on a full-time basis in a designated technical training program at a comprehensive community college in Virginia, and (iii) have a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent upon the completion of one year as a full-time student at a comprehensive community college in Virginia shall be eligible to receive such scholarships.~~

~~B. The Board, in consultation with the Virginia Economic Development Partnership, shall designate those technical training programs for which scholarships may be awarded. The selected programs shall reflect current and projected workforce training needs in the Commonwealth.~~

~~C. Scholarships awarded pursuant to this article shall provide for the payment in full of tuition and fees for enrollment for one year as a full-time, second-year student.~~

**Drafting note: The provisions of existing § 23-220.4 are recommended for repeal as obsolete.**

#### ~~Article 2.1.~~

~~Award of Academic Credit for Military Training Applicable to the Student's Certificate of Degree Requirements.~~

**Drafting note: The designation of Article 2.1 is removed because the article structure of existing Chapter 16 is not retained in proposed Chapter 29.**

~~§ 23-220.5 23.1-2907. Policy for the award of academic credit for military training.~~

~~A. The State Board shall adopt a policy for the award of academic credit to any student enrolled in a comprehensive community college who has successfully completed a military~~



training course or program as part of his military service that is applicable to the student's certificate of degree requirements and is:

1. Recommended for academic credit by a national higher education association that provides academic credit recommendations for military training courses or programs;
2. Noted on the student's military transcript issued by any of the ~~armed forces~~ Armed Forces of the United States; or
3. Otherwise documented in writing by any of the ~~armed forces~~ Armed Forces of the United States.

B. The State Board shall:

1. Develop a procedure for each comprehensive community college to receive the documentation necessary to identify and verify the military training course or program for which the student has applied for academic credit; and
2. Develop, maintain, and disseminate to each comprehensive community college a list of military training courses and programs that it has deemed qualified for the award of academic credit.

C. Each comprehensive community college shall provide a copy of the State Board's policy for the award of academic credit for military training courses or programs to each student applicant.

**Drafting note: Technical changes.**

~~Article 3.~~

~~Administration Generally.~~

**Drafting note: The designation of Article 3 is removed because the article structure of existing Chapter 16 is not retained in proposed Chapter 29.**

~~§ 23-221.1.~~

**Drafting note: Repealed by Chapter 728 of the Acts of Assembly of 1980.**

~~§ 23-222. Transfer of facilities, assets and programs.~~

~~(a) Effective July 1, 1967, all physical facilities, assets and programs of instruction in the fields specified in subdivision (a) of § 23-214 of the following institutions shall be transferred to and placed under the control and administration of the State Board for Community Colleges.~~

~~Eastern Shore Branch of the School of General Studies of the University of Virginia,~~

~~Lynchburg Branch of the School of General Studies of the University of Virginia,~~

~~Patrick Henry College of the University of Virginia,~~

~~Clifton Forge Covington Branch of the Virginia Polytechnic Institute and State University,~~

~~Roanoke Technical Institute of the Virginia Polytechnic Institute and State University,~~

~~Roanoke Center of the School of General Studies of the University of Virginia, and~~

~~Wytheville Branch of the Virginia Polytechnic Institute and State University.~~

~~Provided, however, that no such transfer shall take place with respect to any individual institution specified in the next preceding paragraph until (1) the Advisory Committee on Community Colleges certifies to the State Board and the Governor that such individual institution has demonstrated the requirements necessary for accreditation by the Southern Association of Colleges and Schools and (2) the Governor signifies in writing his approval of such transfer. If such certification by the Advisory Committee is not made with respect to any individual institution prior to July 1, 1967, then certification shall only be made between July one and August one of any succeeding year, and such transfer shall take place, if the Governor signifies in writing his approval of such transfer, on July one next following the date on which such certification is made.~~

~~The college or university of which any individual institution is a part shall cooperate in obtaining certification for such institution. As soon as practicable, the State Board shall request individual accreditation of the institutions specified in this section by the Southern Association of Colleges and Schools.~~

~~Notwithstanding any provision of this subsection or any other provision of this chapter, it is further provided that by agreement between the State Board and the governing body of the college or university of which any such individual institution is a part, and with the approval of the Governor, such transfer may take place prior to July 1, 1967, or any date subsequent thereto.~~

~~(b) Effective July 1, 1966, the physical facilities, assets and programs of existing technical colleges and all assets of the existing State Board and Department of Technical Education shall be transferred to and placed under the control and administration of the State Board for Community Colleges.~~

~~(c) Effective July 1, 1966, all educational programs for post-high school age youth and adults in existing area career and technical schools under the State Board of Education shall be transferred to and placed under the control and government of the State Board for Community Colleges.~~

~~(d) All the real estate and personal property now existing and heretofore [before July 1, 1966] standing in the name of institutions or boards included in subsections (a) and (b) of this section shall, on the dates set forth in such subsections, be transferred to and taken as standing in the name of the State Board for Community Colleges.~~

~~(e) In effecting the transfers specified in this section, the State Board for Community Colleges shall respect any existing financial investment of local communities in these institutions by establishing policies which will insure an equitable method of financing future developments.~~

**Drafting note: The provisions of existing § 23-222 are stricken as obsolete because the transfer of all such facilities, assets, and programs, became effective on July 1, 1966, and July 1, 1967.**

~~§ 23-223~~ 23.1-2908. Chancellor of Community Colleges ~~generally~~.

~~(a) A. The State Board shall appoint a Chancellor of Community Colleges, hereinafter sometimes called the Chancellor, shall be appointed by the State Board for Community Colleges. Any vacancy shall be filled by the Board. The Chancellor shall to be the chief executive officer of the System. The Chancellor shall, without additional compensation, serve as and secretary to the State Board for Community Colleges, fix his salary, and prescribe his duties in addition to those duties set forth in subsection C.~~

~~(b) The salary of the Chancellor shall be fixed by the Board.~~

~~(c) Before entering upon the discharge of the duties of his office, the Chancellor shall qualify by taking and subscribing the oath required of all officers of the Commonwealth.~~

~~§ 23-224. Duties of Chancellor generally.~~

~~A.B. The Chancellor of Community Colleges shall formulate:~~

~~1. Formulate such rules policies and regulations and provide for such assistance in his office as shall be are necessary for the proper performance of the duties prescribed by the provisions of this chapter;~~

~~B. The State Board shall prescribe the duties of the Chancellor, in addition to those duties otherwise prescribed for him by law, and, in its discretion, approve the appointment by the Chancellor of such agents and employees as may be needed by the Chancellor in the exercise of the functions, duties and powers conferred and imposed by law and in order to effect a proper organization to carry out his duties.~~

~~C. The Chancellor shall designate 2. Designate an employee of the State Board to serve as its liaison to the Board of Education;~~

~~§ 23-225. Agents and employees generally.~~

~~The functions, duties, powers and titles of the agents and employees provided for in § 23-224, their salaries and remunerations, not in excess provided therefor by law, shall be fixed by the Chancellor with the approval of the State Board and subject to~~

~~3. Appoint agents and employees and fix their functions, powers, duties, titles, and salaries, subject to the approval of the State Board and the provisions of Chapter 29 the Virginia Personnel Act (§ 2.2-2900 et seq.) of Title 2.2;~~

~~§ 23-227. Annual report.~~

~~The Chancellor shall submit 4. Submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. Such report shall contain, at a minimum, the annual financial statements for the year ending the preceding June 30 and the accounts and status of any ongoing capital projects;~~

~~§ 23-228. Forms.~~

~~The Chancellor shall prescribe~~ 5. Prescribe the forms of applications, reports, affidavits, and such other forms as ~~shall~~ may be required in the administration of ~~the~~ this chapter;

~~§ 23-229. Cooperation with federal agencies; federal grants in aid generally.~~

~~(a) Subject to the direction of the Board, the Chancellor shall cooperate~~ 6. Cooperate with agencies of the United States in relation to matters set forth in this chapter, and in any reasonable manner that may be necessary for the Commonwealth to qualify for and to receive grants or aid from such federal agencies, ~~subject to the direction of the State Board.~~

~~(b) Nothing in this chapter shall preclude any other agency, board or officer of the Commonwealth from being designated as the directing or allocating agency, board or officer for the distribution of federal grants in aid or the performance of other duties to the extent necessary to qualify for and to receive grants in aid for programs and institutions under the administration of the State Board for Community Colleges.; and~~

~~§ 23-231. Enforcement of standards for personnel.~~

~~The Chancellor shall enforce~~ 7. Enforce the standards established by the State Board for personnel employed in the administration of this chapter and remove or cause to be removed each employee who does not meet such standards.

~~§ 23-230. Chancellor authorized to receive grants in aid and gifts; payment of funds into state treasury.~~

C. The Chancellor is authorized to may receive, for and on behalf of the Commonwealth and its subdivisions, from the United States and agencies thereof, ~~and from~~ of the United States and any ~~and all~~ other sources, source grants-in-aid and gifts, made for the purpose of providing, or ~~to assist~~ assisting in providing, any career and technical, or other, education or educational programs authorized by this chapter, including expenses of administration. All such funds shall be paid into the state treasury. However, nothing in this chapter shall preclude any other agency, board, or officer of the Commonwealth from being designated as the directing or allocating agency, board, or officer for the distribution of federal grants-in-aid or the performance of other duties to the extent necessary to qualify for and to receive grants-in-aid for programs and institutions under the administration of the State Board.

**Drafting note: Existing § 23-223, relating to the Chancellor of Community Colleges generally, is expanded as proposed § 23.1-2908 to incorporate the Chancellor's powers and duties from multiple existing sections as follows:**

- 1. Subsection A of existing § 23-224 is relocated as proposed subdivision B 1;**
- 2. Subsection C of existing § 23-224 is relocated as proposed subdivision B 2;**
- 3. Subsection B of existing § 23-224 and existing § 23-225 are combined to create proposed subdivision B 3;**
- 4. Existing § 23-227 is relocated as proposed subdivision B 4;**
- 4. Existing § 23-228 is relocated as proposed subdivision B 5;**

5. Subsection (a) of existing § 23-229 is relocated as proposed subdivision B 6, and subsection (b) of existing § 23-229 is relocated as the second sentence of proposed subsection C;

6. Existing § 23-231 is relocated as proposed subdivision B 7; and

7. Existing § 23-230 is relocated as proposed subsection C, the second sentence of which is derived from subsection (b) of existing § 23-229.

Existing subsection (c) is stricken as duplicative of § 49-1, which states that "[e]very person before entering upon the discharge of any function as an officer of this Commonwealth shall take and subscribe the following oath: 'I do solemnly swear (or affirm) that . . . I will faithfully and impartially discharge all the duties incumbent upon me . . . .'"

~~§ 23-226~~ 23.1-2909. Bonds of agents and System employees.

Proper bonds shall be required of all agents and employees who ~~shall~~ handle any funds ~~which that~~ may come into the custody of the System. The premiums on the bonds shall be paid from funds appropriated by the Commonwealth for the administration of the provisions of this chapter.

**Drafting note: Technical changes.**

~~§ 23-221~~ 23.1-2910. ~~Adherence to policies of State Council of Higher Education; extension~~ Extension programs; similar courses of study.

~~The State Board shall adhere to the policies of the State Council of Higher Education for the coordination of higher education as required by law.~~

In any area served by a comprehensive community college, no public institution of higher ~~learning which education that~~ conducts extension programs shall, ~~after July 1, 1966,~~ offer courses of study similar to those offered by a comprehensive community college, except as authorized by the ~~State Council of Higher Education~~. Whenever practicable, the State Board shall provide facilities to such public institutions of higher ~~learning education~~ for conducting extension programs not in conflict with the provisions of this chapter.

**Drafting note: The first paragraph of existing § 23-221 is relocated as subdivision 5 of proposed § 23.1-2904. Technical changes are made.**

~~§ 23-231.1~~ 23.1-2911. Community College Week.

~~The General Assembly finds that the community colleges in Virginia provide the general public with quality educational services which contribute to maintaining a knowledgeable and skilled citizenry. In recognition of these services, the fourth week in January of every year beginning in 1986 shall be~~ is declared "Community College Week." ~~The and the~~ State Board ~~for Community Colleges~~ may approve such activities in observance of this week as it deems appropriate.

**Drafting note: The statement of legislative finding by the General Assembly is stricken per the Code Commission policy regarding such statements. Technical changes are made.**

~~§ 23-220.01 23.1-2912. Apprenticeship program for employees of ship manufacturing and ship repair companies; fund Shipyard workers; applied sciences and apprenticeship programs; Virginia Vocational Incentive Scholarship Program for Shipyard Workers; Fund.~~

A. For purposes of this section:

"Applied sciences program" means a three-year program of educational instruction at the college that incorporates instruction in industrial applied sciences and leads to the conferral of an Associate in Applied Science degree on any person who successfully completes such program.

"Apprenticeship program" means a three-year program at the college combining educational instruction and on-the-job training that is established for the purpose of enhancing the education and skills of shipyard workers.

"College" means the Tidewater Community College.

"Industrial applied sciences" may include applied sciences such as welding, burning, blasting, and other applied sciences.

"Shipyard worker" means any employee employed full time on a salaried or wage basis, whose tenure is not restricted as to temporary or provisional appointment, at a ship manufacturing or ship repair company located in the Commonwealth.

B. The Virginia Vocational Incentive Scholarship Program for Shipyard Workers is established.

C. From such funds as are appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is created in the state treasury a special nonreverting fund to be known as the Virginia Vocational Incentive Scholarship Program for Shipyard Workers Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) awarding scholarships to shipyard workers enrolled at the college in the applied sciences program or the apprenticeship program or (ii) the administration and implementation of the applied sciences program or the apprenticeship program or both. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the president of Tidewater Community College.

D. Subject to the State Council of Higher Education for Virginia's Council's authority to approve or disapprove all new academic programs as provided in subdivision 5 of § 23-9.6:1 23.1-203, the college may offer a three-year program of educational instruction that incorporates instruction in industrial applied sciences. An Associate in Applied Science Degree shall be

~~conferred on any person successfully completing such academic program. The college may an applied sciences program and coordinate such academic program with an apprenticeship program offered to shipyard workers by their employers.~~

~~C. E.~~ Beginning in the calendar year that the Council approves ~~such academic~~ an applied sciences program and for calendar years thereafter, shipyard workers who are ~~(i) domiciled residents of Virginia as described in § 23-7.4 and (ii) Virginia students enrolled as full- full time or part-time students part time~~ in such academic the applied sciences program, shall ~~be~~ are eligible for scholarships for such program. Renewal of the scholarships of such shipyard workers shall ~~be~~ is contingent upon maintaining (a) enrollment in ~~such academic~~ the applied sciences program, (b) a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent at the completion of each academic year, and (c) full-time employment as a shipyard worker.

~~F.~~ The college shall award scholarships to eligible students in the applied sciences program or the apprenticeship program for no more than three academic years. Scholarship amounts shall not exceed full tuition and required fees relating to such academic program or the apprenticeship program.

~~D. G.~~ Before any scholarship is awarded in accordance with the provisions of this section, the scholarship recipient shall sign a promissory note under which he agrees (i) to continue full-time employment as a shipyard worker until his graduation and (ii) upon graduation, to work continuously as a shipyard worker for the same number of years that he was the beneficiary of ~~such the~~ scholarship. The college shall recover the total amount of funds awarded as a scholarship, or the appropriate portion thereof, including any accrued interest, if the scholarship recipient fails to honor such requirements.

~~E.~~ ~~There is hereby created the Virginia Vocational Incentive Scholarship Program for Shipyard Workers to provide scholarships to shipyard workers enrolled at the college either in such academic program or in the apprenticeship program.~~

~~F.~~ ~~From such funds as are appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Vocational Incentive Scholarship Program for Shipyard Workers Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Funds may be paid to the college on behalf of shipyard workers who have been awarded scholarships pursuant to subsection C and shipyard workers in the apprenticeship program. Funds may also be used for the administration and implementation of such academic program and/or the apprenticeship program.~~

~~Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the President of Tidewater Community College.~~

~~G.-H.~~ The Council shall ~~promulgate~~ adopt regulations for the implementation of the provisions of this section ~~and the college shall award scholarships to eligible students for no more than three academic years. Scholarship amounts shall not exceed full tuition and required fees relating to such academic program or the apprenticeship program.~~

**Drafting note: A definition of "applied sciences program" has been created and the term has been used in several places in proposed § 23.1-2912 in lieu of "such academic program" and similar phrases used in existing § 23-220.01. Subsections E and F of existing § 23-220.01 are logically reordered as subsections B and C of proposed § 23.1-2912. The language in existing subsection C is updated to conform more closely to language currently used to designate other special funds in the Code.**

~~§ 23-231.1:1~~ 23.1-2913. Machinery and Equipment Donation Grant Program and Fund established.

A. As used in this section, unless the context requires a different meaning:

~~"Chancellor" means the Chancellor of the System.~~

"Machinery and equipment" means engines, machines, motors, mechanical devices, laboratory trainers, computers, printers, tools, parts, and similar machinery and equipment as set forth in guidelines developed by the System. "Machinery and equipment" includes specialized software required for the operation of machinery and equipment qualified for a grant pursuant to this section.

"Vocational school" means any entity that offers career or technical education administered by the Department of Education pursuant to § 22.1-227. "Vocational school" does not include instructional programs that are intended solely for recreation, enjoyment, or personal interest, or as a hobby, or courses or programs of instruction that prepare individuals to teach such pursuits.

B. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is ~~hereby~~ created in the state treasury a special nonreverting fund to be known as the Machinery and Equipment Donation Grant Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of awarding grants through the Machinery and Equipment Donation Grant Program for qualified donations of machinery and equipment to comprehensive community colleges and vocational schools. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chancellor.

C. 1. A business that donates new machinery and equipment in good working condition, purchased within the 12 months prior to the donation, to a comprehensive community college or



vocational school ~~shall be~~ is eligible to apply to the System for a grant from the Fund. Such grant shall be in an amount equal to 20 percent of the purchase price of the machinery or equipment, not to exceed an aggregate grant of \$5,000 for all such donations during a calendar year.

2. In order to be eligible for a grant, the application shall include a written certification made by the donee comprehensive community college or vocational school that identifies the donee comprehensive community college or vocational school, the business donating the machinery or equipment, the date of the donation, and the number of units of each item of machinery and equipment donated. The certification shall also include a statement by the donee comprehensive community college or vocational school that the machinery and equipment was needed and can be utilized by the comprehensive community college or vocational school for teaching or training students, and that such machinery and equipment will be principally used in ~~Virginia~~ the Commonwealth in teaching or training students.

3. Grants shall be issued in the order that each completed application is received. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund, such grants shall be paid in the next fiscal year in which funds are available.

4. In consultation with the Department of Education and the ~~State Council of Higher Education for Virginia~~, the System shall maintain and update as necessary on its website a list of vocational schools to which donations of machinery and equipment may qualify for a grant under this section. The System, in consultation with the ~~State Council of Higher Education for Virginia~~, shall also develop guidelines setting forth the general requirements for qualifying for and applying for a grant under this section, including a description of the types of machinery and tools eligible for a grant pursuant to this section. Such guidelines ~~shall be~~ are exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

**Drafting note: Technical changes are made, including relocating the definition of "Chancellor" to the proposed chapter-wide definitions section, § 23.1-2900, and abbreviating references to the State Council of Higher Education for Virginia, the definition of which appears in the proposed title-wide definitions section, § 23.1-100.**



SUBTITLE V.

OTHER EDUCATIONAL AND CULTURAL INSTITUTIONS.

**Drafting note: Proposed Subtitle V contains proposed Chapter 30, which consists of the powers and duties of and other provisions relating to Eastern Virginia Medical School that are consolidated from uncodified acts of the assembly and moved into the Code of Virginia; proposed Chapter 31, which consists of the powers and duties of and other provisions relating to various educational authorities, centers, institutes, and partnerships; and proposed Chapter 32, which consists of the powers and duties of and other provisions relating to museums and other cultural institutions in the Commonwealth.**

CHAPTER 30.

EASTERN VIRGINIA MEDICAL SCHOOL.

**Drafting note: Eastern Virginia Medical School, established as the Norfolk Area Medical Center Authority by Chapter 471 of the Acts of Assembly of 1964, is recommended for inclusion in Title 23.1 as proposed Chapter 30. Sections of Chapter 471 (1964) were amended as follows: by Chapter 396 of the Acts of Assembly of 1975 (§§ 1 and 2; name changed to Eastern Virginia Medical Authority), Chapter 217 of the Acts of Assembly of 1979 (§ 2), Chapter 121 of the Acts of Assembly of 1981 (§ 2), Chapter 329 of the Acts of Assembly of 1987 (§§ 1 through 14, 16, 17, 18; name changed to Medical College of Hampton Roads), Chapter 386 of the Acts of Assembly of 1988 (§ 11), Chapter 454 of the Acts of Assembly of 1991 (§§ 2 through 6, 8, 8.1 [added], 10 through 14, 16, 17), Chapters 87 and 478 of the Acts of Assembly of 2002 (§§ 1 through 8.1, 8.2 [added], 8.3 [added], 9 through 19; name changed to Eastern Virginia Medical School), Chapter 658 of the Acts of Assembly of 2008 (§ 2), Chapters 820 and 844 of the Acts of Assembly of 2009 (§ 2), and Chapter 168 of the Acts of Assembly of 2013 (§ 2). Amendments made by the foregoing acts of assembly are incorporated in this proposed chapter. Existing §§ 1 through 19 are logically reorganized, and technical changes are made.**

§ 23.1-3000. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the board of visitors of Eastern Virginia Medical School.

"Bonds" includes bonds, notes, revenue certificates, lease participation certificates, and other evidences of indebtedness, payment obligations, or deferred purchase financing arrangements.

"Costs" means (i) costs of construction, reconstruction, renovation, site work, and acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights and interests; (ii) costs of demolition, removal, or relocation of buildings or structures; (iii) costs of labor; (iv) costs of materials, machinery, and all other kinds of equipment; (v) financing charges; (vi) costs of issuance of bonds, including printing, engraving, advertising, legal, and other similar expenses; (vii) credit enhancement and liquidity facility fees; (viii) fees for interest

rate caps, collars, and swaps; (ix) interest on bonds and other borrowing in connection with a project prior to and during construction of the project and for a period not exceeding one year after the completion of such construction; (x) costs of engineering, inspection, financial, legal, and accounting services, plans, specifications, studies, surveys, estimates of costs and revenues, and feasibility studies; (xi) administrative expenses, including administrative expenses during the start-up of any project; (xii) working capital to be used in connection with any project; (xiii) reserve funds and other reserves for the payment of principal of and interest on bonds; and (xiv) all other expenses necessary, desirable, or incidental to the construction, reconstruction, renovation, acquisition, financing, refinancing, or placing in operation of projects.

"Medical School" means the Eastern Virginia Medical School.

"Operating project" means any project (i) owned, in whole or in part, (ii) controlled, directly or indirectly, in whole or in part, or (iii) operated, directly or indirectly, by the Medical School, including parking, utility, and similar essential and related facilities operated by the Medical School or its agents either for itself or for itself and other health-related entities and institutions on a shared-support basis.

"Project" means any medical educational institution and medical facility, including colleges, schools, and divisions offering undergraduate and graduate programs for the health professions and sciences and such other courses of study as may be appropriate; medical and paramedical facilities; such other facilities deemed by the board as consistent with the powers and purposes of Eastern Virginia Medical School; all related and supporting facilities; and all necessary, desirable, or incidental lands, buildings, improvements, and other appurtenances and equipment.

**Drafting note: Definitions for bonds, costs, operating project, and project, currently located in §§ 5 and 11 of Chapter 471 of the Acts of Assembly of 1964, as amended, are consolidated in this section. Definitions for board and Medical School are provided for the chapter. Technical changes are made.**

§-1 23.1-3001. Eastern Virginia Medical School established.

There ~~Eastern Virginia Medical School is hereby created~~ established as a public instrumentality, public body politic and corporate, and a political subdivision of the Commonwealth to be known as the "Eastern Virginia Medical School" hereinafter referred to as "the Medical School," with such public and corporate powers as are hereinafter set forth. The primary offices and facilities of the Medical School may sue and be sued, plead and be impleaded, and shall have the power and authority to contract and be contracted with and to exercise and discharge all the powers and duties imposed and conferred upon it, as hereinafter provided be located in the Hampton Roads area of the Commonwealth.

**Drafting note: This proposed section is derived from § 1 and portions of § 3 of Chapter 471 of the Acts of Assembly of 1964, as amended. Powers of the Medical School in existing § 1 are relocated to proposed § 23.1-3003. Technical changes are made.**

§-2 23.1-3002. Board; membership; officers; meetings; committees.

A. The Medical School shall be governed by a ~~Board~~ board of ~~Visitors (the Board)~~ visitors composed of 17 members as follows: two nonlegislative citizen members ~~to be~~ appointed ~~at large~~ by the Governor; two nonlegislative citizen members ~~to be~~ appointed ~~at large~~ by the Senate Committee on Rules; three nonlegislative citizen members ~~to be~~ appointed ~~at large~~ by the Speaker of the House of Delegates; six nonlegislative citizen members ~~to be~~ appointed by the Eastern Virginia Medical School Foundation; and four nonlegislative citizen members ~~of whom shall be~~ appointed by their respective city councils as follows: two members for the City of Norfolk, one member for the City of Virginia Beach, and one member appointed by the following city councils in a rotating manner ~~beginning with~~: the City of Chesapeake, the City of Hampton, the City of Portsmouth, the City of Suffolk, and the City of Newport News.

~~Effective June 30, 2009, as terms expire on the Board among those members previously appointed by the region's city councils, the Commonwealth's three appointing bodies~~ B. Members shall make appointments in a rotating manner, in the following order: in 2009, two Governor's appointments and two Senate appointments; and in 2010, three House of Delegates appointments. In 2011, four appointments shall be made by the region's city councils as previously described. Thereafter, all Board appointments will be made by the initial appointing body. Any vacancy that occurs prior to the completion of the term shall be appointed by the appointing authority, for the remainder of the term only.

~~Appointments by the Eastern Virginia Medical School Foundation (the Foundation) shall represent the broad involvement of the Medical School in the Commonwealth at large. All appointments shall be for~~ serve for terms of three years, commencing on ~~the first day of July 1~~ of the appointment year. ~~However, appointments to fill vacancies~~ Vacancies occurring other than by expiration of a term shall be made filled by the ~~appropriate~~ original appointing authority, ~~as the case may be, to commence on appropriate dates for the unexpired terms~~ term. No ~~person~~ member shall be eligible to serve for more than two ~~successive full~~ consecutive three-year terms; however, ~~after the expiration of (i) a term of two years or less, or after the expiration of the remainder of a term to which the member was appointed to fill a vacancy, or after one year following the expiration of a second full three year term, two additional three year terms may be served by a member, if appointed. In addition, an officer of the Board may serve up to three additional one year terms~~ serve an unexpired term is eligible to serve two consecutive three-year terms immediately succeeding such unexpired term and (ii) an officer is eligible to serve up to three additional one-year terms. Except as otherwise provided in this subsection, no member who has served two consecutive three-year terms is eligible to serve on the board until at least one year has passed since the end of his second consecutive three-year term. Members shall continue to hold office until their successors have been appointed and confirmed.

C. Members shall receive no salaries but ~~shall be~~ are entitled to reimbursement for necessary traveling and other expenses incurred while engaged in the performance of their

duties. ~~Each member shall continue to hold office until his successor has been appointed and qualified.~~

D. ~~Each appointing authority shall have~~ has the right to remove any member it appointed for malfeasance ~~or~~, misfeasance, incompetence, or gross neglect of duty.

~~Each member shall take an appropriate oath of office before the clerk of any circuit court of the Commonwealth, and the oath shall be filed with such clerk.~~

~~Members of the Board~~ E. ~~The board shall elect, on an annual basis, one of their number as annually elect a rector and another as, vice-rector, treasurer, and shall also elect a secretary and treasurer and such~~ from among its membership and may elect assistant secretaries and treasurers as the Board may authorize for terms to be determined by them, ~~who may or may are~~ not required to be one members of the ~~members~~ board. The same ~~person~~ member may serve as both secretary and treasurer.

~~The Board shall appoint a President, who shall be the chief executive officer, with such duties as may be prescribed by the Board. The Board shall also appoint a dean, a provost, such vice presidents, and other administrative and academic officers as the Board may authorize, and such professors, teachers, staff members, and agents as it deems proper. The Board may prescribe the duties of such staff and faculty, and provide for the employment of other personnel as may be necessary. The Board shall generally direct the affairs of the Medical School.~~

~~The Board shall make such rules, regulations and bylaws for its own government and procedures as it shall determine. The Board may generally, in respect to the government and management of the Medical School adopt such rules and regulations as it may deem expedient, which are not contrary to law. The Board~~ F. ~~The board shall meet at least four times each year and may hold such special meetings as it deems necessary. The rector or any three members may call special meetings of the Board~~ board.

G. ~~The Board~~ board may appoint an executive committee composed of at least three ~~and~~ but no more than five members for the transaction of business in the recess of the ~~Board~~ board.

~~The Board shall have the right to confer degrees, including honorary degrees, consistent with the approval authority of the State Council of Higher Education pursuant to Title 23 of the Code of Virginia.~~

**Drafting note: This proposed section is derived from portions of § 2 of Chapter 471 of the Acts of Assembly of 1964, as amended, relating to board membership and organization. Language in the second paragraph of existing § 2 providing for the transition of appointments by new appointing bodies in 2009 is stricken as obsolete. Proposed subsection B conforms provisions on appointment and reappointment of members to the provisions of § 23.1-1300. Technical changes are made. A provision relating to oaths by members is stricken as duplicative of § 49-1, which states that "[e]very person before entering upon the discharge of any function as an officer of this Commonwealth shall take and subscribe the following oath: 'I do solemnly swear (or affirm) that . . . I will faithfully and impartially discharge all the duties incumbent upon me . . . .'"**

§ 23.1-3003. Board; duties and powers.

A. The board shall generally direct the affairs of the Medical School and adopt such regulations and bylaws for its own government and procedures as it shall determine.

B. The board shall appoint a president of the Medical School who shall be the chief executive officer with such duties as may be prescribed by the board.

C. The board shall appoint a dean and a provost of the Medical School.

D. The board may appoint such vice presidents, administrative and academic officers, professors, teachers, staff members, agents, and other personnel as it deems proper and necessary for the transaction of its business within and outside the Commonwealth or the United States.

E. The board may confer degrees, including honorary degrees, consistent with the approval authority of the Council pursuant to § 23.1-203.

**Drafting note: This proposed section is derived from portions of § 2 of Chapter 471 of the Acts of Assembly of 1964, as amended, relating to specific board duties and powers. Technical changes are made.**

§-3 23.1-3004. Medical School; powers.

A. The Medical School shall be deemed to be a public instrumentality, having its primary offices and facilities located in the Hampton Roads area of the Commonwealth of Virginia. The Medical School shall have the power to exercise and the purpose of exercising may:

1. Exercise public and essential governmental functions to provide for the public health, welfare, convenience, knowledge, benefit, and prosperity of the residents of the Commonwealth of Virginia and such other persons as may be served by the Medical School. In the exercise of such power and purpose, the Medical School shall deliver and support the delivery of high quality medical and health care and related services to such residents and persons regardless of their ability to pay, by providing educational opportunities and conducting and facilitating research. Further, the Medical School is hereby authorized to exercise the powers conferred by this chapter.;

§ 4. The 2. Adopt regulations for the government and management of the Medical School may identify that it deems expedient and that are not contrary to law;

3. Sue and be sued;

4. Plead and be impleaded;

5. Contract and be contracted with;

6. Identify, document, and evaluate needs, problems, and resources relating to medical and health care, education, and research; and may plan, develop, and implement programs to meet such needs on both an immediate and long-range basis.;

§ 5. The Medical School may plan 7. Plan, design, construct, possess, own, remove, renovate, enlarge, equip, maintain, and operate projects for the purpose of providing to provide medical and health care, education, and research, and related and, supporting services, and other appropriate purposes. The Medical School may lease services;

~~8. Lease, sell, or otherwise convey any or all of its projects to others who agree to provide for operate the operation of the same projects if the Medical School determines that such lease, sale, or other conveyance will assist, promote, or further the purposes and intent of this act. chapter;~~

~~"Projects," as used in this act, mean any medical educational institutions and facilities, including, but not limited to, colleges, schools, and divisions offering undergraduate and graduate programs for the health professions and sciences and such other branches of learning as may be appropriate; medical and paramedical facilities; and such other facilities as shall be deemed by the Board as consistent with the powers and purposes of the Medical School, together with all related and supporting facilities; and all lands, buildings, improvements, and any other appurtenances and equipment necessary or desirable in connection therewith or incidental thereto.~~

~~"Operating project," as used in this act, means any project owned, in whole or in part, or controlled, directly or indirectly, in whole or in part, or operated, directly or indirectly, by the Medical School, and shall also include, without limitation, parking, utility, and similar essential and related facilities operated by the Medical School or an agent therefor, either for itself or for itself and other health related entities and institutions on a shared support basis.~~

~~§ 6. The Medical School may acquire~~ 9. Acquire any property, real or personal, and right, easement, or estate in such property that it deems necessary by purchase, lease, gift, devise or by the exercise of the power of, or eminent domain, on such terms and conditions; and in such a manner as it may deem proper, and such rights, easements or estates therein as may be necessary for its purposes, and sell, lease, and dispose of the same, such property or any portion thereof of or interest therein whenever it shall become expedient to do so in such property. The Medical School shall exercise the power of eminent domain shall be exercised in accordance with Chapter ~~1.1 2~~ (§ 25-46.1 25.1-200 et seq.) of Title ~~25~~ 25.1 and only (i) within the corporate limits of the City of Norfolk and ~~only for the purpose of acquiring~~ (ii) to acquire property to be used for operating projects. ~~No~~ The Medical School shall not condemn, pursuant to this chapter, the property of any corporation itself having that has the power of eminent domain may be condemned hereunder.;

~~§ 7. The Medical School may fix and~~ 10. Fix, revise from time to time and, charge, and collect rates, rentals revenues, fees, rents, and other charges for the services and facilities furnished by the Medical School; and establish and revise from time to time regulations, in respect to regarding the use, occupancy, or operation of all or part of any such facility or part thereof, or service rendered.;

~~§ 8. The Medical School may accept~~ 11. Accept loans, grants, contributions, or assistance from the federal government, the Commonwealth of Virginia, any municipality thereof locality of the Commonwealth, or from any other sources, public or private, to carry out any of its purposes and may source and enter into any agreement or contract regarding or relating to the acceptance of, use, or repayment of any such loan, grant, contribution, or assistance.;



~~§ 8.1. The Medical School shall have the following powers to carry out the purposes and intent of this act:~~

~~(a) To provide or assist in providing medical and health care, education, and research and related and supporting services within or without the Commonwealth of Virginia or the United States.~~

~~(b) To develop~~ 12. Develop, undertake, conduct, and provide programs, alone or in conjunction with any other public or private person or entity, for medical, biomedical, and health care research and any associated disciplines relating to (i) the knowledge about and the, causes, and cures of diseases, conditions, syndromes, or disorders ~~or to~~, (ii) health care services, or (iii) the delivery of health care;

~~(c) To foster~~ 13. Foster the utilization of information, discoveries, data, and material produced through medical, biomedical, and health care research; ~~to~~ obtain patents, copyrights, and trademarks for such intellectual ~~properties~~ property; ~~to~~ administer and manage such intellectual ~~properties~~ property or ~~to~~ contract for such administration and management by entities organized for such purpose; and ~~to~~ market, transfer, and convey, in whole or in part, any ~~interests~~ interest in such information, discoveries, data, materials, patents, copyrights, trademarks, or other intellectual ~~properties~~ property in any manner that is consistent with the Medical School's patent and copyright policies and the terms of any grants or contracts providing financial support for the relevant research;

~~(d) To promote~~ 14. Promote, develop, improve, and increase the health, welfare, convenience, commerce, and prosperity of the Commonwealth ~~of Virginia~~;

~~(e) To assist~~ 15. Assist in or provide for the creation of domestic or foreign stock and nonstock corporations; and ~~to~~ purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of; (i) shares of or other interests in; or obligations of; any domestic or foreign corporations, partnerships, associations, joint ventures, or other entities organized for any purpose, ~~or~~ (ii) direct or indirect obligations of the United States, or of any other government, state, territory, governmental district, or municipality locality, or ~~of~~ (iii) any other obligations of any association, partnership, or individual or any other domestic or foreign corporation organized for any purpose;

~~(f) To provide~~ 16. Provide appropriate assistance in carrying out any activities authorized by this ~~act~~ chapter to any domestic or foreign ~~corporations~~ corporation, ~~partnerships~~ partnership, ~~associations~~ association, ~~joint ventures~~ venture, or other ~~entities~~ entity owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the Medical School, including, ~~but not limited to~~, making loans and providing employees;

~~(g) To make~~ 17. Make loans and provide other assistance to corporations, partnerships, associations, joint ventures, or other entities;

~~(h) To make~~ 18. Make contracts or guarantees, incur liabilities, borrow money, or secure any obligations of others;

~~(i) To transact~~ 19. Transact its business, establish and locate its offices, facilities, and any satellite offices and facilities, other than its primary Hampton Roads offices and facilities, at other locations within and ~~without~~ outside the Commonwealth of ~~Virginia~~ or the United States; and control, directly or through domestic or foreign stock or nonstock corporations or other entities, facilities that ~~will~~ assist or aid the Medical School in carrying out the purposes ~~and intent set forth in of~~ this ~~act~~ chapter, including, ~~but not limited to~~, the power to own or operate, directly; or indirectly, medical educational and research institutions, medical, research, and paramedical facilities, ~~together with~~ and related and supporting facilities and projects; within or ~~without~~ outside the Commonwealth of ~~Virginia~~ or the United States;

~~(j) To hire employees and staff as necessary for the transaction of its business within and without the Commonwealth of Virginia and the United States.~~

~~(k) To participate~~ 20. Participate in joint ventures, within or ~~without~~ outside the Commonwealth of ~~Virginia~~ or the United States, with individuals, corporations, partnerships, associations, or other entities for providing such medical and health care, education, and research, or related services or other activities that the Medical School may determine to undertake;

~~(l) To conduct~~ 21. Conduct or engage, directly or indirectly, in any lawful business, activity, effort, or project; that is necessary, convenient, or desirable to assist the Medical School in carrying out its public purposes or for the exercise of any of its powers, within or ~~without~~ outside the Commonwealth of ~~Virginia~~ or the United States, ~~so long as provided that~~ any private benefit resulting to any other corporation or other entity from any such business, activity, effort, or project is merely incidental to the resulting public benefit. ~~However, nothing contained in this section shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia or of the Medical School.~~

~~(m) To have and exercise, in addition to its other powers,~~ 22. Exercise all the corporate powers granted to corporations by the provisions of Title 13.1 of the Code of Virginia, except in those cases ~~where in which~~, by the express terms of the provisions ~~thereof~~ of such title, it is such powers are confined to corporations created under such title; and, ~~further, to have the power to accept~~

23. Accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

B. Nothing in this chapter shall be deemed a waiver of the sovereign immunity of the Commonwealth or the Medical School.

**Drafting note: This proposed section is derived from the provisions of §§ 1 and 3 through 8.1 of Chapter 471 of the Acts of Assembly of 1964, as amended, relating to Medical School powers. Portions of § 3 and the definitions of "projects" and "operating project" from § 5 of Chapter 471 (1964) are relocated to §§ 23.1-3000 and 23.1-3006. Technical changes are made, including striking the superfluous term "from time to time" in proposed subdivision A 10 per Code Commission policy.**

§ 23.1-3005. Medical School; exercise of powers.

A. The exercise of the powers granted by this chapter are for the benefit of the residents of the Commonwealth and the promotion of their safety, health, welfare, knowledge, benefit, convenience, and prosperity.

B. The operation and maintenance of any project that the Medical School may undertake constitutes the performance of an essential governmental function.

**Drafting note: This proposed section is derived from the first paragraph of § 17 of Chapter 471 of the Acts of Assembly of 1964, as amended, relating to the exercise of powers by the Medical School. Technical changes are made.**

§ 23.1-3006. Medical School; duties.

The Medical School shall deliver and support the delivery of high quality medical and health care and related services to residents of the Commonwealth and such other persons as may be served by the Medical School regardless of their ability to pay, provide educational opportunities, and conduct and facilitate research.

**Drafting note: This proposed section is derived from a portion of § 3 of Chapter 471 of the Acts of Assembly of 1964, as amended, relating to Medical School duties. Technical changes are made.**

§ 23.1-3007. Medical School; powers and duties; bonds.

A. The Medical School may borrow money and issue bonds as hereinafter provided.

~~§ 11. The Medical School is hereby authorized to issue bonds from time to time in its discretion for the purpose of paying to pay all or any part of the cost of any project within the Commonwealth of Virginia, financing finance and refinance any of its programs or its general operations, or refunding refund any outstanding bonds or other obligations of the Medical School now or hereafter outstanding whether or not the bonds or obligations to be refunded have matured or are then subject to redemption.~~

~~Refunding bonds~~ B. The Medical School may be issued issue refunding bonds in exchange for bonds or obligations being refunded; to pay (i) the principal, premium, if any, and interest accrued and to accrue on such bonds or obligations; or any portion thereof, of such bonds or obligations to maturity or earlier date of redemption or to pay, (ii) the purchase price of any such bonds or obligations to be retired upon such purchase, as may be determined by the Medical School, or (iii) any related payment in connection with such refunding bonds.

C. The Medical School may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable as to principal and interest from any one or more of the following sources: (i) its revenues generally; (ii) the income and revenues of a particular project (including revenues from the sale or lease of such project); (iii) the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds; (iv) the proceeds of the sale or lease of any project or projects, whether or not they are it is financed from the proceeds of such bonds; (v) funds

realized from the enforcement of security interests or other liens securing such bonds; (vi) proceeds from the sale of bonds of the Medical School; (vii) payments due under letters of credit, policies of municipal bond insurance, guarantees, or other credit enhancements securing payment of bonds of the Medical School; (viii) any reserve or sinking funds created to secure such payment; or (ix) other available funds of the Medical School.

~~As used in this act, unless the context requires otherwise:~~

~~"Bonds" includes bonds, notes, revenue certificates, lease participation certificates, and other evidences of indebtedness or deferred purchase financing arrangements.~~

~~"Cost" means costs of construction, reconstruction, renovation, site work, acquisition of lands, structures, rights of way, franchises, easements, and other property rights and interests; costs of demolition, removal, or relocation of buildings or structures; costs of labor, materials, machinery, and all other kinds of equipment; financing charges; costs of issuance of the bonds, including printing, engraving, advertising, legal, and other similar expenses; credit enhancement and liquidity facility fees; fees for interest rate caps, collars, and swaps; interest on bonds and other borrowing in connection with a project prior to and during construction thereof and for a period not exceeding one year after the completion of such construction; costs of engineering and inspections, financial, legal, and accounting services, plans, specifications, studies, surveys, estimates of costs and of revenues, feasibility studies, administrative expenses, including administrative expenses during the start-up of any project; provisions for working capital to be used in connection with any project; reserve funds and other reserves for the payment of principal and interest on bonds; and all other expenses necessary, desirable, or incidental to the construction, reconstruction, renovation, and acquisition of projects, the financing of same, or placing of the same in operation.~~

~~Any such bonds may be additionally guaranteed by, or secured by a pledge of any grant, contribution, or appropriation from, a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, or a pledge of any income or revenues of the Medical School, or a mortgage of, or a deed of trust or other lien or a security interest in, any particular project or projects or other property of the Medical School or any individual or entity referred to above.~~

~~Neither the members of the Board of the Medical School nor any person executing any bonds issued under the provisions of this act shall be liable personally on the bonds by reason of the issuance thereof. The bonds of the Medical School (and such bonds shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof; neither the Commonwealth nor any political subdivision thereof, other than the Medical School, shall be liable thereon, nor shall such bonds be payable out of any funds or properties of the Commonwealth or any political subdivision thereof, other than those of the Medical School. The bonds shall not constitute indebtedness within the meaning of any debt limitation or restriction~~

~~on any Virginia local government. Bonds of the Medical School are declared to be issued for an essential public and governmental purpose.~~

~~§ 12. Bonds of the Medical School shall be authorized by resolution and~~ D. Bonds of the Medical School may be (i) issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest payable at such time or times at such rate or rates, as may be determined by the Medical School, or as may be determined in such manner as the Medical School may provide, including the determination by agents designated by the Medical School under guidelines established by the Medical School. Such bonds may be and (ii) made redeemable or subject to tender before maturity, at the option of the Medical School, at such price or prices and under such terms and conditions as may be fixed by the Medical School prior to the issuance of the bonds and shall be authorized by resolution, be dated, mature no later than 40 years of their date, and bear interest payable at such time and rate as may be determined by the Medical School and in such a manner as may be determined by the Medical School, including a determination by agents designated by the Medical School pursuant to the Medical School's guidelines.

~~E. The Medical School shall determine the form of the bonds, including any interest coupons to be attached thereto, and to the bonds, the manner of execution of the bonds, and shall fix, the denomination or denominations of the bonds, and the place or places of payment of principal and interest of the bonds, which may be at any bank or, trust company, or securities depository within or without outside the Commonwealth.~~

~~In case F. If any officer whose signature or a facsimile of whose signature shall appear appears on any bonds bond or coupons shall cease coupon ceases to be such officer before delivery of such bond or coupon, such signature or such facsimile shall nevertheless be is valid and sufficient for all purposes the same as if he such officer had remained in office until such delivery.~~

~~G. Notwithstanding any of the other provisions provision of this act chapter or any recitals in any bonds issued under the provisions of this act chapter, all such bonds shall be deemed to be of the Medical School are negotiable instruments under the laws of the Commonwealth of Virginia.~~

~~H. The Medical School may (i) issue bonds may be issued in coupon or registered form or both, as the Medical School may determine, and provision may be made (ii) provide for (a) the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for (b) the reconversion into coupon bonds of any bonds registered as to both principal and interest. Bonds into coupon bonds, and (iii) issue bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payments of principal of and, premium, if any, and interest on such bonds.~~

~~I. The Medical School may contract for the services of one or more banks, trust companies, financial institutions, or other entities or persons, within or outside the~~

Commonwealth, for the authentication, registration, transfer, exchange, and payment of the bonds, or may ~~provide~~ perform such ~~services~~ actions itself.

J. The Medical School may determine a price for its bonds and sell such bonds in such manner, either at public or private sale, and for such price, as it ~~may determine~~ determines to be for the best interests of the Medical School.

K. Prior to the preparation of definitive bonds, the Medical School may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds ~~shall have been~~ are executed and ~~are~~ available for delivery.

L. The Medical School may ~~also provide for the replacement of any bonds that shall become~~ are mutilated or ~~shall be,~~ destroyed, stolen, or lost.

~~Bonds~~ M. ~~The Medical School may be issued~~ issue bonds under the provisions of this ~~act~~ chapter without obtaining the consent of any commission, board, bureau, or agency of the Commonwealth or ~~of any political subdivision,~~ and ~~without~~ is not subject to any ~~other~~ proceedings or ~~the happening of other conditions or things in the issuance of such bonds other than those proceedings, conditions or things that are specifically required by~~ set forth in this act chapter.

§ 13. ~~In the discretion of the~~ N. ~~The Medical School,~~ may issue or secure any bonds ~~issued~~ under the provisions of this ~~act~~ may be issued chapter pursuant to ~~or secured by~~ (i) a trust indenture or other agreement by way of conveyance, deed of trust, or mortgage of any project or any other property of the Medical School, whether or not financed in whole or in part from the proceeds of such bonds, ~~or by~~ (ii) a trust or other agreement ~~by and~~ between the Medical School and ~~a corporate trustee (which may be either (a) any trust company or bank having the powers of a trust company within or without outside the Commonwealth) or other acting as corporate trustee or another agent for bondholders, or a purchaser of any bonds or (b) a purchaser of any bond or by both~~ (iii) any combination of such conveyance, deed of trust, or mortgage and indenture, trust, or other agreement. Such trust, indenture, trust, or other agreement, or the resolution providing for the issuance of such bonds, may pledge or assign revenues, fees, rents, and other charges to be received. Such trust indenture ~~or,~~ trust, or other agreement, or the resolution providing for the issuance of such bonds, may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants (i) providing for the repossession and sale of any or part of any project by the Medical School or any trustees under any trust indenture or agreement ~~of any project, or part thereof,~~ upon any default under the lease or sale of such project, and (ii) setting forth (a) the duties of the Medical School in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of any project or other property of the Medical School, (b) the amounts of revenues, fees, rents, and other charges to be charged, (c) the collection of such revenues, fees, rents, and other charges, ~~and~~ (d) the custody, safeguarding, and application of all moneys of the Medical School, and (e) conditions or limitations with respect to the issuance of additional bonds.

~~It shall be lawful for any~~ O. Any national bank with its main office in the Commonwealth or any other state or any bank or trust company incorporated under the laws of the Commonwealth or another state that ~~may act~~ acts as depository of the proceeds of ~~such~~ bonds or ~~of~~ other revenues of the Medical School ~~to~~ may furnish indemnifying bonds or ~~to~~ pledge such securities as may be required by the Medical School.

~~Such~~ P. Each trust indenture, trust, or other agreement, or the resolution providing for the issuance of such bonds, may set forth the rights and remedies of the bondholders and ~~of the~~ any trustee or other agent for the bondholders, ~~and may~~ restrict the individual right of action by bondholders.

~~In addition to the foregoing, such trust indenture, trust or other agreement or resolution may, and~~ contain such other provisions as the Medical School ~~may deem~~ deems reasonable and proper for the security of the bondholders, including, ~~without limitation,~~ provisions for the assignment ~~to a corporate trustee or other agent for bondholders~~ of any rights of the Medical School in any project owned, operated, or controlled by, or leases or sales of any projects made by, the Medical School to a corporate trustee or other agent for bondholders or the purchaser of such bonds.

Q. All expenses incurred in carrying out the provisions of such trust indenture ~~or, trust, or other agreement, or the resolution or other agreements providing for the issuance of such bonds,~~ relating to any project, including those to which the Medical School may not be a party, may be treated as a part of the cost of a project.

~~§ 18.~~ R. Bonds issued by the Medical School under the provisions of this ~~act~~ chapter are ~~hereby made~~ securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, ~~all~~ insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are ~~hereby made securities which that~~ may properly and legally be deposited with and received by any state or municipal officer or officer of a locality or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligation is ~~now or may hereafter be~~ authorized by law.

~~§ 16.~~ S. Any (i) holder of bonds, issued under the provisions of this ~~act~~ chapter or ~~of~~ any ~~of the~~ coupons appertaining ~~thereto, and the~~ to such bonds and (ii) trustee or other agent for bondholders under any trust indenture ~~or, trust, or other agreement, or the resolution providing for the issuance of such bonds,~~ except to the extent that the rights ~~herein~~ given in this subsection may be restricted by such trust indenture ~~or, trust, or other agreement, or the resolution providing for the issuance of such bonds,~~ may, either at law or in equity, by suit, action, injunction, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth ~~or, granted by this act chapter,~~ or under such trust indenture ~~or, trust, or other agreement, or the resolution authorizing providing for the issuance of such bonds,~~ and ~~may~~ enforce and compel the performance of all duties required by this ~~act~~ chapter or ~~by~~ such trust

~~indenture or~~, trust, or other agreement, or the resolution providing for the issuance of such bonds, to be performed by the Medical School or ~~by any officer or agent thereof of the Medical School,~~ including the fixing, charging, and collection of revenues, fees, rents, and other charges.

T. Any bond of the Medical School may be guaranteed or secured by a pledge of any (i) grant, contribution, or appropriation from a participating political subdivision, the Commonwealth, any political subdivision, agency, or instrumentality of the Commonwealth, any federal agency, or any unit, private corporation, copartnership, association, or individual, (ii) income or revenues of the Medical School, or (iii) mortgage of or deed of trust or other lien or security interest in any project or other property of the Medical School or any individual or entity referred to in clause (i). No member of the board or any person executing any bonds issued under the provisions of this chapter is liable personally on the bonds for issuing such bonds.

U. No bond of the Medical School is a debt of the Commonwealth or any other political subdivision of the Commonwealth, and such bonds shall so state on their face. Neither the Commonwealth nor any political subdivision of the Commonwealth other than the Medical School is liable on the bonds. Such bonds are not payable out of any funds or properties of the Commonwealth or any political subdivision of the Commonwealth other than those of the Medical School. The bonds shall not constitute indebtedness within the meaning of any debt limitation or restriction on any locality in the Commonwealth.

V. Bonds of the Medical School are issued for an essential public and governmental purpose.

**Drafting note: This proposed section is derived from §§ 9, 11, 12, 13, 16, and 18 of Chapter 471 of the Acts of Assembly of 1964, as amended, relating to bonds. Technical changes are made, including striking the superfluous term "from time to time" in proposed subsection A per Code Commission policy.**

~~§-14~~ 23.1-3008. Medical School; additional powers; revenues, fees, rents, and other charges for projects.

A. The Medical School ~~is hereby authorized to~~ may fix, revise, charge, and collect revenues, fees, rents, and other charges for the use of any project. Such revenues, fees, rents, and other charges shall be ~~so~~ fixed and adjusted ~~as to provide a fund sufficient with other revenues to pay the principal of and any interest on bonds secured by or otherwise to be paid by such revenues as the same shall~~ such principal and interest become due and payable; to create reserves for such purposes and for other purposes of the Medical School; and to pay the cost of maintaining, repairing, and operating the project. Such revenues, fees, rents, and charges ~~shall~~ are not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any such participating political subdivision.

B. The revenues, fees, rents, and other charges received by the Medical School may be applied and ~~be set aside from time to time in the~~ such order and ~~in the~~ manner as may be provided in such ~~resolution or~~ trust indenture, trust, or other agreement, or the resolution



providing for the issuance of such bonds, including application to a sinking fund that may be pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall such principal and interest become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided in such trust indenture, trust, or other agreement, or the resolution providing for the issuance of such bonds.

C. All pledges of such revenues, fees, rents, and other charges to payment of bonds shall be are valid and binding from the time when the pledge is made.

D. The revenues, fees, rents, and charges so pledged and thereafter received by the Medical School shall are immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Medical School, regardless of whether such parties have notice thereof. Neither the resolution, any of the lien.

E. No trust indenture, trust, nor or other agreement, or resolution authorizing the issuance of such bonds, by which a pledge is created need is required to be filed or recorded except in the records of the Medical School.

F. The use and disposition of moneys to the credit of such sinking fund shall be are subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or, trust, or other agreement, or the resolution providing for the issuance of such bonds. Except as may otherwise be provided in such resolution or such, trust indenture or, trust, or other agreement, or the resolution providing for the issuance of such bonds, such sinking fund shall be is a fund for all such bonds without distinction or priority of one over another.

**Drafting note: This proposed section is derived from § 14 of Chapter 471 of the Acts of Assembly of 1964, as amended. Technical changes are made.**

§ 10 23.1-3009. Cooperation of localities.

In addition to the powers granted by general law or by its charter, any ~~county, city, or town~~ locality in the Commonwealth ~~is empowered to~~ may cooperate with the Medical School as follows to:

~~(a) To make~~ 1. Make such appropriations and provide such funds by outright donation, loan, or agreement with the Medical School for the operation operating and carrying out the purposes of the Medical School as the local governing body may deem proper, ~~either by outright donation or by loan, or the governing body may agree with the Medical School to take such action;~~

~~(b) To dedicate~~ 2. Dedicate, sell, convey, or lease any of its interest in property; or grant liens, easements, licenses, or any other privileges ~~therein in or thereon~~ on the property to or for the benefit of the Medical School;

~~(c) To cause~~ 3. Cause parks, playgrounds, and recreational, community, educational, water, sewer, or drainage facilities, or any other works, ~~which that it is otherwise empowered to~~

may undertake, to be furnished adjacent to or in connection with any property of or any facility, or project of the Medical School;

~~(d) To furnish~~ 4. Furnish, dedicate, close, pave, install, grade or regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places, ~~which it is otherwise empowered to undertake;~~

~~(e) To plan or~~ 5. Plan, replan, zone, or rezone any part of ~~such county, city, or town the~~ locality in connection with the use of any property of the Medical School or ~~any~~ property adjacent to the property of the Medical School ~~or any~~ facilities, or projects ~~that it is otherwise empowered to undertake, in accordance with general laws;~~

~~(f) To cause~~ 6. Furnish services to be furnished to the Medical School ~~of the character that such county, city, or town is empowered to furnish;~~

~~(g) To purchase~~ 7. Purchase any of the bonds of the Medical School or legally invest in such bonds any funds belonging to or within the control of ~~such county, city, or town the~~ locality and exercise all the rights of any holder of such bonds;

~~(h) To do~~ 8. Do any and all things necessary or convenient to aid or cooperate in the planning, undertaking, construction, or operation of any of the plans, projects, or facilities of the Medical School; and

~~(i) To enter~~ 9. Enter into agreements with the Medical School ~~respecting regarding~~ action to be taken by ~~such county, city, or town the~~ locality pursuant to any of the ~~above~~ powers set forth in this section.

**Drafting note: This proposed section is derived from § 10 of Chapter 471 of the Acts of Assembly of 1964, as amended. Technical changes are made.**

~~§ 15~~ 23.1-3010. Proceeds; trust funds.

All moneys received ~~pursuant to this act~~ by the Medical School pursuant to this chapter, whether as proceeds from the sale of bonds or as revenues, ~~shall be deemed to be~~ are trust funds to be held and applied solely as provided in this ~~act~~ chapter.

**Drafting note: This proposed section is derived from § 15 of Chapter 471 of the Acts of Assembly of 1964, as amended. Technical changes are made.**

~~§ 8.3~~ 23.1-3011. Discrimination prohibited.

In hiring practices and in the procurement of goods and services, the Medical School shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability.

**Drafting note: This proposed section is derived from § 8.3 of Chapter 471 of the Acts of Assembly of 1964, as amended. A section catchline is added.**

~~§ 8.2~~ 23.1-3012. Exemptions.

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.), the Administrative Process Act (§ 2.2-4000, et seq.), and the Virginia Public Procurement Act (§ 2.2-4300 et seq.)

of Title 2.2 of the Code of Virginia shall do not apply to the Eastern Virginia Medical School in the its exercise of any power conferred under this chapter, ~~as amended.~~

**Drafting note: This proposed section is derived from § 8.2 of Chapter 471 of the Acts of Assembly of 1964, as amended and a clarifying reference to the Virginia Personnel Act is proposed. Technical changes are made.**

~~§-17~~ 23.1-3013. Taxation.

~~The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the promotion of their safety, health, welfare, knowledge, benefit, convenience and prosperity, and as the operation and maintenance of any project that the Medical School is authorized to undertake will constitute the performance of an essential governmental function, no authority shall be~~ A. The Medical School is not required to pay any taxes or assessments upon any project acquired and constructed by ~~it~~ the Medical School under the provisions of this ~~act; and the~~ chapter.

B. The bonds issued under the provisions of this ~~act~~ chapter, their transfer ~~and,~~ the income ~~therefrom~~ from such bonds, and the income from the transfer of such bonds, including any profit made on the sale ~~thereof~~ of such bonds, shall at all times be free and are exempt from taxation by the Commonwealth and ~~by any political subdivision thereof~~ of the Commonwealth.

**Drafting note: This proposed section is derived from § 17 of Chapter 471 of the Acts of Assembly of 1964, as amended, relating to exemption from taxes for projects and the bonds issued for such projects. General provisions in the first sentence of existing § 17 are relocated to proposed § 23.1-3005.**

~~§-19~~ 23.1-3014. Scope of chapter.

~~This act~~ chapter shall constitute full and complete authority for the Medical School, without regard to the provisions of any other law, ~~for the purposes, activities, and powers herein authorized,~~ and shall be liberally construed to effect ~~the~~ its purposes ~~hereof.~~ ~~The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act.~~

**Drafting note: This proposed section is derived from § 19 of Chapter 471 of the Acts of Assembly of 1964, as amended. Provisions that deal with severability are removed per the Code-wide application of § 1-243. Technical changes are made.**

CHAPTER 31.

EDUCATIONAL AUTHORITIES, CENTERS, INSTITUTES, AND PARTNERSHIPS.

**Drafting note: Other educational entities in existing Chapters 16.1 (§ 23-231.2 et seq.), 16.2 (§ 23-231.8 et seq.), 16.3 (§ 23-231.13 et seq.), 16.4 (§ 23-231.19 et seq.), 16.5 (§ 23-231.24 et seq.), and 16.6 (§ 23-231.30 et seq.) are consolidated and reorganized as**

**proposed Articles 2 through 7 in Chapter 31. Proposed Article 1, General Provisions, applies to all entities in proposed Chapter 31.**

Article 1.

General Provisions.

**Drafting note: Existing provisions relating to educational entities in general are consolidated in proposed Article 1.**

§ 23.1-3100. Governing boards of educational institutions; removal of members.

A. Notwithstanding any other provision of law, the Governor may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board of any educational institution established pursuant to this chapter and fill the vacancy resulting from the removal. Each appointment to fill a vacancy is subject to confirmation by the General Assembly.

B. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to subsection A at the time the removal occurs. The Governor is the sole judge of the sufficiency of the cause for removal as set forth in subsection A.

**Drafting note: The provisions of existing subsections A and C of § 2.2-108 that apply to other educational institutions in general are logically reorganized as proposed §§ 23.1-3100 and 23.1-3200. Technical changes are made.**

~~CHAPTER 16.2.~~

~~A. L. PHILPOTT MANUFACTURING EXTENSION PARTNERSHIP.~~

Article 2.

A.L. Philpott Manufacturing Extension Partnership.

**Drafting note: Existing Chapter 16.2 (§ 23-231.8 et seq.) is reorganized as proposed Article 2 of Chapter 31.**

~~§ 23-231.8 23.1-3101.-A. L. A.L. Philpott Manufacturing Extension Partnership-created established; mission purpose and duties.~~

~~A. The A. L. Philpott Manufacturing Center, established from such funds as may be appropriated or provided pursuant to Chapters 217 and 668 of the 1992 Acts of Assembly, as amended, is hereby continued and redesignated the A. L. A.L. Philpott Manufacturing Extension Partnership, referred to in this chapter as the (the Extension Partnership. The mission of the Extension Partnership is), doing business as Genedge Alliance, is established to help create and maintain industrial and manufacturing jobs. The Extension Partnership shall:~~

1. Develop, demonstrate, test, and assist in the implementation of advanced manufacturing technologies;

2. Promote industrial expansion by providing manufacturing technology consulting services to manufacturers in ~~Virginia.~~ the Commonwealth;

3. Foster the creation of manufacturing networks and the development of buyer and supplier relationships in the region and throughout the Commonwealth;

4. Serve as a resource center for industrial training and technology transfer programs for the renewal, enhancement, and expansion of existing manufacturing enterprises and ~~for manufacturing modernization outreach;~~

5. Be available as a federal demonstration center for the training of displaced workers in ~~a~~ any manufacturing area; and

6. Receive and accept any available grants, from any federal, state, or private agency, corporation, association, or person, to be expended in ~~accomplishing~~ fulfilling the goals duties enumerated in ~~subdivisions 1 through 5 above~~ this subsection.

B. The Extension Partnership ~~shall be considered~~ is a local or regional industrial or economic development authority or organization for purposes of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

**Drafting note: A reference to the Extension Partnership's corporate name, Genedge Alliance, is proposed in subsection A for the sake of clarity. Technical changes are made.**

~~§ 23-231.9 23.1-3102. Membership of governing board; terms; compensation; officers; bylaws~~ Board of trustees.

A. The Extension Partnership shall be governed by a 24-member board of trustees (the board) consisting of three presidents of comprehensive community colleges; two presidents of baccalaureate public ~~four year~~ institutions of higher education, ~~and~~ one president of a baccalaureate private ~~four year~~ institution of higher education, and 15 nonlegislative citizen members, representing manufacturing industries, to be appointed by the Governor; and the director of the Center for Innovative Technology; the Secretary of Commerce and Trade; and the Secretary of Technology, to serve ex officio with voting privileges.

~~B. Initial appointments in 1992 shall be as follows: the three community college presidents shall be appointed for two year, three year, and four year terms, respectively; the two presidents of the public four year institutions shall be appointed for two year and four year terms, respectively; the president of a private four year institution shall be appointed for a three-year term; two citizen members shall be appointed for two-year terms, and two citizen members shall be appointed for three-year and four-year terms, respectively. Of the five citizen members to be appointed in 1994, two shall be appointed for two-year terms, two shall be appointed for three-year terms, and one shall be appointed for a four-year term. Of the six citizen members to be appointed in 1997, two shall be appointed for two-year terms, two shall be appointed for three-year terms, and two shall be appointed for four-year terms. Thereafter, all appointments~~ Appointments shall be for terms of four years, ~~except that appointments to fill vacancies.~~ Ex officio members of the board shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. ~~With the exceptions of the director of the Center for Innovative Technology, the Secretary~~

~~of Commerce and Trade, and the Secretary of Technology, no person shall be eligible to~~  
Vacancies shall be filled in the same manner as the original appointments. All members may be  
reappointed. No member shall serve for more than two successive consecutive four-year terms;  
~~however, upon the expiration of a term of less than four years, or after the expiration of the~~  
~~remainder of a term to which appointed to fill a vacancy, two additional terms may be served by~~  
~~such member if appointed thereto~~ a member appointed to serve an unexpired term is eligible to  
serve two consecutive four-year terms immediately succeeding such unexpired term.

C. ~~The board shall elect a chairman and a vice-chairman from among its members and~~  
membership. The board shall also elect a secretary and a treasurer, who may or may need ~~be~~  
~~members of the board. The board may also elect other subordinate officers, who may or may~~  
need ~~not be members of the board. All members shall be reimbursed for their actual expenses~~  
~~incurred in the performance of their duties in the work of the Extension Partnership.~~

D. Eight members shall constitute a quorum. The meetings of the board shall be held at  
the call of the chairman or whenever the majority of the members so request.

E. The board may adopt, alter, or repeal its own bylaws that govern the manner in which  
its business may be transacted and may form committees and advisory councils, which may  
include representatives who are not board members.

**Drafting note: Language in existing subsection B setting out the staggering of initial  
appointments in 1992 is stricken as obsolete. The last sentence of existing subsection C is  
stricken here and the concept is instead incorporated into proposed § 23.1-3103. A  
substantive change is made in proposed subsection D to establish a quorum for the  
meetings of the board at eight members, which is lower than a majority. The Code is  
currently silent on the quorum required for meetings of this organization. Technical  
changes are made.**

§ 23.1-3103. Expenses of board members.

All members shall be reimbursed for all reasonable and necessary expenses incurred in  
the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for expenses  
of the members shall be provided by the Extension Partnership.

**Drafting note: Provisions relating to expenses of members set out in existing  
subsection C of § 23-231.9 are updated and incorporated instead into this proposed section.**

~~§ 23-231.10~~ 23.1-3104. Executive director; powers and duties; staff.

A. The board shall appoint an executive director who shall (i) supervise and manage the  
Extension Partnership, (ii) ~~discharge~~ perform such functions as may be directed by the board,  
and (iii) prepare and submit, upon the ~~direction and approval by~~ of the board, all requests for  
appropriations. The executive director ~~shall be authorized to~~ may employ such staff as necessary  
to enable the Extension Partnership to perform its duties as set forth in this ~~chapter~~ article. The  
board ~~is authorized to~~ may determine staff duties and ~~to~~ fix salaries and compensation from such  
funds as may be appropriated or received. In addition, the board ~~is authorized to~~ may make

arrangements with institutions of higher education to extend course credit to graduate students employed by the Extension Partnership.

B. Additional staff support for the functions of the Extension Partnership may be provided by the Center for Innovative Technology, the University of Virginia Center for Public Service, ~~community colleges and four-year public~~ institutions of higher education, small business development centers, and private businesses.

**Drafting note: Technical changes.**

~~§ 23-231.14~~ 23.1-3105. ~~Additional powers and duties~~ Powers of the board.

~~To assist~~ In order to carry out the purposes of the Extension Partnership ~~in its mission,~~ the board ~~is authorized on behalf of the Extension Partnership to~~ may:

1. Apply for, accept, and expend gifts, grants, or donations from public or private sources to enable the Extension Partnership to carry out its ~~objectives~~ purposes;

2. Fix, alter, charge, and collect rates, fees, and other charges for the sale of products of, ~~or~~ and services rendered by the Extension Partnership at rates ~~to be determined by it~~ the board to pay the expenses of the Extension Partnership;

3. Make and enter into all contracts or agreements ~~which are~~ necessary or incidental to the performance of its duties and ~~to~~ the execution of powers granted by this ~~chapter~~ article, including agreements with any federal agency, person, private firm, or other organization that can provide technical or other business assistance to the Extension Partnership's industrial clients;

4. Employ, ~~at its discretion,~~ consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary; and ~~to~~ fix their compensation to be payable from funds made available to the Extension Partnership;

5. Render advice and assistance and provide services to state and federal agencies, local and regional economic development entities, private firms, and other persons or organizations providing services or facilities for small and medium-sized manufacturers and industrial firms in ~~Virginia~~ the Commonwealth;

6. Develop and provide programs or projects, ~~at its discretion,~~ alone or in cooperation with any person, state or federal agency, state, local, or regional economic development entity, private firm, or other organization for economic development through improvements in industrial competitiveness in ~~Virginia~~ the Commonwealth; and

7. Do all acts and things necessary or convenient to carry out the powers granted to it by this ~~chapter~~ article or any other ~~acts~~ act.

**Drafting note: Technical changes.**

~~§ 23-231.12~~ 23.1-3106. Cooperation of other agencies; legal services.

A. All agencies of the Commonwealth shall cooperate with the Extension Partnership and, upon request, assist the Extension Partnership in the performance of its duties and responsibilities.

B. The Attorney General shall provide legal services for the Extension Partnership pursuant to Chapter 5 (§ 2.2-500 et seq.) of Title 2.2.

**Drafting note: Technical changes.**

#### ~~CHAPTER 16.4.~~

#### ~~INSTITUTE FOR ADVANCED LEARNING AND RESEARCH.~~

#### Article 3.

#### Institute for Advanced Learning and Research.

**Drafting note: Existing Chapter 16.4 (§ 23-231.19 et seq.) is reorganized as proposed Article 3 of Chapter 31.**

~~§ 23-231.19~~ 23.1-3107. Institute for Advanced Learning and Research—~~created established; responsibilities duties.~~

~~A. With such funds as are appropriated or made available for this purpose, there is hereby created and constituted, in Southside Virginia, a political subdivision of the Commonwealth to be known as the~~ The Institute for Advanced Learning and Research, hereinafter referred to as the "Institute." ~~The Institute shall be founded by Averett University, Danville Community College, and Virginia Polytechnic Institute and State University (the Institute) is established in Southside Virginia as a political subdivision of the Commonwealth.~~

B. The Institute shall:

1. Seek to diversify the economy of the Dan River ~~Region's economy region~~ by engaging the resources of Virginia Polytechnic Institute and State University in partnership with Danville Community College and Averett University and public and private bodies and organizations of the region and ~~state.~~ Commonwealth;

2. Serve as a catalyst for economic and community transformation by leveraging and brokering resources that support the economic diversity ~~for~~ of the Dan River region, particularly within the network economy;

3. Provide a site for the development of the technology and trained workforce necessary for new economic enterprises to flourish in Southside Virginia through the teaching, research, outreach, and technology available from its partner institutions;

4. Expand access to higher education in Southside Virginia by providing for adult and continuing education, workforce training and development, and degree-granting programs, including undergraduate, graduate, and professional programs, through partnerships with the Commonwealth's ~~private and public~~ institutions of higher education and private institutions of higher education, the City of Danville, the County of Pittsylvania, and the public schools, and the public and private sectors in the region;



5. Serve as a resource and hub for network-related initiatives ~~in education~~, at all levels, of education and in economic development activities;

6. Assist in regional economic and community development efforts by housing and encouraging research and product-related activities and encouraging high technology economic development in the region;

7. Encourage and coordinate, as appropriate, the development and delivery of programs offered by ~~those~~ the educational institutions serving the region; and

8. Serve as a resource and referral center by maintaining and disseminating information on existing educational programs, research, and university outreach resources.

**Drafting note: Technical changes. The reference in subsection A to the three founding institutions of higher education are relocated to proposed § 23.1-3110.**

~~§ 23-231.20~~ 23.1-3108. Board of trustees; ~~membership; appointments; terms; compensation and expenses; officers.~~

A. The Institute shall be governed by a 15-member ~~Board of Trustees consisting~~ board of trustees (the board) that shall consist of the presidents or their designees of Averett University, Danville Community College, and Virginia Polytechnic Institute and State University; the chairman or his designee of the Board of the Future of the Piedmont Foundation; 11 nonlegislative citizen members and four ex officio members. Nonlegislative citizen members shall be appointed as follows: one resident of the City of Danville, to be appointed by the Danville City Council; one resident of Pittsylvania County, to be appointed by the Pittsylvania County Board of Supervisors; and ~~nine citizens~~ nonlegislative citizen members representing business and industry who (i) reside in Southside Virginia, (ii) own a business headquartered or otherwise operating in Southside Virginia, or (iii) serve as a member of either the board of directors or senior management of a business headquartered or otherwise operating in Southside Virginia, of whom three shall be appointed by the Governor, three shall be appointed by the Senate Committee on Rules, and three shall be appointed by the Speaker of the House of Delegates. The presidents of Averett University, Danville Community College, and Virginia Polytechnic Institute and State University or their designees and the chairman of the Board of the Future of the Piedmont Foundation or his designee shall serve ex officio with voting privileges. ~~All Nonlegislative citizen members appointed of the board~~ shall be nonelected citizens of the Commonwealth.

B. ~~The presidents or their designees of the named institutions of higher education and the chairman or his designee of the Board of the Future of the Piedmont Foundation~~ Ex officio members of the board shall serve terms coincident with their terms of office. ~~Of the initial citizen appointments to be made in 2004, one appointee each by the Governor, the Speaker of the House of Delegates, and the Senate Committee on Rules shall serve for one year terms and one appointee each by the Governor, the Speaker of the House of Delegates, and the Senate shall serve for two year terms. After the initial staggering of terms, all citizen appointments~~

Appointments shall be for terms of three years, except that appointments to fill vacancies, Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be for the unexpired terms filled in the same manner as the original appointments.

No nonlegislative citizen member of the Board shall be eligible to serve more than two successive consecutive three-year terms; however, after expiration of a term of less than three years, or after the remainder of a three-year term to which a member was appointed to fill a vacancy, a member may serve two additional three-year terms, if so appointed a member appointed to serve an unexpired term is eligible to serve two consecutive three-year terms immediately succeeding such unexpired term.

C. The ~~Board~~ board shall elect a chairman and vice-chairman from among its ~~members~~ membership and may establish bylaws as necessary.

D. Members of the ~~Board~~ board are not be entitled to receive compensation. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the cost of expenses of the members shall be provided by the Institute.

**Drafting note: Technical changes are made, including removing provisions concerning initial staggering of terms as obsolete.**

~~§ 23-231.21 23.1-3109. Powers and duties of Board; contracts for educational services~~  
the board.

A. The ~~Board of Trustees shall have~~ board has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1, except in those cases where, by the express terms of its provisions, the law is confined to corporations created under that title. The ~~Board shall also have the power to~~ board may accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

B. The ~~Board shall have the authority to~~ board may enter into and administer agreements with public institutions of higher education in the Commonwealth and private institutions of higher education to provide continuing education and instructional programs at the Institute through both traditional and electronic modes of delivery.

~~§ 23-231.23. Gifts, grants, and donations; cooperation with other agencies.~~

C. The ~~Board~~ board may, on behalf of the Institute, apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out the purposes of this ~~chapter~~ article.

D. The ~~Board~~ board may also request and accept the cooperation of agencies of (i) the Commonwealth or (ii) the ~~local governments located~~ governing bodies in Southside Virginia in the performance of its duties.

**Drafting note: The provisions of existing § 23-231.23 are incorporated as subsections C and D of this proposed section, which includes broader provisions relating to powers of the board. Technical changes are made.**

~~§ 23-231.22 23.1-3110. Executive director; responsibilities; additional staff support.~~

~~The ~~Board~~ board may appoint an executive director ~~for~~ of the Institute, who may be an employee of ~~one of the founding institutions of higher education~~ Averett University, Danville Community College, or Virginia Polytechnic Institute and State University. The executive director shall supervise and manage the Institute and shall prepare and submit, upon the direction and approval ~~by~~ of the ~~Board~~ board, all budgets and requests for appropriations. ~~During the initial development and implementation phase of the Institute, additional staff support for the functions of the Institute may be provided upon agreement by the founding institutions and local governments.~~~~

**Drafting note: The reference to the founding institutions of higher education as defined in existing subsection A of § 23-231.19 is amended here to list the three institutions. A provision concerning the initial development of the Institute is stricken as obsolete. Technical changes are made.**

~~CHAPTER 16.6.~~

~~THE NEW COLLEGE INSTITUTE.~~

~~Article 4.~~

~~New College Institute.~~

**Drafting note: Existing Chapter 16.6 (§ 23-231.30 et seq.) is reorganized as proposed Article 4 of Chapter 31.**

~~§ 23-231.30 23.1-3111. The New College Institute ~~created~~ established; responsibilities duties.~~

~~A. With such funds as are appropriated or made available for this purpose, there is hereby created and constituted, in the area of Martinsville and Henry County, Virginia, an educational institution of the Commonwealth to be known as the New College Institute, hereinafter referred to as New College (New College) is established as an educational institution of the Commonwealth in the area of Henry County and the City of Martinsville.~~

~~B. New College shall:~~

~~1. Seek to diversify the region's economy by engaging the resources of other institutions of higher education, public and private bodies, and organizations of the region and state. Commonwealth;~~

~~2. Serve as a catalyst for economic and community transformation by leveraging and brokering resources that support economic diversity;~~

3. Facilitate development of the technology and trained workforce necessary for new economic enterprises to flourish, using the resources available from collaborating educational institutions;

4. Expand educational opportunities in the region by providing access to degree-granting programs, including undergraduate, graduate, and professional programs, through partnerships with private institutions of higher education and public institutions of higher education, the public schools, and the public and private sectors;

5. Encourage and coordinate the development and delivery of degree programs and other credit and noncredit courses with a focus on statewide and regional critical shortage areas ~~as well as~~ and the needs of industry. ~~This~~ Such programs and courses shall include needed adult education and workforce training; and

6. Serve as a resource and referral center by maintaining and disseminating information on existing educational programs, research, and university outreach and technology resources.

**Drafting note: Technical changes.**

§ ~~23-231.31~~ 23.1-3112. Board of ~~Directors; membership; appointments; terms; compensation; officers~~ directors.

A. New College shall be governed by a ~~Board of Directors~~ board of directors (the board) consisting of 12 members that shall consist of five legislative members and seven nonlegislative citizen members. Members ~~of the Board~~ shall be appointed as follows: three members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the rules of proportional representation contained in the Rules of the House of Delegates; two members of the Senate, to be appointed by the Senate Committee on Rules; and seven nonlegislative citizen members to be appointed by the Governor, subject to the approval of confirmation by the General Assembly; three members to be appointed by the Speaker of the House of Delegates in accordance with the rules of proportional representation in the Rules of the House; and two members to be appointed by the Senate Committee on Rules. Of the 12 members, no more than two may be nonresidents At least 10 members shall be residents of the Commonwealth.

Legislative members shall serve terms coincident with their terms of office. ~~Beginning with the 2006-2007 fiscal year or for the first fiscal year of the Commonwealth in which funds are appropriated for the purposes of this chapter, whichever is later, of the Governor's initial appointments to the Board, two shall be appointed for terms of four years, two for terms of three years, two for terms of two years, and one for a term of one year. Notwithstanding any other provision of this chapter, each of the Governor's initial appointees may be appointed to one additional successive four year term. After the initial staggering of terms, all nonlegislative citizen appointments~~

B. Nonlegislative citizen members shall be appointed for terms of four years, ~~except that appointments to fill vacancies shall be for the unexpired terms~~. Appointments to fill vacancies,

other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

No nonlegislative citizen member ~~of the Board shall be~~ is eligible to serve more than two successive consecutive four-year terms, ~~but after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional four-year terms may be served by such member if appointed thereto;~~ however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

~~B.-C.~~ The Board board shall elect a chairman and vice-chairman from among its ~~members membership~~ and may establish bylaws as necessary. The meetings of the board shall be held at the call of the chairman or whenever the majority of the members so request.

~~C.-D.~~ Nonlegislative citizen members shall are not be entitled to compensation for their services. Legislative members of the ~~Board board~~ shall be compensated as provided in § 30-19.12, ~~and all.~~ All members of the Board shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in the work of New College as provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the members shall be provided by New College.

**Drafting note: Provisions in subsection A relating to initial appointments to the board are stricken as obsolete.**

~~§ 23-231.32 23.1-3113.~~ Powers and duties of ~~Board;~~ contracts for educational services the board.

A. ~~The Board of Directors shall have~~ board has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1, except in those cases where, by the express terms of its provisions, the law is confined to corporations created under that title. ~~The Board board shall also~~ have the power to accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

B. ~~The Board board~~ shall oversee the educational programs of New College ~~and also have the authority to~~ may enter into and administer agreements with institutions of higher education ~~for them~~ such institutions to provide continuing education, instructional programs, and degree programs at New College.

~~§ 23-231.34. Sale, etc., of real estate.~~

C. ~~The Board board~~, with the prior approval of the Governor ~~first obtained,~~ is hereby authorized to, may lease, sell, and convey any and all real estate to which New College has acquired title by gift, devise, or purchase ~~since the commencement of New College under any previous names, or which may hereafter be conveyed or devised to it.~~ The proceeds derived from any such lease, sale, or conveyance shall be held by New College upon the identical trusts, and subject to the same uses, limitations, and conditions, if any, that are expressed in the original deed or will under which its title has derived; ~~or if there be.~~ If no such trusts, uses, limitations, or

conditions are expressed in such original deed or will, then such funds shall be applied by the ~~Board~~ board to such purposes as it may deem best for New College.

~~§ 23-231.36. Gifts, grants, and donations; cooperation with other agencies.~~

D. The ~~Board~~ board may, on behalf of New College, apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out the purposes of this ~~chapter~~ article.

E. The ~~Board~~ board may ~~also~~ request and accept the cooperation of agencies of the Commonwealth or the local ~~governments located~~ governing bodies in Southside Virginia, or the agencies of the Commonwealth or such local governing bodies in the performance of its duties.

~~§ 23-231.33. Curriculum.~~

F. The ~~Board~~ board shall direct the development and focus of New College's curriculum. ~~The curriculum shall~~ to include appropriate degree and nondegree programs offered by other educational institutions. ~~New College shall enroll students by the fall semester of 2007 or as soon as practicable.~~

**Drafting note: Existing §§ 23-231.32, 23-231.33, 23-231.34, and 23-231.36 are combined, relating to powers and duties of the board. A provision in existing § 23-231.33 relating to a 2007 deadline for the first enrollment of students is stricken as obsolete. Technical changes are made.**

~~§ 23-231.35 23.1-3114. Executive Director; responsibilities~~ director.

The ~~Board~~ board shall appoint an ~~Executive Director~~ executive director of New College who shall supervise and manage New College. The ~~Executive Director shall be authorized~~ executive director may, with the oversight of the ~~Board~~ board, ~~to~~ employ such staff and faculty as are necessary to enable New College to perform its duties as set forth in this ~~chapter~~ article and the bylaws established by the ~~Board~~ board.

**Drafting note: Technical changes.**

#### ~~CHAPTER 16.3.~~

#### ~~ROANOKE HIGHER EDUCATION AUTHORITY.~~

#### Article 5.

#### Roanoke Higher Education Authority.

**Drafting note: Existing Chapter 16.3 (§ 23-231.13 et seq.) is reorganized as proposed Article 5 of Chapter 31.**

~~§ 23-231.13 23.1-3115. Roanoke Higher Education Authority created~~ established.

~~With such funds as are appropriated or made available for this purpose, there is hereby created and constituted a political subdivision of the Commonwealth to be known as the~~ The Roanoke Higher Education Authority, hereinafter referred to as the "Authority." (the Authority) is established as a political subdivision of the Commonwealth.

**Drafting note: Technical changes.**

~~§ 23-231.14~~ 23.1-3116. ~~Responsibilities~~ Duties of the Authority.

The Authority shall:

1. Expand access to higher education in the Roanoke Valley by providing for adult and continuing education and degree-granting programs, including undergraduate, graduate, and professional programs, through partnerships with the Commonwealth's public institutions of higher education and private institutions of higher education;
2. Serve as a resource and referral center on existing educational programs and resources by maintaining and disseminating information;
3. Develop, in coordination with the ~~State Council of Higher Education for Virginia~~, specific goals for higher education access and availability in the Roanoke Valley; and
4. Accept, administer, and account for any state grant to a nonstate entity ~~which~~ that may be provided in the name of the Roanoke Higher Education Center (the Center) ~~or in the name of the Roanoke Higher Education Authority~~.

**Drafting note: Technical changes.**

~~§ 23-231.15~~ 23.1-3117. Board of ~~Trustees; appointments; terms; compensation; officers~~ trustees.

A. The Authority shall be governed by a ~~Board of Trustees~~ board of trustees (the board) consisting of 22 members as follows: two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one member of the Senate, to be appointed by the Senate Committee on Rules; the Director of the State Council of Higher Education for Virginia or his designee; the Chancellor of the Virginia Community College System Colleges or his designee; and the presidents or their designees of Averett College University, Bluefield College, Hollins University, James Madison University, Mary Baldwin College, Old Dominion University, Radford University, Roanoke College, the University of Virginia, Virginia Polytechnic Institute and State University, and Virginia Western Community College or their designees; the Director of Total Action for Progress (TAP) This Valley Works; two members of the House of Delegates to be appointed by the Speaker of the House of Delegates; one member of the Senate to be appointed by the Senate Committee on Rules; and five nonlegislative citizen members representing business and industry in the Roanoke Valley to be appointed by the Governor. Nonlegislative citizen members of the ~~Board~~ board shall be citizens of the Commonwealth and residents of the Roanoke region.

B. The legislative members, the Director of the ~~State Council of Higher Education for Virginia~~, the Chancellor of the ~~Virginia Community College System Colleges~~, the Director of TAP This Valley Works, and the presidents ~~or their designees~~ of the named institutions of higher education or their designees shall serve terms coincident with their terms of office. ~~After the initial staggering of terms, all nonlegislative~~ Nonlegislative citizen members shall be appointed for terms of four years, ~~except that appointments to fill vacancies. Appointments to fill~~

vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No nonlegislative citizen member of the Board shall be eligible to serve more than two successive consecutive four-year terms; however, after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional four year terms may be served by such member, if appointed thereto a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

C. Nonlegislative citizen members shall are not be entitled to compensation for their services. Legislative members of the Board board shall receive such compensation as provided in § 30-19.12, and all. All members of the Board shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in the work of the Authority as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

D. The Board board shall elect a chairman and a vice-chairman from among its members membership and may establish bylaws as necessary.

**Drafting note: Technical changes.**

§ 23-231.16 23.1-3118. Powers and duties of Board of Trustees the board.

A. The Board of Trustees shall have board has, in addition to such other powers, all the corporate powers given to corporations by the provisions of Title 13.1, except in those cases where, by the express terms of its provisions, this law is confined to corporations created under that title.

B. The Board shall have the power to board may issue bonds upon the advice of bond counsel and a financial institution with expertise in bonds and investments. Bonds issued under the provisions of this section shall not be deemed to constitute a debt or a pledge of the faith and credit of the Commonwealth or of any of its political subdivision thereof subdivisions other than the Authority.

C. The Board board may accept, execute, and administer any trust in which it may have an interest under the terms of any instrument creating the trust.

B. D. The Board shall have the authority to board may lease property or to hold any property for which it may acquire the title and to dispose of such property in a manner which that will benefit the Authority.

E. The Board board may also enter into agreements with public institutions of higher education and private institutions of higher education in the Commonwealth to provide adult education, continuing education, undergraduate level undergraduate-level education, and graduate level graduate-level instructional programs. The Board board may enter into agreements with local school boards and other entities to provide such programs as it deems necessary and appropriate to carry out the purposes of the Authority.



~~C-F.~~ The ~~Board~~ board may establish, with such funds as are appropriated for this purpose or made available to it, the ~~Roanoke Higher Education~~ Center.

~~D-G.~~ Notwithstanding any provision of law to the contrary, any real estate and tangible personal property held or acquired by the ~~Board~~ board is exempt from any prohibition of the use of noncash assistance as matching funds.

~~§ 23-231.18. Gifts, grants, and donations.~~

~~H.~~ The ~~Board~~ board may, on behalf of the Authority or the Center, apply for, accept, and direct the expenditure of gifts, grants, or donations from public or private sources to enable it to carry out the purposes of this ~~chapter~~ article. Any locality may make gifts and donations of real property, real or personal, personal property, or money, to the Authority.

**Drafting note: Existing §§ 23-231.16 and 23-231.18 are combined. relating to board powers. Technical changes are made.**

~~§ 23-231.17~~ 23.1-3119. Executive director; staff.

A. From funds available for this purpose, the ~~Board~~ board may appoint an executive director for the ~~Roanoke Higher Education~~ Center who shall supervise and manage the Center and ~~shall~~ prepare and submit, upon the direction and approval ~~by of the Board~~ by of the board, all requests for appropriations. The ~~Executive Director~~ executive director of the Center ~~shall be authorized to~~ may employ such staff as necessary to enable the Center to perform its duties as set forth in the bylaws of the ~~Board of Trustees~~ board and this ~~chapter~~ article. The ~~Board~~ board may determine the duties of the staff and fix salaries and compensation from such funds as may be appropriated or received.

B. Additional staff support for the functions of the Center may be provided upon agreement by the participating institutions.

**Drafting note: Technical changes.**

#### ~~CHAPTER 16.5.~~

#### ~~SOUTHERN VIRGINIA HIGHER EDUCATION CENTER.~~

#### Article 6.

#### Southern Virginia Higher Education Center.

**Drafting note: Existing Chapter 16.5 (§ 23-231.24 et seq.) is reorganized as proposed Article 6 of Chapter 31.**

~~§ 23-231.24~~ 23.1-3120. Southern Virginia Higher Education Center ~~created~~ established; duties.

~~From such funds as may be appropriated, the~~ The Southern Virginia Higher Education Center, ~~previously established as an off campus center of Longwood University, (the Center) is hereby continued established~~ as an educational institution in the Commonwealth ~~and shall be referred to in this chapter as the "Center."~~ The Center shall:

1. Encourage the expansion of higher education, including adult and continuing education, and associate, undergraduate, and graduate degree programs, in the region; and foster partnerships between the public and private sectors to enhance higher education in the Southside region;

2. Coordinate the development and delivery of continuing education programs offered by ~~those~~ the educational institutions serving the region;

3. Facilitate the delivery of teacher training programs leading to licensure and graduate degrees;

4. Serve as a resource and referral center by maintaining and disseminating information on existing educational programs and resources; and

5. Develop, in coordination with the ~~State Council of Higher Education for Virginia~~, specific goals for higher education in Southside Virginia.

**Drafting note: Technical changes.**

~~§ 23-231.25 23.1-3121. Membership of governing board; terms; compensation; officers~~  
Board of trustees.

A. The Center shall be governed by a ~~15-member Board of Trustees~~, board of trustees (the board) consisting of 15 members as follows: two members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one member of the Senate to be appointed by the Senate Committee on Rules; the Director of the State Council of Higher Education for Virginia or his designee; the Chancellor of the Virginia Community College System Colleges or his designee; the presidents or chancellors, as appropriate, or their designees of Longwood University, Danville Community College, and Southside Virginia Community College or their designees; the division superintendent of Halifax County public schools Public Schools; two members of the House of Delegates to be appointed by the Speaker of the House of Delegates; one member of the Senate to be appointed by the Senate Committee on Rules; and six nonlegislative citizen members to be appointed by the Governor, including the chairman and two other members of the Halifax Southern Virginia Higher Education Foundation; and three four representatives of business and industry. The Speaker of the House of Delegates may appoint an alternate for ~~the Delegate~~ one delegate appointed to the ~~Center~~ board. The alternate shall serve a term coincident with the term of the ~~Delegate~~ delegate and ~~shall have~~ has the power to act in his absence. The Senate Committee on Rules may appoint an alternate for the ~~Senator~~ senator appointed to the ~~Center~~ board. The alternate shall serve a term coincident with the term of the ~~Senator~~ senator and ~~shall have the power to~~ may act in his absence.

Nonlegislative citizen members of the ~~Board~~ board shall be chosen from among residents of the Southside region of the Commonwealth and shall be citizens of the Commonwealth.

B. Legislative members and the representatives of the Council, the ~~Virginia Community College System~~, and the named institutions of higher education shall serve terms coincident with

their terms of office. ~~After the initial staggering of terms, all nonlegislative~~ Nonlegislative citizen ~~appointments~~ members shall be appointed for terms of four years, ~~except that appointments to fill vacancies.~~ Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No nonlegislative citizen member ~~of the Board shall be~~ is eligible to serve more than two ~~successive~~ consecutive four-year terms, ~~but after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional four-year terms may be served by such member if appointed thereto;~~ however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

C. Nonlegislative citizen members ~~shall~~ are not ~~be~~ entitled to compensation for their services. Legislative members of the ~~Board~~ board shall be compensated as provided in § 30-19.12, ~~and all.~~ All members of the ~~Board~~ board shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in the work of the Center as provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the members shall be provided by the Center.

D. The ~~Board~~ board shall elect a chairman and a vice-chairman from among its ~~members~~ membership.

**Drafting note: A technical change is made to change the name of the Halifax Education Foundation to the Southern Virginia Higher Education Foundation to reflect that foundation's present name. A substantive change is made to reduce the number of members of the Southern Virginia Higher Education Foundation on the board from three to two and increase the representatives of business and industry on the board from three to four. Section 2.2-3701 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) defines "meeting" to include an informal assemblage of as many as three members. If the three current members of the board of the Center were to discuss board business while assembled at a Southern Virginia Higher Education Foundation meeting, such discussion could violate the open meeting provisions of § 2.2-3707. Technical changes are made.**

~~§ 23-231.26~~ 23.1-3122. Powers of ~~Board;~~ contracts for educational services ~~the board.~~

A. The ~~Board of Trustees shall have~~ board has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1, except in those cases where, by the express terms of its provisions, it is confined to corporations created under that title.

B. The ~~Board shall also have the power to~~ board may accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

~~B. C.~~ The Board shall have the authority to board may establish and administer agreements with public institutions of higher education and private institutions of higher education for the provision of associate, undergraduate, and graduate degree instructional programs at the Center.

~~§ 23-231.28. Application for and acceptance of gifts and grants.~~

~~D. The Board is authorized board, on behalf of the Center to, may apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives purposes.~~

**Drafting note: Existing §§ 23-231.26 and 23-231.28 are combined, relating to board powers. Technical changes are made.**

~~§ 23-231.27 23.1-3123. Executive director; powers and duties; staff.~~

~~A. The Board board shall appoint an executive director for the Center who shall supervise and manage the Center and shall prepare and submit, upon the direction and approval by of the Board board, all requests for appropriations. The Executive Director of the Center shall be authorized to executive director may employ such staff as necessary to enable the Center to perform its duties as set forth in this chapter article. The Board is authorized to board may determine the duties of such staff and to fix salaries and compensation from such funds as may be appropriated or received.~~

~~B. Additional staff support for the functions of the Center may be provided upon agreement by Longwood University, Danville Community College, and Southside Virginia Community College.~~

**Drafting note: Technical changes.**

~~§ 23-231.29 23.1-3124. Cooperation of other agencies.~~

~~All agencies of the Commonwealth shall cooperate with the Center; and, upon request, assist the Center in the performance of its duties and responsibilities.~~

**Drafting note: Technical change.**

#### ~~CHAPTER 16.1.~~

#### ~~SOUTHWEST VIRGINIA HIGHER EDUCATION CENTER.~~

#### ~~Article 7.~~

#### ~~Southwest Virginia Higher Education Center.~~

**Drafting note: Existing Chapter 16.1 (§ 23-231.2 et seq.) is reorganized as proposed Article 7 of Chapter 31.**

~~§ 23-231.2 23.1-3125. Southwest Virginia Higher Education Center-created established; duties.~~

~~From such funds as may be appropriated, the The Southwest Virginia Higher Education Center (the Center) is hereby established as an educational institution in the Commonwealth and shall be referred to in this chapter as the "Center". The Center shall:~~

~~1. Encourage the expansion of higher education, including degrees, adult and continuing education, associate degrees to be offered by Virginia Highlands Community College, undergraduate degrees to be offered by the University of Virginia's College at Wise, and~~

~~graduate degree programs, in the Southwest region of the Commonwealth and foster partnerships between the public and private sectors to enhance higher education in the region;~~

~~2. Coordinate the development and delivery of continuing education programs offered by those educational institutions serving the region workforce training, and professional development through partnerships with public institutions of higher education and private institutions of higher education;~~

~~3. 2. Facilitate the delivery of teacher training programs leading to licensure and undergraduate and graduate degrees;~~

~~4. 3. Serve as a resource and referral center by maintaining and disseminating information on existing educational programs and resources; and~~

~~5. 4. Develop, in coordination with the State Council of Higher Education for Virginia, specific goals for higher education in Southwest Virginia.~~

**Drafting note: Technical changes are made. Substantive changes are made to broaden the duties of the Center and align them with its current mission and practices.**

~~§ 23-231.3 23.1-3126. Membership of governing board; terms; compensation; officers Board of trustees.~~

~~A. The Center shall be governed by a 23-member Board of Trustees, board of trustees (the board), consisting of 23 members as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; the Director of the State Council of Higher Education for Virginia or his designee; the Chancellor of the Virginia Community College System Colleges or his designee; the presidents or chancellors, as appropriate, or their designees chief executive officers of Virginia Polytechnic Institute and State University, Radford University, the University of Virginia, the University of Virginia's College at Wise, Old Dominion University, Emory and Henry College, Virginia Intermont College Commonwealth University, and Virginia Highlands Community College or their designees; four members of the House of Delegates to be appointed by the Speaker of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; and seven nonlegislative citizen members to be appointed by the Governor, representing who represent Southwest Virginia public education and area business and industry, including one school division superintendent, one public school teacher, two business and industry leaders, and three persons, one each representing representative of the technology industry, one representative of the tourism industry, and one representative of the health care industries, respectively industry.~~

~~Nonlegislative citizen members of the Board board shall be chosen from among residents of the Southwest region of the Commonwealth and shall be citizens of the Commonwealth.~~

~~B. Legislative members and the representatives of the State Council, the Virginia Community College System, and the named institutions of higher education shall serve terms~~

coincident with their terms of office. ~~After the initial staggering of terms, all nonlegislative~~ Nonlegislative ~~citizen appointments members~~ shall be appointed for terms of four years, ~~except that appointments to fill vacancies. Appointments to fill vacancies, other than by expiration of a term,~~ shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No nonlegislative citizen member ~~of the Board shall be~~ is eligible to serve more than two ~~succcessive~~ consecutive four-year terms, ~~but after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional four-year terms may be served by such member if appointed thereto;~~ however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

C. Nonlegislative citizen members ~~shall~~ are not ~~be~~ entitled to compensation for their services. Legislative members of the ~~Board~~ board shall be compensated as provided in § 30-19.12, ~~and all. All~~ members of the ~~Board~~ board shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in the work of the Center as provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the members shall be provided by the Center.

D. The ~~Board~~ board shall elect a chairman and a vice-chairman from among its ~~members~~ membership.

**Drafting note: The president of Virginia Intermont College is removed as an ex officio member of the board. Virginia Intermont College closed permanently in 2014. A substantive change is made to add the president of Virginia Commonwealth University as an ex officio member of the board. Technical changes are made.**

~~§ 23-231.4~~ 23.1-3127. Powers of ~~Board;~~ contracts for educational services ~~the board.~~

A. The ~~Board of Trustees shall have~~ board has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1, except in those cases where, by the express terms of its provisions, it is confined to corporations created under that title. ~~The Board shall also have the power to~~ board may accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

B. ~~The Board shall have the authority to~~ board may establish and administer agreements with (i) public institutions of higher education in the Commonwealth and private institutions of higher education to provide ~~graduate-level~~ undergraduate-level and graduate-level instructional programs at the Center and ~~with Emory and Henry College for the provision of graduate degree instructional programs in education at the Center. The Board shall be empowered to establish and administer agreements with the University of Virginia's College at Wise and Emory and Henry College for the provision of upper level undergraduate instructional programs at the Center and with~~ (ii) Virginia Highlands Community College for the provision of and other public institutions of higher education and private institutions of higher education to provide freshman-

level and sophomore-level courses and associate-degree instructional programs at the Center degrees.

~~§ 23-231.6. Application for and acceptance of gifts and grants.~~

~~C. The Board is authorized~~ board may, on behalf of the Center ~~to~~, apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives.

**Drafting note: Existing §§ 23-231.4 and 23-231.6 are combined, relating to board powers. Substantive changes are made to give the board the authority to establish and administer agreements with (i) public institutions of higher education and private institutions of higher education in the Commonwealth to provide undergraduate-level and graduate-level instructional programs at the Center and (ii) Virginia Highlands Community College and other public institutions of higher education and private institutions of higher education to provide freshman-level and sophomore-level courses and associate degrees. Under existing law, the Center may only establish and administer agreements with (a) public institutions of higher education in the Commonwealth to provide graduate-level instructional programs at the Center and (b) Virginia Highlands Community College to provide associate degree instructional programs at the Center. This substantive change is intended to align the Center's powers with its current mission and practices. Technical changes are made.**

~~§ 23-231.5 23.1-3128. Executive director; powers and duties; staff.~~

~~A. The Board~~ board shall appoint an executive director for the Center who shall supervise and manage the Center and shall prepare and submit, upon the direction and approval ~~by~~ of the ~~Board~~ board, all requests for appropriations. ~~The Executive Director of the Center~~ executive director shall be authorized to may employ such staff as necessary to enable the Center to perform its duties as set forth in this ~~chapter~~ article. ~~The Board is authorized to~~ may determine the duties of such staff and ~~to~~ fix salaries and compensation from such funds as may be appropriated or received.

B. Additional staff support for the functions of the Center may be provided upon agreement by ~~Virginia Polytechnic Institute and State University, the University of Virginia, the University of Virginia's College at Wise, and Virginia Highlands Community College~~ any public institution of higher education that offers courses or instructional programs at the Center.

**Drafting note: A substantive change is made to specify that additional staff support for the functions of the Center may be provided upon agreement by any public institution of higher education that offers courses or instructional programs at the Center. Under current law, such agreements are only permitted between the Center and Virginia Polytechnic Institute and State University, the University of Virginia, the University of Virginia's College at Wise, and Virginia Highlands Community College. Technical changes are made.**

~~§ 23-231.7~~ 23.1-3129. Cooperation of other agencies.

All agencies of the Commonwealth shall cooperate with the Center; and, upon request, assist the Center in the performance of its duties and responsibilities.

**Drafting note: Technical change.**

~~CHAPTER 12.~~

~~VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND.~~

~~§§ 23-156 through 23-164.~~

**Drafting note: Repealed by Acts 1977, c. 668.**

~~CHAPTER 14.~~

~~VIRGINIA STATE SCHOOL.~~

~~§§ 23-175 through 23-181.~~

**Drafting note: Repealed by Acts 1966, c. 551.**

~~CHAPTER 14.1.~~

~~VIRGINIA SCHOOL AT HAMPTON.~~

~~§§ 23-181.1 through 23-181.10.~~

**Drafting note: Repealed by Acts 1977, c. 668.**

~~CHAPTER 19.~~

~~THE VIRGINIA SCHOOLS FOR THE DEAF AND THE BLIND.~~

~~§§ 23-254 through 23-260.1.~~

**Drafting note: Repealed by Acts 1984, c. 413.**

~~§§ 23-262, 23-263.~~

**Drafting note: Repealed by Acts 1991, c. 590.**

~~§ 23-264.~~

**Drafting note: Repealed by Acts 1984, c. 734.**

~~CHAPTER 27.~~

~~VIRGINIA UNIVERSITIES CLEAN ENERGY DEVELOPMENT AND ECONOMIC  
STIMULUS FOUNDATION.~~

**Drafting note: Repeal of obsolete existing Chapter 27 (§§ 23-300 through 23-303) and its contents is recommended because the Foundation is neither operational nor funded in the current general appropriation act.**

~~§ 23-300. Virginia Universities Clean Energy Development and Economic Stimulus Foundation created; purpose; structure.~~

~~A. There is hereby created the Virginia Universities Clean Energy Development and Economic Stimulus Foundation (Foundation) established as a body corporate and political subdivision of the Commonwealth which, with the cooperation and assistance of the universities,~~



~~shall identify, obtain, disburse, and administer funding for the following purposes: (i) research and development of alternative fuels, clean energy production, and related technologies; (ii) support of economic development projects in economically disadvantaged areas; and (iii) provision of assistance in the commercialization of alternative fuels and clean energy technologies developed with funds administered by the Foundation.~~

~~B. The Foundation shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Foundation shall have only those powers and duties as enumerated in this chapter.~~

~~C. The Foundation shall operate as a not for profit corporate entity and all funding made available to the Foundation shall be used solely for the purposes set forth in this chapter and shall be provided from such sources as specified in this chapter. No public funds shall be used for the work of the Foundation, which shall not be construed as an agency of the Commonwealth.~~

~~D. The Foundation shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).~~

~~E. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.~~

~~F. The Foundation shall be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Foundation and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Foundation under the provisions of this chapter.~~

**Drafting note: Repeal of obsolete existing § 23-300 is recommended.**

~~§ 23-301. Membership of the Board; terms; vacancies; officers; meetings, etc.~~

~~A. The Foundation shall be governed by a Board of Directors composed of eight members as follows: the president of the University of Virginia or his designee; the president of Virginia Polytechnic Institute and State University or his designee; the president of one of the other institutions included in the Virginia Coastal Energy Research Consortium, pursuant to § 67-600 of the Code of Virginia, or his designee; one nonlegislative citizen member who shall represent public service companies providing energy to consumers, to be appointed by the Governor; three nonlegislative citizen members to be appointed by the Speaker of the House of Delegates; and one nonlegislative citizen member to be appointed by the Senate Committee on Rules.~~

~~Nonlegislative citizen members appointed by the Speaker of the House of Delegates and the Senate Committee on Rules shall have specialized background and expertise on one or more of the following subjects: environmental or conservation issues; financing and commercialization of newly developed technologies or products; energy production issues; or scientific research methodologies and protocols.~~

~~B. There shall be no limitation on the terms of Board members and they shall serve at the pleasure of the appointing authority, except for the president of the other institutions included in the Virginia Coastal Energy Research Consortium, which shall rotate among the member institutions on an annual basis.~~

~~C. The Board shall appoint from its membership a chairman and a vice chairman, both of whom shall serve in such capacities at the pleasure of the Board. The chairman, or in his absence, the vice chairman, shall preside at all meetings of the Board. The meetings of the Board shall be held on the call of the chairman or whenever the majority of the members so request. The Board shall meet not less than twice annually. A majority of members of the Board serving at any one time shall constitute a quorum for the transaction of business. Notwithstanding any other provision of law, the Board may meet, conduct business, and vote by means of electronic communication.~~

**Drafting note: Repeal of obsolete existing § 23-301 is recommended.**

~~§ 23-302. Powers and duties of the Board.~~

~~A. The Board shall have the power to:~~

- ~~1. Adopt, use, and alter at will an official seal;~~
- ~~2. Make bylaws for the management and regulation of its affairs;~~
- ~~3. Sue and be sued;~~
- ~~4. Maintain an office at such place or places within the Commonwealth as it may designate;~~
- ~~5. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Foundation, absolutely or in trust, for the purposes for which the Foundation is created;~~
- ~~6. Determine how moneys provided to the Foundation are to be distributed and to authorize grants, loans, or other distributions of such moneys for the purposes set forth in this chapter;~~
- ~~7. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;~~
- ~~8. Invest its funds as provided in this chapter or permitted by applicable law;~~
- ~~9. Expend from such funds as are available to it a reasonable amount for personnel, operations, and administration of the Foundation; and~~
- ~~10. Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied, including use of whatever lawful means may be necessary and appropriate to recover any payments wrongfully made from the funds available to the Foundation.~~

~~B. The Board shall employ on a full-time, part-time, or contract basis such personnel as may be necessary to ensure that the purposes of this chapter are achieved, including, but not limited to, a chief executive officer, legal counsel, and chief research policy officer.~~

~~C. The Board and such staff as may be employed shall have the following duties:~~

~~1. Establish procedures by which persons seeking funds from the Foundation may make application for an award of such fund;~~

~~2. Actively seek out and encourage appropriate projects; and~~

~~3. Actively seek out and expend all reasonable efforts to obtain funds from all available sources.~~

~~D. Any proposed projects funded by the Foundation shall be consistent with the purposes set forth in this chapter.~~

~~E. The Board shall report its activities annually by December 1 to the Governor, the Speaker of the House, and the Senate Committee on Rules.~~

**Drafting note: Repeal of obsolete existing § 23-302 is recommended.**

~~§ 23-303. Evaluation of proposals; due diligence; participation by universities.~~

~~A. All requests seeking funds from the Foundation shall be thoroughly evaluated utilizing the criteria set forth in subsection B of this section. The Board and such staff as may be employed shall participate in the evaluation and may utilize such additional assistance as they determine necessary. The universities shall provide expertise for the evaluation process as requested by the Board.~~

~~B. Each funding request shall be evaluated according to the extent to which it meets a substantial portion of the following criteria as appropriate to the project or technology proposed:~~

~~1. Whether, and to what extent, the proposed project will identify, develop, and facilitate production and marketing of alternative fuels, clean energy sources, reduced dependence on foreign energy supplies, more affordable energy, discovery and development of raw materials necessary for energy production, or other similar improvements in energy creation, production, distribution, and affordability;~~

~~2. Whether, and to what extent, the proposed project will aid in economic revitalization of economically disadvantaged areas;~~

~~3. The scientific and technological value and viability of the proposed project;~~

~~4. The likelihood that the proposed project will fully realize its stated objectives;~~

~~5. The cost of the proposed project in relation to its reasonably foreseeable economic impact;~~

~~6. Whether, and to what extent, the proposed project will likely result in a commercially viable outcome;~~

~~7. The effort and time necessary to commercialize outcomes of the proposed project;~~

~~8. Whether, and to what extent, the requesting entity has utilized other available funding sources; and~~

~~9. Such other criteria as the Board may determine.~~

~~C. The Board shall determine whether a funding request sufficiently meets the criteria established and the purposes of this chapter, and if so, the appropriate amount of funding to be~~

~~provided. Funding shall be awarded only to those proposed projects that best meet the established criteria and purposes of this chapter.~~

~~D. Any member of the Board who has a personal interest in any transaction before the Board shall be disqualified from participating in that transaction, and shall forthwith make disclosure of the existence of his interest, including the full name and address of the business involved, and his disclosure shall also be reflected in the public records of the Board for five years in the office of the administrative head of the Board or, if the Board has a clerk, in the clerk's office.~~

**Drafting note: Repeal of obsolete existing § 23-303 is recommended.**

## CHAPTER 32.

### MUSEUMS AND OTHER CULTURAL INSTITUTIONS.

**Drafting note: Museums and other cultural institutions in existing Chapters 18 (§ 23-239 et seq.), 18.1 (§ 23-253.1 et seq.), 23 (§ 23-287 et seq.), 24 (§ 23-295 et seq.), and 25 (§ 23-296 et seq.) are reorganized as proposed Articles 2 through 6 in Chapter 32. Also logically relocated as proposed Article 7 in Chapter 32 are provisions relating to two other cultural institutions, the Virginia Commission for the Arts (existing Article 4 (§ 2.2-2508 et seq.) of Chapter 25 of Title 2.2) and the Virginia Arts Foundation (existing Article 1 (§ 2.2-2700 et seq.) of Chapter 27 of Title 2.2). Proposed Article 1, General Provisions, applies to all entities in proposed Chapter 32.**

#### Article 1.

##### General Provisions.

**Drafting note: Existing provisions relating to educational entities in general are consolidated in proposed Article 1.**

§ 23.1-3200. Governing boards of educational institutions; removal of members.

A. Notwithstanding any other provision of law, the Governor may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board of any educational institution established pursuant to this chapter and fill the vacancy resulting from the removal. Each appointment to fill a vacancy is subject to confirmation by the General Assembly.

B. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to subsection A at the time the removal occurs. The Governor is the sole judge of the sufficiency of the cause for removal as set forth in subsection A.

**Drafting note: The provisions of existing subsections A and C of § 2.2-108 that apply to other educational institutions in general are logically reorganized as proposed §§ 23.1-3100 and 23.1-3200. Technical changes are made.**

~~CHAPTER 25.~~  
~~FRONTIER CULTURE MUSEUM OF VIRGINIA.~~

Article 2.

Frontier Culture Museum of Virginia.

**Drafting note: Existing Chapter 25 (§ 23-296 et seq.) is reorganized as proposed Article 2 of Chapter 32.**

~~§ 23-296~~ 23.1-3201. Frontier Culture Museum of Virginia ~~created; purpose~~ established.

~~There is hereby created the~~ The Frontier Culture Museum of Virginia (the Museum) is established as a state agency and educational institution. The purpose of the ~~museum~~ Museum is to construct, operate, and maintain, in the ~~Augusta County/Staunton/Waynesboro~~ County, Staunton, and Waynesboro area of the Commonwealth, an outdoor museum ~~in order~~ to commemorate on an international scale the ~~contribution which~~ contributions of the pioneers and colonial frontiersmen and frontierswomen of the eighteenth and nineteenth centuries ~~made~~ to the creation and development of the United States. The Museum is ~~an educational institution with responsibility to administer certain~~ responsible for administering such historical and interpretive programs as may be established by the board of trustees of the Museum.

**Drafting note: Technical changes.**

~~§ 23-297~~ 23.1-3202. Board of ~~Trustees; membership; terms; officers and committees;~~ compensation trustees.

A. ~~The Frontier Culture Museum of Virginia~~ shall be administered by a ~~Board of Trustees~~ board of trustees (the board) consisting of no more than 25 members. The members shall be appointed as follows: five members of the House of Delegates ~~shall be appointed~~ by the Speaker of the House of Delegates; in accordance with the rules of proportional representation contained in the Rules of the House of Delegates, three members of the Senate ~~shall be appointed~~ by the Senate Committee on Rules; and nine nonlegislative citizen members ~~shall be appointed~~ by the Governor. The Governor may appoint, upon recommendation of the ~~Board of Trustees~~ board, up to eight additional nonlegislative citizen members ~~for four-year terms~~ who may be nonresidents of the Commonwealth ~~and who shall serve at no expense to the Commonwealth.~~

B. Legislative members shall serve terms coincident with their terms of office. ~~After the initial staggering of terms, nonlegislative~~ Nonlegislative citizen members shall be appointed ~~shall serve for four-year terms~~ of four years. Appointments to fill vacancies, other than by expiration of a term, shall be ~~made~~ for the unexpired ~~term~~ terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

C. ~~The Board of Trustees~~ board shall elect a chairman, vice-chairman, and such other officers as it deems necessary. ~~Seven or more of the members of the Board of Trustees shall constitute an executive committee~~ The meetings of the board shall be held at the call of the chairman or whenever the majority of the members so request. The board may appoint an

executive committee consisting of at least seven members for the transaction of business in the recess of the board.

~~The Board of Trustees~~ D. Members of the board shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825 ~~and shall be compensated at the per diem rate established for members of the General Assembly for meetings.~~ Nonlegislative citizen members shall receive no compensation for their services. Legislative members shall be compensated as provided in § 30-19.12. Funding for the costs of compensation and expenses of the members shall be provided by the ~~Frontier Culture~~ Museum.

**Drafting note: Technical changes are made. A substantive change is made in proposed subsections A and D to (i) remove the restriction that members who are not residents of the Commonwealth shall serve at no expense to the Commonwealth and (ii) specify that all members are entitled to reimbursement for reasonable and necessary expenses, but only legislative members are entitled to be compensated at a per diem rate. A substantive change is made in proposed subsection C to specify that the board may appoint an executive committee for the transaction of business in the recess of the board. Similar language is found in the enabling statutes of other boards in proposed Title 23.1. The existing statute is silent on the appointment and powers of the executive committee.**

~~§ 23-298 23.1-3203. Powers of Board of Trustees; donation~~ Duties of the board.

A. ~~The Board of Trustees~~ board shall:

1. Establish, operate, and maintain the ~~Frontier Culture Museum of Virginia~~ to commemorate the contributions ~~which of~~ the pioneers and colonial frontiersmen and frontierswomen ~~made~~ to the creation of this nation;

2. Employ an executive director and such assistants as may be required and confer such duties and responsibilities as determined necessary;

3. Adopt a flag, seal, and other emblems for use in connection with the Museum;

4. Establish a nonprofit corporation to develop and maintain public awareness of the ~~Frontier Culture Museum of Virginia~~;

5. Receive and expend gifts, grants, and donations of any kind from whatever sources determined, including donations accepted by the American Frontier Culture Foundation on behalf of the Museum;

6. Adopt regulations and set fees concerning the use and visitation of properties under its control;

7. ~~Acquire, with~~ With the consent of the Governor, acquire by purchase, lease, gift, devise, or condemnation proceedings lands, property, and structures deemed necessary to the purpose of the Museum ~~by purchase, lease, gift, devise or condemnation proceedings.~~ The title to such acquired land and property ~~acquired~~ shall be in the name of the Commonwealth. In the

exercise of the power of eminent domain granted under this section, the Museum may proceed in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1;

8. Convey by lease land and structures to any person, association, firm, or corporation, with the consent of the Governor, for such terms and on such conditions as the Museum may determine;

9. Enter into contracts to further the purpose of the Museum, ~~which have been approved by the Attorney General~~; and

10. Elect any past member of the ~~Board of Trustees~~ board to the honorary position of trustee emeritus. Trustees emeriti shall serve as honorary members for life, shall not have voting privileges, and shall be elected in addition to those positions set forth in § ~~23-297~~ 23.1-3202.

B. In addition to the powers granted by subsection A, the ~~Board~~ board may, ~~from time to time~~, evaluate the significance ~~or~~ and suitability of the furnishings, household items, and other objects ~~heretofore and hereinafter~~ acquired by purchase, gift ~~or donations~~, or donation with or for the Museum; for the purpose of accurately presenting the means, tastes, and lifestyles of the people living during the era depicted by the Museum ~~depicts and within the limitations of the furnishings, household items, and other objects that would have been available to and within the means of such persons~~. The ~~Board~~ board may ~~dispose of~~ exchange or sell those furnishings, household items, and other objects ~~determined by the Board~~ that it determines to be of little or no significance or suitability for achieving the ~~purposes~~ purpose or mission of the Museum ~~by exchange or sale, so as~~ long as such disposition is not inconsistent with the terms of the acquisition of the relevant property. ~~At the discretion of the Board, sales~~ Sales of these items may be conducted by auction houses recognized for their expertise in the sale of such property.

C. Any furnishings, household goods, and other objects previously acquired by donation or purchase and the net proceeds of any sale of these items as provided in subsection B shall constitute a discrete fund of the ~~Frontier Culture Museum of Virginia~~ and shall be used solely for the acquisition of period furnishings, household goods, and other objects consistent with the purpose and mission of the Museum.

D. Donations to the Museum of any funds, securities, and any other property, real or personal, for use in accordance with its purpose and mission; shall constitute endowments or unrestricted gifts ~~within the meaning~~ for the purposes of § ~~23-9.2~~ 23.1-101. The ~~Board~~ board may change the form of investment of any such funds, securities, or other property, real or personal, if the change in such form is not inconsistent with the terms of the instrument under which such property was acquired; and may sell, grant, or convey any such property; ~~however, except that~~ any transfers of real property ~~may~~ shall be made only with the consent of the Governor.

**Drafting note: A substantive change is made in proposed subdivision A 8: the requirement for the Attorney General to approve contracts that the board enters is removed. The Attorney General does not exercise approval of such contracts. Technical**

changes are made, including striking the superfluous term "from time to time" in subsection B per Code Commission policy.

~~CHAPTER 24.~~

~~BOARDS OF REGENTS; GUNSTON HALL.~~

Article 3.

Gunston Hall.

**Drafting note: Existing Chapter 24 (§ 23-295 et seq.) is reorganized as proposed Article 3 of Chapter 32.**

~~§ 23-295. 23.1-3204.~~ Board of Regents of Gunston Hall; and Board of Visitors for Gunston Hall established.

~~There is hereby created the~~ The Board of Regents of Gunston Hall and the Board of Visitors for Gunston Hall (Board of Regents) is established as an educational institution to manage, maintain, and operate Gunston Hall and accept and administer gifts of real and personal property made for the benefit of Gunston Hall. The Board of Visitors for Gunston Hall is established. Membership of both collegial bodies shall be pursuant to the terms and conditions of the deed of gift of Gunston Hall from Louis Hertle to the Commonwealth of Virginia. The duties ~~for~~ of the two boards are prescribed in Chapter 138 of the ~~1932~~ Acts of Assembly of 1932 and Chapter 175 of the ~~1948~~ Acts of Assembly of 1948. ~~As such, the Board of Regents is declared an educational institution with all the rights, powers, privileges, and immunities under law. The Board of Regents shall manage, maintain and operate Gunston Hall and accept and administer gifts of real and personal property made for the benefit of Gunston Hall.~~

**Drafting note: Technical changes.**

~~§ 23-295.1 23.1-3205.~~ Certain powers Powers of the Board of Regents.

A. The Board of Regents may ~~from time to time~~ undertake to determine the significance or suitability of the furnishings, household items, and other objects ~~heretofore and hereafter~~ acquired by purchase, gift, ~~or donations with or~~ donation for Gunston Hall, for the purpose of accurately presenting Gunston Hall according to the means and taste of George Mason ~~and within the limitations of the furnishings, household items, and other objects that would have been available to him and within his means.~~ Those furnishings, household items, and other objects determined by the Board of Regents to be of little or no significance or unsuitable for achieving this purpose may be ~~disposed of~~ exchanged or sold by the Board ~~by exchange or sale of Regents~~ if not inconsistent with the terms of the acquisition ~~thereof of the items.~~ ~~At the discretion of the Board, such~~ Such sales may be conducted by auction houses recognized for ~~the~~ their expertise in the sale of such items.

B. Any such furnishings, household goods, and other objects ~~previously~~ acquired by donation or purchase and the net proceeds of any sale of these items as provided in subsection A shall constitute a discrete fund of Gunston Hall, restricted to future acquisitions of period



furnishings, household goods, and other objects consistent with the purposes set forth in subsection A; and the conservation of all such holdings of Gunston Hall.

C. Donations to Gunston Hall of any funds, securities, and any other property, real or personal, for use in accordance with the mission of Gunston Hall; shall constitute endowments or unrestricted gifts ~~within the meaning for the purposes of § 23-9.2 23.1-101.~~ The Board of Regents may (i) change the form of investment of any such funds, securities, or other property, real or personal, provided ~~that the same are form is~~ not inconsistent with the terms of the instrument under which ~~the same were property was~~ acquired, and ~~to~~ (ii) sell, grant, or convey any such property, except that any transfers of real property ~~may shall~~ be made only with the consent of the Governor.

**Drafting note: Technical changes, including striking the superfluous term "from time to time" in subsection A per Code Commission policy.**

#### CHAPTER 23.

#### JAMESTOWN-YORKTOWN FOUNDATION.

#### Article 4.

#### Jamestown-Yorktown Foundation.

**Drafting note: Existing Chapter 23 (§ 23-287 et seq.) is reorganized as proposed Article 4 of Chapter 32.**

~~§ 23-287 23.1-3206.~~ Jamestown-Yorktown Foundation ~~continued;~~ Board of Trustees, officers and executive committee established; board of trustees.

A. The Jamestown-Yorktown Foundation, ~~hereinafter referred to as the Foundation,~~ is hereby ~~continued and shall be deemed to be~~ (the Foundation) established as ~~an institution of higher education within the meaning of §§ 23-3.1 and 23-9.2~~ educational institution to administer certain historical museums and such related programs as may be established by the board of trustees.

B. The Foundation shall be administered by ~~the Board~~ a board of ~~Trustees consisting of the following ex officio trustees:~~ (the board). The Governor, the Lieutenant Governor, the Attorney General, the Speaker of the House of Delegates, the President Pro Tempore of the Senate, the Chairman of the House Appropriations Committee, either the Chairman or the Chairman Emeritus of the Senate Finance Committee, to be determined by the Senate Committee on Rules, and the Secretary of Education, and the president of the Jamestown-Yorktown Foundation, Inc., shall serve ex officio. ~~In addition, there~~ There shall be 12 nonlegislative citizen members appointed by the Governor from the Commonwealth at large for four-year terms ~~who shall be,~~ subject to confirmation by ~~a majority of the members of each house of the General Assembly;~~ eight members of the House of Delegates appointed by the Speaker of the House of Delegates ~~from the membership thereof for terms concurrent with the terms for which they have been elected to office~~ in accordance with the rules of proportional representation contained in the Rules of the House of Delegates; four members of the Senate appointed by the Senate

~~Committee on Rules from the membership of the Senate for terms concurrent with the term for which they have been elected to office; five members annually elected by the Board of Trustees board, some of whom may be nonresidents of the Commonwealth; and any and all chairmen emeriti chairman emeritus elected by the Board of Trustees board pursuant to § 23-288 23.1-3207. The president of the Jamestown Yorktown Foundation, Inc. shall also serve as a member of the Board of Trustees. Nonresident members of the Board of Trustees shall serve at no expense to the Commonwealth.~~

Legislative and ex officio members shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

C. The Board of Trustees board shall elect a chairman, vice-chairman, and such other officers as are deemed it deems necessary. The chairman shall appoint at least seven or more members of the Board to constitute an executive committee, the membership of which shall include the chairman and vice-chairman. The meetings of the board shall be held at the call of the chairman or whenever the majority of the members so request.

~~Resident members of the Board of Trustees~~ D. Nonresident members of the board shall serve at no expense to the Commonwealth. Members who are residents of the Commonwealth shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825 and shall receive compensation at the per diem rate established for members of the General Assembly as provided in § 30-19.12. The funding for the costs of compensation and expenses of the members shall be provided by the Foundation.

~~B. The Foundation is an educational institution and has the further responsibility to administer certain historical museums and such related programs as may be established as defined from time to time.~~

**Drafting note: A portion of existing subsection A of § 23-287 is stricken here and incorporated instead into proposed § 23.1-101. Technical changes are made.**

~~§ 23-288 23.1-3207. Powers and duties~~ Duties.

~~The Foundation board shall have the power and duty to:~~

1. Do all things necessary and proper to (i) foster through its living-history museums, Jamestown Settlement and Yorktown Victory Center, an awareness and understanding of the early history, settlement, and development of the United States through the convergence of American Indian, European, and African cultures and the enduring legacies bequeathed to the nation; ~~to~~ (ii) commemorate Jamestown as the first permanent English-speaking settlement in the United States and its contributions to the building of ~~our~~ the Commonwealth and the nation; ~~to~~ (iii) commemorate the winning of American independence on the battlefield at Yorktown; and ~~to~~ (iv) enhance our understanding of the making of the United States Constitution and Bill of

Rights, including ~~Virginia's~~ the Commonwealth's role in shaping the fundamental principles of the American constitutional system-;

2. Administer, develop, and maintain at Jamestown and Yorktown permanent commemorative shrines and historical museums-;

3. Adopt names, flags, seals, and other emblems for use in connection with such shrines and copyright the same in the name of the Commonwealth-;

4. Enter into contracts to further the purposes of the Foundation, ~~which have been approved by the Attorney General-~~;

5. Establish nonprofit corporations as instrumentalities to assist in administering the affairs of the Foundation.

6. With the consent of the Governor, acquire by purchase, lease, gift, devise, or condemnation proceedings lands, property, and structures deemed necessary for the purposes of the Foundation ~~by purchase, lease, gift, devise or condemnation proceedings~~. The title to ~~the~~ such acquired land and property ~~acquired~~ shall be in the name of the Commonwealth. In the exercise of the power of eminent domain granted under this section, the Foundation may proceed in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1-;

7. With the consent of the Governor, convey by lease land to any person, association, firm, or corporation for such ~~term~~ terms and on such conditions as the Foundation may determine-;

8. Receive and expend gifts, grants, and donations from whatever source derived for the purposes of the Foundation-;

9. Employ an executive director and such deputies and assistants as may be required-;

10. Elect any past chairman of the ~~Board of Trustees~~ board to the honorary position of ~~Chairman Emeritus~~ chairman emeritus. Chairmen emeriti shall serve as honorary members for life. Chairmen emeriti shall be elected in addition to the at-large positions defined in § ~~23-287-~~ 23.1-3206;

11. With the consent of the Governor, enter into agreements or contracts with private entities for the promotion of tourism through marketing without participating in competitive sealed bidding or competitive negotiation, provided that a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on competitive principles-;

12. Determine ~~what~~ which paintings, statuary, works of art, manuscripts, and artifacts ~~may~~ shall be acquired by purchase, gift, or loan, and exchange or sell ~~the same~~ such items if not inconsistent with the terms of such purchase, gift, loan, or other acquisition-; and

13. Change the form of investment of any funds, securities, or other property, real or personal, provided ~~the same are~~ form is not inconsistent with the terms of the instrument under which ~~the same were~~ property was acquired, and sell, grant, or convey any such property, except that any transfers of real property ~~may~~ shall be made only with the consent of the Governor.

**Drafting note: A substantive change is made in proposed subdivision 4: The requirement for the Attorney General to approve contracts that the board enters is removed. The Attorney General does not exercise approval of such contracts. Technical changes are made.**

~~§ 23-289 23.1-3208. Authority to adopt regulations as to use and visitation of properties~~  
Regulations.

A. ~~The Board of Trustees, or the executive committee thereof, of the Foundation~~ board or its executive committee may adopt ~~such~~ regulations ~~from time to time~~, concerning the use and visitation of properties under the control of the Jamestown-Yorktown Foundation; to protect ~~or~~ and secure such properties and the public enjoyment ~~thereof~~ of such properties.

B. Any person, who knowingly violates a regulation of the Foundation may be requested by an agent or employee of the Foundation to leave the property and upon the failure of such person so to do, ~~shall be~~ is guilty of a trespass; as provided in § 18.2-119.

**Drafting note: Technical changes, including striking the superfluous term "from time to time" in subsection A per Code Commission policy.**

~~§ 23-290 23.1-3209. Authority to contract debts and obligations payable from revenues.~~

The Foundation, acting by and through the corporation authorized by ~~§ 23-288 23.1-3207~~, may contract debts and obligations to the extent of its anticipated revenues. Such debts and obligations shall be paid only from the revenues of the Foundation.

**Drafting note: Technical changes.**

~~§ 23-290.1.~~

**Drafting note: Repealed by Acts 2011, cc. 345 and 356, cl. 2.**

~~§§ 23-291, 23-292.~~

**Drafting note: Expired by the terms of Acts 1998, c. 799, cl. 2, on July 1, 2008.**

~~§§ 23-293, 23-294.~~

**Drafting note: These sections are stricken because they are carried as reserved in the existing title.**

~~CHAPTER 18.~~

~~THE SCIENCE MUSEUM OF VIRGINIA.~~

Article 5.

Science Museum of Virginia.

**Drafting note: Existing Chapter 18 (§ 23-239 et seq.) is reorganized as proposed Article 5 of Chapter 32.**

~~§ 23-239 23.1-3210. Science Museum created; essential governmental function of Virginia established.~~

~~There is hereby created and constituted an educational institution of the Commonwealth of Virginia to be known as "The Science Museum of Virginia," hereinafter in this chapter sometimes referred to as the "Museum." The Museum is hereby declared to be (the Museum) is established as an educational institution of the Commonwealth and a public body and instrumentality for the dissemination of education. The exercise by the Museum of the powers conferred by this chapter shall be deemed and held to be article is the performance of an essential governmental function.~~

**Drafting note: Technical changes.**

~~§ 23-241. Reserved.~~

**Drafting note: This section is stricken because they are carried as reserved in the existing title.**

~~§ 23-242. Organization.~~

~~The Museum shall contain a headquarters and six divisions to encompass the following major areas of science:~~

~~Physical Sciences~~

~~Botanical Sciences~~

~~Natural History~~

~~Industry and Technology~~

~~Oceanography and Limnology~~

~~Zoological Gardens.~~

**Drafting note: Existing § 23-242 is recommended for repeal as obsolete because its provisions are inconsistent with current Museum practice. The Museum is not currently divided into six divisions.**

~~§ 23-243 23.1-3211. To be governed by board Board of trustees; appointment of members.~~

~~A. The Museum shall be governed by a board of trustees; (the board) consisting of ~~fifteen~~ 15 members, ~~each of whom~~ who shall be appointed by the Governor. ~~One~~ At least one of the members ~~appointed to the board~~ shall be a member of the Virginia Academy of Science. ~~The appointments shall be~~ All appointments are subject to confirmation by the General Assembly ~~if in session and, if not, then at its next succeeding session.~~ The board of trustees will hereinafter in this chapter be referred to as the "board."~~

~~B. Members shall be appointed for terms of five years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. No member is eligible to serve more than two consecutive five-year terms; however, a member appointed to serve an~~

unexpired term is eligible to serve two consecutive five-year terms immediately succeeding such unexpired term.

C. No member shall receive a salary for his service on the board.

~~§ 23-245. Officers of board.~~

D. The board shall ~~select~~ elect a chairman and a secretary from its membership, and ~~under rules adopted by itself~~ may elect ~~one of its members as a~~ vice-chairman from its membership. It shall elect one of its members as secretary.

~~§ 23-248. Meetings of board.~~

E. The board shall meet at such times as it deems appropriate ~~and on call of the chairman when in his opinion meetings are expedient or necessary.~~

~~§ 23-249. Quorum of board.~~

F. Seven members of the board shall constitute a quorum for all purposes.

**Drafting note: The provisions of existing §§ 23-243, 23-244, 23-245, 23-248, and 23-249 are combined to form this proposed section relating to the membership of the board of trustees. Technical changes are made.**

~~§ 23-246. Oath of members.~~

~~Before entering upon the discharge of his duties, each member of the board shall take the usual oath of office.~~

**Drafting note: Existing § 23-246 is stricken as duplicative of § 49-1, which states that "[e]very person before entering upon the discharge of any function as an officer of this Commonwealth shall take and subscribe the following oath: 'I do solemnly swear (or affirm) that . . . I will faithfully and impartially discharge all the duties incumbent upon me . . . .'"**

~~§ 23-247. Bonds of members.~~

~~Each member of the board shall give bond, with corporate surety, in such penalty as is fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the Museum.~~

**Drafting note: Existing § 23-247 is recommended for repeal as obsolete. The Museum does not currently require its members to give such bond.**

~~§ 23-244. Terms of members; vacancies.~~

~~The members of the board shall be appointed for terms of five years each beginning from the expiration of the respective terms of their predecessors, except that an appointment to fill a vacancy shall be for the unexpired term and that the initial appointments to increase the board to fifteen members shall be for such terms of less than five years as may be necessary to stagger the expiration of terms so that the terms of not more than four members expire in any one year. Members of the board may be suspended or removed by the Governor at his pleasure. For the purpose of succession, the initial appointments of members for terms of less than five years shall~~

~~be deemed appointments to fill vacancies. No person shall be eligible to serve for or during more than two successive terms; provided, however, any person appointed to fill a vacancy may be eligible for two additional successive terms after the term of the vacancy for which he was appointed has expired. The members of the board shall receive no salaries.~~

**Drafting note: The membership provisions of existing § 23-244 are stricken here and incorporated as proposed subsections B and C of § 23.1-3211 where appropriate. The provision concerning initial appointments is stricken as obsolete. The provision concerning the Governor's authority to remove a member is relocated to proposed § 23.1-3200.**

~~§ 23-240~~ 23.1-3212. Purposes Duties of the board.

~~The purposes of The Science Museum of Virginia are: to deepen~~ board shall seek to:

- ~~1. Deepen~~ 1. Deepen our understanding of man and his environment; ~~to promote~~
- ~~2. Promote~~ 2. Promote a knowledge of the scientific method and thus encourage objectivity in the everyday affairs of man; ~~to engage~~
- ~~3. Engage~~ 3. Engage in instruction and research in the sciences in order to educate citizens of all ages in the concepts and principles of science and how these concepts and principles form the foundation upon which rests our technological society and its economy; ~~to use~~
- ~~4. Use,~~ subject to approval of the accredited educational affiliates concerned, Museum personnel in educational programs; ~~to motivate~~
- ~~5. Motivate~~ 5. Motivate and stimulate young people to seek careers in science; ~~to encourage~~
- ~~6. Encourage~~ 6. Encourage an understanding of the history of scientific endeavor; ~~to provide~~
- ~~7. Provide~~ 7. Provide special facilities and collections for the study of ~~Virginia's~~ the Commonwealth's natural resources; and ~~to foster~~
- ~~8. Foster~~ 8. Foster a love of nature and concern for its preservation. ~~These purposes are hereby declared to be a matter of legislative determination.~~

**Drafting note: Purposes are rewritten as duties in furtherance of the Code Commission policy to not set out purposes in the Code Technical changes are made.**

~~§ 23-250~~ 23.1-3213. Powers and duties of the board.

~~The board is hereby authorized and empowered~~ may:

- ~~1. To select~~ 1. Select sites for the Museum and ~~the its~~ its divisions ~~thereof~~ and ~~to provide~~ for the erection, care, and preservation of all property belonging to the Museum;
- ~~2. To appoint~~ 2. Appoint the ~~Director~~ director of the Museum; ~~(the director)~~ and prescribe his duties and salary;
- ~~3. To prescribe rules and regulations~~ 3. Establish policies for the operation of the Museum, including; ~~but not limited to,~~ the kinds and types of instruction and exhibits, and the ~~making~~ development of plans for expansion ~~from time to time~~ of the Museum;
- ~~4. To employ~~ 4. Employ planning consultants and architects ~~in relation to establishment for any expansion~~ of the Museum ~~and any expansions thereof;~~

~~5. To acquire~~ Acquire by purchase, gift, loan, or otherwise land necessary for establishment and exhibits, displays, and expansion of the Museum, ~~and exhibits and displays;~~

~~6. To enter~~ Enter into contracts for construction of physical facilities;

~~7. To adopt~~ Adopt a seal; ~~and~~

~~8. To charge~~ Charge for admission to the Museum, ~~if deemed appropriate; and~~

~~§ 23-252. Acceptance of gifts; expenditures; application of §§ 23-3.1 and 23-9.2.~~

~~A. The board is authorized, on~~ 9. On behalf of the Commonwealth and in furtherance of the purposes of the Museum, ~~to~~ receive and administer gifts, bequests, and devises of property of any kind whatsoever, and grants from agencies of the United States government, and ~~to~~ expend, or authorize the expenditure of, funds derived from such sources and funds appropriated by the General Assembly to the Museum.

~~B. The Museum shall be deemed to be an institution of higher education within the meaning of §§ 23-3.1 and 23-9.2.~~

~~C. Gifts heretofore made to the Museum by political subdivisions of the Commonwealth are hereby validated.~~

**Drafting note: Existing §§ 23-250 and 23-252 are combined. Existing subsection A of § 23-252 is incorporated as proposed subdivision 9 of this section; existing subsection B of § 23-252 is incorporated into proposed § 23.1-101; and existing subsection C is stricken as obsolete because such gifts have been already been validated on a certain past date. Technical changes are made, including striking the superfluous term "from time to time" in subdivision 3 per Code Commission policy.**

~~§ 23-251~~ 23.1-3214. Agents and employees.

The ~~Director~~ director may engage or authorize the engagement of such agents and employees as may be needed in the operation and maintenance of the Museum, subject to the approval of the board.

**Drafting note: Technical changes.**

~~§ 23-253~~ 23.1-3215. Annual report.

The ~~Board of Trustees~~ board shall submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. Such report shall contain, at a minimum, the annual financial statements of the Museum for the fiscal year ending the preceding June 30.

**Drafting note: Technical changes.**



~~CHAPTER 18.1.  
VIRGINIA MUSEUM OF FINE ARTS.~~

Article 6.

Virginia Museum of Fine Arts.

**Drafting note: Existing Chapter 18.1 (§ 23-253.1 et seq.) is reorganized as proposed Article 6 of Chapter 32.**

§ 23.1-3216. Virginia Museum of Fine Arts established.

The Virginia Museum of Fine Arts is established as an educational institution in the Commonwealth and a public body and instrumentality for the dissemination of education.

**Drafting note: Portions of clause (x) of the first paragraph of existing § 23-253.4 are stricken and incorporated instead into this proposed section relating to the establishment and nature of the Museum.**

~~§ 23-253.1~~ 23.1-3217. Membership of board of trustees; quorum Board of trustees.

A. The management and control of the Virginia Museum of Fine Arts, hereinafter in this chapter called the "Museum," together with the (the Museum) and its building, contents, furnishings, grounds, and other properties thereof shall be is vested in a board of trustees (the board) composed of the following persons: (i) ex-officio members: the Governor, the Speaker of the House of Delegates, and the mayor of the City of Richmond, who shall serve ex officio, and (ii) regular members: the trustees who are in office on June 27, 1958, and their successors from time to time, consisting of not less than at least 25 persons and but not more than 35 persons nonlegislative citizen members. The term of office of all regular Nonlegislative citizen members who are in office on June 27, 1958, shall continue until June 30, 1963, and shall expire at that time. All successors from time to time, whether for a full term or for the remainder of an unexpired term, shall be appointed and commissioned by the Governor after consideration of a list of nominated trustees nominees from the Museum submitted at least 60 days before the expiration of the member's term for which the nominations are being made. The trustees appointed to hold office beginning on July 1, 1963, shall be divided as nearly as may be, into five equal groups, their terms of office to expire, respectively, one, two, three, four and five years thereafter. All trustees subsequently appointed

B. Nonlegislative citizen members shall hold office be appointed for a term terms of five years unless appointed for the remainder of an unexpired term. No person shall be nonlegislative citizen member is eligible to serve consecutively for more than two successive complete consecutive five-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive five-year terms immediately succeeding such unexpired term.

C. Nine trustees members shall constitute a quorum at any meeting and a majority vote of those members present shall control in all matters.

~~§ 23-253.2. Bylaws; president of Museum.~~

~~Such trustees~~ D. The board shall adopt bylaws governing ~~their~~ its organization and procedure and may ~~from time to time~~ alter and amend the ~~same~~ bylaws.

~~E. The trustees~~ board shall elect one of ~~their~~ its members president of the Museum.

~~§ 23-253.3. Executive committee.~~

~~Such trustees~~ F. The board may ~~also~~ provide for an executive committee, composed of ~~not less than~~ at least three ~~trustees, which committee members that~~ may exercise the powers vested in it and perform the duties imposed upon ~~the trustees by this chapter to the extent designated and permitted~~ it by the board.

**Drafting note: The provisions of existing §§ 23-253.1, 23-253.2, and 23-253.3 are combined. Technical changes are made, including striking the superfluous term "from time to time" in proposed subsections A and D per Code Commission policy.**

~~§ 23-253.4 23.1-3218. Authority of trustees generally~~ Powers of the board.

~~Such trustees are vested with full authority to~~ A. The board may: (i) ~~manage~~

1. Manage, control, maintain, and operate the Museum, including ~~the~~ its contents, furnishings, grounds funds, property, and endowments ~~thereof~~; (ii) ~~charge~~

2. Charge for admission to the Museum ~~if deemed proper~~; (iii) ~~employ~~

3. Employ a director, who shall be the chief executive officer of the Museum, and such persons as may be necessary to manage, control, maintain, and operate the ~~same~~ Museum; (iv) ~~suspend or~~

4. Consistent with subdivision 15 of § 2.2-2905, suspend and remove ~~at pleasure~~ any person so employed employees; (v) ~~determine what paintings, statuary and~~

5. Determine which works of art ~~may shall~~ be kept, housed, or exhibited in the Museum; (vi) ~~acquire~~

6. Acquire by purchase, gift, loan, or otherwise ~~paintings, statuary and~~ works of art and ~~to~~ exchange or sell ~~the same~~ such works if not inconsistent with the terms of the purchase, gift, loan, or other acquisition ~~thereof~~; (vii) ~~enter~~

7. Enter into agreements with organizations interested in art; (viii) ~~adopt~~

8. Adopt a seal; (ix) ~~stimulate~~

9. Stimulate and assist in the formation of new organizations; (x) ~~do~~

10. Do such other things as ~~they deem~~ it deems proper to promote art education ~~in the realm of art throughout the Commonwealth through the Museum, which is hereby constituted and declared an educational institution, an institution of learning, and a public body and instrumentality for the dissemination of education;~~ and (xi) ~~receive~~

11. Receive and administer on behalf of the Commonwealth gifts, bequests, and devises of real and personal property for the endowment of the Museum or ~~for~~ any special purpose designated by the donor;

~~The trustees are hereby authorized to change~~ 12. Change the form of investment of any funds, securities, or other property, real or personal, provided that the same are form is not

inconsistent with the terms of the instrument under which the ~~same~~ property was acquired. The trustees may sell, grant, and convey any such property; but, in the case of real property, only ~~by and with the written consent of the Governor;~~

~~The trustees may from time to time confer~~ 13. Confer the honorary degree of patron of arts on any person who has, ~~in their opinion,~~ made an outstanding contribution ~~in the realm of~~ to art, ~~but not provided that no~~ more than two such degrees shall be conferred in any calendar year; and

14. Adopt regulations to establish classes of membership in the Museum.

B. Nothing in this section shall be construed to prohibit the assessment and levying of a service charge pursuant to the provisions of Chapter 34 (§ 58.1-3400 et seq.) of Title 58.1.

C. ~~The exercise by the Museum of the powers conferred on the board by this chapter shall be deemed and held to be~~ article is the performance of an essential governmental function.

**Drafting note: A portion of clause (x) of existing § 23-253.4 is stricken here and incorporated instead into proposed § 23.1-3216. Existing § 23-253.5 is incorporated as proposed subdivision A 14. A reference to the employment of a director of the Museum is included in proposed subdivision A 3 for the sake of clarity. A technical change is made in proposed subdivision A 4 to make clear that while the suspension and removal of most employees of the Museum are subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.), certain employees identified as requiring specialized and professional training are exempt from the provisions of such act. Technical changes are made.**

~~§ 23-253.5. Classes of membership; testamentary disposition.~~

~~Such trustees are vested with full authority to establish classes of membership in the Museum under such regulations as to them may seem proper. All members making a contribution of \$1,000 or more prior to June 27, 1958, may dispose of their membership by last will and testament.~~

**Drafting note: The provisions of the first sentence of existing § 23-253.5 are stricken here and incorporated as proposed subdivision A 14 of § 23.1-3218. The second sentence of existing § 23-253.5 is recommended for repeal as obsolete per the recommendation of the Museum.**

~~§ 23-253.6~~ 23.1-3219. Authority of Art and Architectural Review Board.

The Art and Architectural Review Board shall ~~have no power or authority to~~ not control, manage, or supervise in any way the ~~trustees~~ board in the exercise of ~~the its~~ powers and ~~the performance of the duties provided for in this chapter,~~ except that in the matter of additions, repairs, and alterations ~~of to~~ the exterior of the Museum itself building the Art and Architectural Review Board shall continue to exercise the powers now conferred on it by law, ~~which powers are specifically reserved to the Board.~~

**Drafting note: A substantive change is made to specify that the Art and Architectural Review Board may exercise powers conferred to it by law in relation to**

additions, repairs, and alterations to the exterior of the Museum. Existing law does not distinguish between the interior and the exterior of the building. Technical changes are made.

~~§ 23-253.7~~ 23.1-3220. Expenditures for current expenses; ~~annual report~~.

All ~~money~~ moneys received by the ~~Museum~~ board for current expenses in ~~conducting~~ operating the Museum shall be paid into the state treasury of Virginia, where it shall be set aside as a special fund for the operation of the Museum, ~~for which purpose such money is hereby appropriated~~, to be paid by the State Treasurer on warrants of the Comptroller issued upon vouchers signed by the president of the Museum or his duly authorized agent. ~~The Museum shall be deemed to be an institution of higher education within the meaning of §§ 23-3.1 and 23-9.2.~~

§ 23.1-3221. Annual report.

The ~~Board of Trustees~~ board shall submit an annual report to the Governor and General Assembly on or before November 1 of each year, ~~such report to contain~~ containing, at a minimum, the annual financial statements of the Museum for the fiscal year ending the preceding June 30. Such report shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

**Drafting note: The provision in the first paragraph of existing § 23-253.7 declaring the Museum an institution of higher education is stricken and incorporated instead into proposed § 23.1-101. The provision in the second paragraph of existing § 23-253.7, relating to the annual report of the board, is reorganized as a distinct section. Technical changes are made.**

#### Article 4 7.

Virginia Commission for the Arts and Virginia Arts Foundation.

**Drafting note: Existing Article 4 (§ 2.2-2508 et seq.) of Chapter 25 and existing Article 1 (§ 2.2-2700 et seq.) of Chapter 27 of Title 2.2 are logically combined and relocated as proposed Article 7 of Chapter 32.**

~~§ 2.2-2508~~ 23.1-3222. Virginia Commission for the Arts established; ~~official agency to receive and disburse funds from National Foundation on the Arts~~ purpose; membership; terms; compensation.

A. The Virginia Commission for the Arts (the "Commission") is established as ~~an advisory~~ a supervisory commission within the meaning of § 2.2-2100, in the executive branch of state government.

B. The Commission is designated the official agency of the Commonwealth to receive and disburse any funds made available to the Commonwealth by the National ~~Foundation on~~ Endowment for the Arts.

C. The Commission shall consist of ~~thirteen~~ 13 members appointed by the Governor subject to confirmation by the General Assembly. No employee of the Commonwealth or member of the General Assembly ~~shall be~~ is eligible for appointment as a member of the Commission. At least one ~~member~~, but no more than two members, shall be appointed from each ~~Congressional~~ congressional district in the Commonwealth.

D. ~~Except for initial appointments, each member~~ Members shall ~~serve a five-year term; provided that no member of the Commission who serves a full five-year term shall be eligible for appointment during the five-year period following the expiration of his term~~ be appointed for one term of five years; however, a member appointed to serve an unexpired term is eligible to serve a full five-year term immediately succeeding the unexpired term. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. ~~All vacancies~~ Vacancies shall be filled ~~for the balance of the unexpired term~~ in the same manner as the original appointments. ~~No member who serves a full five-year term is eligible for reappointment during the five-year period following the expiration of his term.~~

E. The Commission shall ~~designate one of its members as~~ elect a chairman from among its membership.

F. A majority of the members of the Commission shall constitute a quorum.

~~F. G.~~ The members of the Commission shall ~~not~~ receive ~~any~~ no compensation for their services; but shall be reimbursed for the reasonable and necessary expenses incurred in the ~~discharge~~ performance of their duties as provided in § 2.2-2825.

**Drafting note: "Advisory" is changed to "supervisory" in subsection A in light of the definition of such terms in § 2.2-2100 and the functions of the Commission. Technical changes are made.**

~~§ 2.2-2509~~ 23.1-3223. Duties of the Commission.

A. The Commission shall ~~perform among others~~ the following duties:

1. Stimulate and encourage throughout the Commonwealth growth in artistic quality and excellence, public interest and participation in the arts, and access to high quality and affordable art for all Virginians;

2. Make recommendations concerning appropriate methods to encourage economic viability, an intellectually stimulating environment for artists, and participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the Commonwealth;

3. Promote the development and implementation of a planned, sequential, and comprehensive program of arts education, taught by licensed teachers endorsed in arts education, in the public elementary and secondary schools of the Commonwealth;

4. Provide supplemental learning opportunities to the public school arts education curriculum;

5. Encourage the development of a network of professional arts organizations, the media, and arts promoters, ~~including, but not limited to, the literary, visual, and performing arts~~ for the production of classical and new works of art; and diversity in artistic expressions in media including the literary, visual, and performing arts;

6. Provide funding for and technical assistance to artists, recognized nonprofit arts organizations, and arts organizations and activities ~~which that~~ celebrate and preserve the various cultures represented among the citizens of the Commonwealth;

7. Encourage and support the creation of new works of art, arts organizations whose primary objective is to increase public access to the arts, particularly in underserved areas, and performing arts tours to increase the availability of this form of artistic expression throughout the Commonwealth;

8. Establish a program of financial assistance to provide scholarships, grants, and other awards to artists who demonstrate exceptional ability and talent;

9. Establish an advisory panel composed of artists, art administrators, and citizens to advise the Commission concerning fiscal matters;

10. Encourage arts organizations to dedicate to ~~endowment~~ their endowments at least ~~one dollar~~ \$1 of the price of each adult admission to performances or exhibitions or at least one percent of moneys collected in fund campaigns;

11. Encourage arts organizations to develop and implement endowment enlargement plans ~~which that~~ yield enough income to underwrite one-third of the organizations' annual operating costs;

12. Apply to and enter into contracts and agreements with the United States or any appropriate agency or officer of the United States for participation in or receipt of aid from any federal program respecting the arts, and, in respect thereto, enter into contracts and agreements with the United States or any appropriate agency thereof;

13. Provide incentives to local ~~governments~~ governing bodies to encourage public support and funding of the arts;

14. Accept gifts, contributions, and bequests of money or any other thing to be used for carrying out the purposes of this article;

15. Develop specific procedures for the administration and implementation of a program, so long as any such program is for the benefit of a nonprofit organization, qualifying as a ~~§ 501~~ (e)-(3) 501(c)(3) organization under the Internal Revenue Code, whereby interest earned on endowment funds donated to stimulate and encourage public interest and enjoyment of music and the performing arts may be matched by state funds appropriated for this program, and prepare written guidelines to govern such program; and

16. Administer any funds available to the Commission and disburse such funds in accordance with the purposes of this article. In allocating funds to be disbursed to arts organizations, the Commission shall give preferential consideration to arts organizations actively

implementing an endowment enlargement plan; either individually or as members of a regional consortium of arts organizations.

B. Nothing in this article shall be construed to affect the statutory purposes of the Virginia Museum of Fine Arts.

**Drafting note: Technical changes.**

~~§ 2.2-2510~~ 23.1-3224. ~~Agency supervision; employment of personnel; budget preparation~~  
Director of the Commission.

The Governor may appoint a ~~Director~~ director of the Commission, who shall serve at ~~his~~ the pleasure of the Governor. The ~~Director~~ director may employ the personnel required to assist the Commission in the exercise and performance of its powers and duties. The ~~Director~~ director shall supervise and manage such personnel and shall prepare, approve, and submit all requests for appropriations; and be responsible for all expenditures pursuant to appropriations.

**Drafting note: Technical changes.**

#### Article 1.

#### ~~Virginia Arts Foundation.~~

**Drafting note: Existing Article 1 (§ 2.2-2700 et seq.) of Chapter 27 of Title 2.2 is combined with existing Article 4 (§ 2.2-2508 et seq.) of Chapter 25 of Title 2.2 as proposed Article 7 of Chapter 32.**

~~§ 2.2-2700~~ 23.1-3225. Virginia Arts Foundation established; board of trustees; compensation; staff.

A. The Virginia Arts Foundation (the "Foundation"); is established to serve as ~~an advisory~~ a supervisory foundation; within the meaning of § 2.2-2100, in the executive branch of state government and ~~shall be deemed~~ is a body politic and corporate to be organized and to have such powers and duties as provided in ~~this article~~ § 23.1-3226.

B. The Foundation shall be governed by a board of trustees (the board), consisting of the members of the Virginia Commission for the Arts.

C. Any person designated by the board ~~of trustees~~ to handle the funds of the Foundation shall give bond, with corporate surety, in a penalty fixed by the Governor, conditioned upon the faithful discharge of his duties. Any premium on the bond shall be paid from funds available to the Foundation.

D. The board ~~of trustees~~, acting as members of the Virginia Commission for the Arts, ~~shall be~~ are entitled to reimbursement for all actual and necessary expenses; as provided by § ~~2.2-2509~~ 23.1-3222.

E. The ~~Director~~ director of the ~~Virginia Commission for the Arts~~ shall serve as the chairman; and the staff of such Commission shall serve as staff for the Foundation.

**Drafting note: "Advisory" is changed to "supervisory" in subsection A in light of the definition of such terms in § 2.2-2100 and the functions of the Commission. Technical changes are made.**

~~§ 2.2-2704~~ 23.1-3226. Powers of the Foundation.

The Foundation may:

1. Make expenditures from the Fund's interest and income to assist (i) the Virginia Commission for the Arts in promoting the arts in the Commonwealth in accordance with ~~§ 2.2-2704~~ 23.1-3228 and ~~to assist not for profit~~ (ii) nonprofit arts and cultural institutions and organizations ~~within~~ in the Commonwealth to assess, enhance, and plan for enhancement of their fiscal stability, financial management and control capabilities, and capacity to raise funds for the furtherance of their respective missions from nongovernmental sources;

2. Accept, hold, and administer gifts and bequests of money, securities, or other property, absolutely or in trust, for the purposes ~~for which~~ of the Foundation ~~is created~~;

3. Enter into contracts and execute all instruments necessary and appropriate to carry out the Foundation's purposes;

4. Explore and make recommendations concerning other possible dedicated revenue sources for the Fund; and

5. Perform any lawful acts necessary or appropriate to carry out the purposes of the Foundation.

**Drafting note: Technical changes.**

~~§ 2.2-2702~~ 23.1-3227. Virginia Arts Foundation Fund.

A. There is created in the state treasury a special nonreverting fund to be known as the Virginia Arts Foundation Fund, a special nonreverting trust fund, referred to in this article as "the Fund." The Fund shall be established on the books of the Comptroller, to be administered by the Foundation.

B. The Fund shall include such funds as may be appropriated by the General Assembly; revenues transferred to the Fund from the special license plates for Virginians for the Arts program pursuant to § 46.2-749.2:2; voluntary contributions collected through the income tax checkoff for the arts pursuant to subdivision B 8 of § 58.1-344.3; and designated gifts, contributions, and bequests of money, securities, or ~~other~~ property of ~~whatsoever~~ any other character.

C. All money, securities, or other property designated for the Fund and any interest or income therefrom shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund and shall not revert to the general fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the



Comptroller upon written request signed by persons authorized by the Foundation. The Fund's principal ~~shall~~ is not be subject to expenditure by the Foundation.

**Drafting note: Technical changes.**

~~§ 2.2-2703. Expired.~~

**Drafting note: This section was derived from former § 9-84.09:4, as amended by Acts 1997, c. 878, and amended by Acts 2000, c. 27, and expired by its own terms on June 30, 2001.**

~~§ 2.2-2704~~ 23.1-3228. Gifts and bequests; exemption from taxation.

Gifts and bequests of money, securities, or other property to the Fund, and the interest or income ~~therefrom~~ from such gifts and bequests, ~~shall be deemed~~ are gifts to the Commonwealth, and the Fund ~~shall be~~ is exempt from all state and local taxes. Unless otherwise restricted by the terms of the gift or bequest, the Foundation may sell, exchange, or otherwise dispose of such gifts and bequests. The proceeds from such transactions shall be deposited to the credit of the Fund. The Foundation shall not actively solicit private donations for the Fund; however, this limitation shall not prevent the Foundation from actively encouraging financial support for the Foundation through the special license plate and income tax checkoff programs. Notwithstanding any other provision of this section, the Foundation may accept and solicit public and private contributions for the limited purpose of assisting ~~Virginia not for profit~~ nonprofit arts and cultural institutions and organizations, in the Commonwealth to enhance the fiscal stability, financial management, and fundraising abilities of such organizations.

**Drafting note: Technical changes.**



# PROVISIONS MODIFIED IN OR RELOCATED TO OTHER TITLES

## TITLE 2.2. ADMINISTRATION OF GOVERNMENT.

### CHAPTER 1.

#### GOVERNOR.

§ 2.2-108. Removal of members of certain boards, commissions, etc.

~~A. Notwithstanding any provision of law to the contrary, the Governor may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board of any public institution of higher education or other educational institution in Virginia, and fill the vacancy resulting from the removal. Each appointment to fill a vacancy shall be subject to confirmation by the General Assembly.~~

~~B.~~ Notwithstanding any provision of law to the contrary, the Governor may remove from office for malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor any member of any board, commission, council or other collegial body established by the General Assembly in the executive branch of state government except those boards provided for in subsection ~~A~~ C of § 23.1-1300, and fill the vacancy resulting from the removal subject to confirmation by the General Assembly.

~~C.~~ B. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to this section at the time the removal occurs. The Governor ~~shall be~~ is the sole judge of the sufficiency of the cause for removal as set forth in this section.

**Drafting note: The provisions of subsection A of this section regarding the removal of board members from public institutions of higher education or other educational institutions are moved into proposed subsections C and D of § 23.1-1300 and §§ 23.1-3100 and 23.1-3200.**

## TITLE 22.1. EDUCATION.

### CHAPTER 2.

#### BOARD OF EDUCATION.

~~§ 23-9.1~~ 22.1-20.2. Granting easements across lands of certain schools and institutions.

~~The State Board of Education is authorized~~ may, subject to the prior written approval of the Governor ~~in writing first obtained, to~~ convey upon such terms and conditions and for such consideration as it deems proper easements upon, over, across, or under the property of any school or educational institution ~~of~~ for which it serves as the governing ~~body~~ board, to any political subdivision of ~~this~~ the Commonwealth ~~or to any~~, public utility ~~or~~, public service company, or ~~to any~~ cable television company for the purpose of erecting or maintaining power, telephone, cable television, water, sewer, or gas lines and mains; provided, that any such deed or other conveyance ~~executed hereunder~~ shall be in a form approved by the Attorney General; and

~~provided, further, that any funds derived received by the Board in consideration of the for granting of any such easement shall be paid into the general fund of the state treasury.~~

~~Any such grant heretofore made by the Board subject to the approval of the General Assembly, is hereby ratified and confirmed.~~

**Drafting note: Existing § 23-9.1 relating to a power of the Board of Education is logically relocated to existing Chapter 2 (§ 22.1-8 et seq.) of Title 22.1, which provides for the powers and duties of the Board of Education. The last sentence of existing § 23-9.1, which refers to the ratification and confirmation of grants made prior to a certain date in the past, is recommended for repeal as obsolete. Technical changes are made, including changing "State Board of Education" to "Board" to reflect the title-wide definition of Board in Title 22.1.**

## TITLE 22.1. EDUCATION.

### CHAPTER ~~26~~ 19.1.

#### ~~ESTABLISHMENT OF COLLEGE PARTNERSHIP LABORATORY SCHOOLS.~~

**Drafting note: Existing Chapter 26 (§ 23-299 et seq.) of Title 23, relating to programs for students in preschool through grade 12, is logically reorganized as proposed Chapter 19.1 of Title 22.1 (Education). Technical changes are made, including changing "Board of Education" to "Board" to reflect the title-wide definition of Board in Title 22.1.**

~~§ 23-299 22.1-349.1. Objectives; definitions~~ Definitions; objectives.

~~A. In order to (i) stimulate the development of innovative programs for preschool through grade 12 students; (ii) provide opportunities for innovative instruction and assessment; (iii) provide teachers with a vehicle for establishing schools with alternative innovative instruction and school scheduling, management, and structure; (iv) encourage the use of performance based educational programs; (v) establish high standards for both teachers and administrators; (vi) encourage greater collaboration between education providers from preschool to the postsecondary level; and (vii) develop models for replication in other public schools, college partnership laboratory schools may be established in Virginia as provided in this chapter.~~

~~B. As used in this chapter, unless the context requires a different meaning:~~

~~"At-risk pupil student" means a student having a physical, emotional, intellectual, socioeconomic, or cultural risk factor, as defined in Board of Education criteria, which that research indicates may negatively influence educational success.~~

~~"College partnership laboratory school" means a public, nonsectarian, nonreligious school in the Commonwealth established by a public institution of higher education or private institution of higher education that operates a teacher education program approved by the Board of Education.~~

~~"Governing board" means the board of a college partnership laboratory school that is party to the contract with the Board of Education, with the responsibility of responsible for creating, managing, and operating the college partnership laboratory school; and whose members~~

have been selected by the institution of higher education ~~establishing that establishes~~ the college partnership laboratory school. The governing board shall be under the control of the institution of higher education ~~establishing that establishes~~ the college partnership laboratory school.

B. College partnership laboratory schools may be established as provided in this chapter to (i) stimulate the development of innovative programs for preschool through grade 12 students; (ii) provide opportunities for innovative instruction and assessment; (iii) provide teachers with a vehicle for establishing schools with alternative innovative instruction and school scheduling, management, and structure; (iv) encourage the use of performance-based educational programs; (v) establish high standards for both teachers and administrators; (vi) encourage greater collaboration between education providers from preschool to the postsecondary level; and (vii) develop models for replication in other public schools.

**Drafting note: Technical changes are made, including moving chapter definitions to the beginning of the section pursuant to Code style preference.**

~~§ 23-299.1~~ 22.1-349.2. College Partnership Laboratory School Fund ~~established~~.

There is ~~hereby~~ created in the state treasury a special nonreverting fund to be known as the College Partnership Laboratory School Fund, ~~hereafter~~ referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated in accordance with the general appropriation act and any gifts, grants, bequests, or donations from public or private sources shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of establishing or supporting college partnership laboratory schools ~~in the Commonwealth~~ that stimulate the development of alternative education programs for preschool through grade 12 students by providing opportunities for innovative instruction and greater cooperation and coordination between institutions of higher education and preschool through grade 12 education systems. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Superintendent of Public Instruction. The ~~Board of Education~~ shall establish criteria for making distributions from the Fund to a college partnership laboratory school requesting moneys from the Fund and may issue guidelines governing the Fund as it deems necessary and appropriate.

**Drafting note: Technical changes.**

~~§ 23-299.2~~ 22.1-349.3. Establishment and operation of college partnership laboratory schools; requirements.

A. A college partnership laboratory school ~~shall be~~ is subject to all federal and state laws and regulations and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services.

B. Enrollment in college partnership laboratory schools shall be open through a lottery process on a space-available basis to any ~~child~~ student who is deemed to reside within the Commonwealth through a lottery process on a space available basis. A waiting list shall be established if adequate space is not available to accommodate all students whose parents have requested to be entered in the lottery process. Such waiting list shall also be prioritized through a lottery process, and parents shall be informed of their student's position on the list. For college partnership laboratory schools that form a collaborative partnership, ~~in accordance with subsection F,~~ with one or more public local school divisions in accordance with subsection G, enrollment in the college partnership laboratory school shall be administered by one of the partnering divisions.

~~B.-C.~~ A college partnership laboratory school shall be administered and managed by a governing board. Pursuant to a contract and as specified in § ~~23-299.3~~ 22.1-349.4, a college partnership laboratory school ~~shall be~~ is subject to the requirements of the Standards of Quality, including the Standards of Learning and the Standards of Accreditation, and such regulations as are determined by the Board of Education.

~~C.-D.~~ Pursuant to a college partnership laboratory school agreement, a college partnership laboratory school ~~shall be~~ is responsible for its own operations, including, ~~but not limited to,~~ such budget preparation, contracts for services, and personnel matters as are specified in the agreement. A college partnership laboratory school may also negotiate and contract with a school board, the governing body of an institution of higher education, or any third party for the use of a school building ~~and or~~ grounds, the operation and maintenance thereof of such building or grounds, and the provision of any service, activity, or undertaking that the college partnership laboratory school is required to perform in order to carry out the educational program described in its contract. Any services for which a college partnership laboratory school contracts with a school board or institution of higher education shall not exceed the ~~school division's or institution's costs~~ cost to the school division or institution to provide such services.

~~D.-A-E.~~ No college partnership laboratory school shall ~~not~~ charge tuition for courses required for high school graduation. However, (i) tuition may be charged for courses for which the student receives college credit ~~and for~~ enrichment courses that are not required to earn a ~~Board of Education approved~~ Board-approved high school diploma; and (ii) for college partnership laboratory schools that form a collaborative partnership, ~~in accordance with subsection F,~~ with one or more public local school divisions in accordance with subsection G, the school board of the partnering school division that administers student enrollment in accordance with subsection A may charge tuition in accordance with § 22.1-5 for students who do not reside within the partnering school division.

~~E.-F.~~ An approved college partnership laboratory school shall be designated as a local education agency; but shall not constitute a school division.

~~F.-G.~~ College partnership laboratory schools are encouraged to develop collaborative partnerships with public local school divisions for the purpose of building seamless education

opportunities for all ~~Virginia preschool through postsecondary~~ students, ~~from preschool to postsecondary education in the Commonwealth~~. An educational program provided to students enrolled in a ~~public local~~ school division pursuant to a collaborative partnership between the college partnership laboratory school and the ~~public local~~ school division ~~shall be considered to be~~ is the educational program of the ~~public local~~ school division for purposes of the Standards of Accreditation.

**Drafting note: The phrase "but not limited to" after "including" is stricken in proposed subsection D per Code-wide application of § 1-218, which states: "'Includes' means includes, but not limited to." Technical changes are made.**

~~§ 23-299.3~~ 22.1-349.4. Contracts for college partnership laboratory schools; release from certain policies and regulations.

The contract between the college partnership laboratory school and the Board ~~of Education~~ shall reflect all agreements regarding the release of the college partnership laboratory school from state regulations, consistent with the requirements of subsection ~~B, C~~ of ~~§ 23-299.2~~ 22.1-349.3. If the college partnership laboratory school application proposes a program to increase the educational opportunities for at-risk students, the Board ~~of Education~~ may approve an Individual School Accreditation Plan for the evaluation of the performance of the school.

Any material revision of the terms of the contract may be made only with the approval of the Board ~~of Education~~ and the governing board of the college partnership laboratory school.

**Drafting note: Technical changes.**

~~§ 23-299.4~~ 22.1-349.5. College partnership laboratory school application.

A. Any public institution of higher education or private institution of higher education ~~operating within the Commonwealth and having that has~~ a teacher education program approved by the Board ~~of Education~~ may submit an application for formation of a college partnership laboratory school.

B. Each college partnership laboratory school application shall provide or describe thoroughly all of the following essential elements of the proposed school plan:

1. An executive summary;
2. The mission and vision of the proposed college partnership laboratory school, including identification of the targeted student population;
3. The proposed location of the school;
4. The grades to be served each year for the full term of the contract;
5. Minimum, planned, and maximum enrollment per grade per year for the term of the contract;
6. Background information on the proposed founding governing board members and, if identified, the proposed school leadership and management team;
7. The school's proposed calendar and sample daily schedule;
8. A description of the academic program aligned with state standards;

9. A description of the school's educational program, including the type of learning environment—(, such as classroom-based or independent study);<sub>2</sub> class size and structure;<sub>2</sub> curriculum overview;<sub>2</sub> and teaching methods;

10. The school's plan for using internal and external assessments to measure and report student progress in accordance with the Standards of Learning;

11. The school's plans for identifying and successfully serving students with disabilities, students who are English language learners, students who are academically behind, and gifted students, including ~~but not limited to~~ compliance with applicable laws and regulations;

12. A description of co-curricular and extracurricular programs and how they will be funded and delivered;

13. Plans and timelines for student recruitment and enrollment, including lottery procedures if sufficient space is unavailable;

14. The school's student disciplinary policies, including ~~those~~ disciplinary policies for special education students;

15. An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, any related bodies (such as advisory bodies or parent and teacher councils), ~~the Board of Education~~, and any external organizations that will play a role in managing the school;

16. A clear description of the roles and responsibilities for the governing board, the school's leadership and management team, and any other entities shown in the organization chart;

17. A staffing chart for the school's first year and a staffing plan for the term of the contract;

18. Plans for recruiting and developing school leadership and staff;

19. The school's leadership and teacher employment policies, including performance evaluation plans;

20. A plan for the placement of college partnership laboratory school ~~pupils~~ students, teachers, and employees upon termination or revocation of the contract;

21. Explanation of any partnerships or contractual relationships central to the school's operations or mission;

22. The school's plans for providing transportation, food service, and all other significant operational or ancillary services;

23. Opportunities and expectations for parent involvement;

24. A detailed school start-up plan, ~~identifying~~ that identifies tasks, timelines, and responsible individuals;

25. ~~Description~~ A description of the school's financial plan and policies, including financial controls and audit requirements;

26. A description of the insurance coverage that the school will obtain;

27. Start-up and five-year budgets with clearly stated assumptions;



28. Start-up and first-year cash-flow projections with clearly stated assumptions;
29. Evidence of anticipated fundraising contributions, if claimed in the application;
30. A sound facilities plan, including backup or contingency plans if appropriate; and
31. Assurances that the college partnership laboratory school (i) is nonreligious in its programs, admission policies, employment practices, and all other operations and (ii) does not charge tuition, except as described in subsection ~~D E~~ of § ~~23-299.2~~ 22.1-349.3.

C. The purposes of the college partnership laboratory school application are to present the proposed school's academic and operational vision and plans, demonstrate the applicant's capacities to execute the proposed vision and plans, and provide the Board of Education with a clear basis for assessing the applicant's plans and capacities. An approved college partnership laboratory school application shall not serve as the school's contract. Within 90 days of approval of a college partnership laboratory school application, the Board of Education and the governing board of the approved school shall execute a contract that clearly sets forth the academic and operational performance expectations and measures by which the college partnership laboratory school will be judged and the administrative relationship between the Board of Education and the college partnership laboratory school, including each party's rights and duties. The performance expectations and measures set forth in the contract shall include ~~but need not be limited to~~ applicable federal and state accountability requirements. The performance provisions may be refined or amended by mutual agreement after the college partnership laboratory school is operating and has collected baseline achievement data for its enrolled students.

**Drafting note: The phrase "but not limited to" after "including" is stricken in subdivision B 11 and proposed subsection C per § 1-218, which states: "'Includes' means includes, but not limited to." Technical changes are made.**

§ ~~23-299.5~~ 22.1-349.6. Review of college partnership laboratory school applications.

A. The Board of Education shall establish procedures for receiving, reviewing, and ruling upon applications and shall make a copy of any such procedures available to all interested parties upon request. If the Board finds that the application is incomplete, the Board shall request the necessary additional information from the applicant. The ~~Board of Education's~~ Board's review procedures shall establish a review committee that may include experts with the operation of similar schools located in other states.

B. To provide appropriate opportunity for input from parents, teachers, and other interested parties and to obtain information to assist the Board of Education in its evaluation of a college partnership laboratory school application, the Board of Education may establish a procedure for public notice, comment, or hearings on such applications.

**Drafting note: Technical changes.**

~~§ 23-299.6~~ 22.1-349.7. Decision of the Board of Education final.

The decision of the Board of Education to grant or deny a college partnership laboratory school application or to revoke or fail to renew an agreement ~~shall be~~ is final and is not subject to appeal.

**Drafting note: Technical changes.**

~~§ 23-299.7~~ 22.1-349.8. College partnership laboratory school terms; renewals and revocations.

A. A college partnership laboratory school may be approved or renewed for a period not to exceed five school years. A college partnership laboratory school renewal application submitted to the Board of Education shall contain:

1. A report on the progress of the school in achieving the goals, objectives, program and performance standards for students, and such other conditions and terms as the Board of Education may require upon granting initial approval of the college partnership laboratory school application; and

2. A financial statement, on forms prescribed by the Board, that discloses the costs of administration, instruction, and other spending categories for the school and that has been concisely and clearly written to enable the Board of Education and the public to compare such costs with those of other schools or comparable organizations.

B. The Board of Education may revoke a contract if the college partnership laboratory school does any of the following or otherwise fails to comply with the provisions of this chapter:

1. Commits a material and substantial violation of any of the terms, conditions, standards, or procedures required under this chapter or the contract;

2. Fails to meet or make sufficient progress toward the performance expectations set forth in the contract;

3. Fails to meet generally accepted standards of fiscal management; or

4. Substantially violates any material provision of law from which the college partnership laboratory school was not exempted.

C. If the Board of Education revokes or does not renew a college partnership laboratory school contract, it shall clearly state, in a resolution, the reasons for the revocation or nonrenewal.

**Drafting note: Technical changes.**

~~§ 23-299.8~~ 22.1-349.9. Employment of professional, licensed personnel.

A. College partnership laboratory school personnel ~~shall be~~ are employees of the institution of higher education ~~establishing~~ that establishes the school.

B. Teachers ~~working who work~~ in a college partnership laboratory school shall hold a license issued by the Board of Education or, in the case of an instructor in the higher education institution's Board-approved teacher education program, be eligible to hold a Virginia teaching license. Teachers working in a college partnership laboratory school ~~shall be~~ are subject to the

requirements of §§ 22.1-296.1, 22.1-296.2, and 22.1-296.4 applicable to teachers employed by a local school board.

C. Professional, licensed personnel of a college partnership laboratory school shall be granted the same employment benefits given to professional, licensed personnel in public schools in accordance with the agreement between the college partnership laboratory school and the Board of Education.

**Drafting note: Technical changes.**

§ ~~23-299.9~~ 22.1-349.10. Funding of college partnership laboratory schools.

A. Each college partnership laboratory school shall receive such funds as may be appropriated by the General Assembly in accordance with the general appropriation act.

B. The governing board of a college partnership laboratory school ~~is authorized to~~ may accept gifts, donations, or grants of any kind and to spend such funds in accordance with the conditions prescribed by the donor. However, no gift, donation, or grant shall be accepted by the governing board of a college partnership laboratory school if the conditions for such funds are contrary to law or the terms of the agreement between the Board of Education and the college partnership laboratory school.

C. Notwithstanding any other provision of law, the proportionate share of state and federal resources allocated for students with disabilities and school personnel assigned to special education programs shall be directed to college partnership laboratory schools enrolling such students. The proportionate share of moneys allocated under other federal or state categorical aid programs shall be directed to college partnership laboratory schools serving students eligible for such aid.

D. College partnership laboratory schools ~~shall be~~ are eligible to apply for and receive any federal or state funds otherwise allocated for college partnership laboratory schools ~~in the Commonwealth~~.

E. ~~Any~~ The collection of any tuition, room and board, and ~~any~~ other educational and related fees ~~collected~~ from students enrolled at a college partnership laboratory school shall comply with Board of Education regulations and shall be credited to the account of such school.

F. Each college partnership laboratory school ~~shall be~~ is eligible to apply for and receive available funds from the College Partnership Laboratory School Fund and the ~~establishing~~ institution of higher education that establishes the school.

**Drafting note: Technical changes.**

§ ~~23-299.10~~ 22.1-349.11. Immunity.

A college partnership laboratory school ~~shall be~~ is immune from liability to the same extent as is the public institution of higher education that ~~established~~ establishes the school, and the employees and volunteers in a college partnership laboratory school are immune from liability to the same extent as are the employees of the ~~establishing~~ institution of higher education that establishes the school.

**Drafting note: Technical changes.**

TITLE 32.1. HEALTH.

CHAPTER ~~22~~ 5.3.

COMMONWEALTH HEALTH RESEARCH BOARD AND FUND; CHRISTOPHER REEVE  
STEM CELL RESEARCH FUND.

**Drafting note: Existing Chapters 22 (§ 23-277 et seq.) and 22.1 (§ 23-286.1) of Title 23 are logically reorganized as proposed Chapter 5.3 of Title 32.1 (Health). Obsolete provisions are stricken and technical changes are made.**

~~§ 23-277. Definitions.~~

~~As used in this chapter, unless the context clearly indicates otherwise:~~

~~"Board" means the Commonwealth Health Research Board.~~

~~"Council" means the State Council of Higher Education for Virginia.~~

~~"Fund" means the Commonwealth Health Research Fund.~~

**Drafting note: The definitions of "Board" and "Fund" are incorporated in proposed § 32.1-162.23 of Chapter 5.3 of Title 32.1. The definition of "Council" is stricken as obsolete ("Council" is defined for existing Chapter 22 but not used in the chapter).**

~~§ 23-278~~ 32.1-162.23. Commonwealth Health Research Board-created established.

~~A. There is hereby created, as an independent body, the~~ The Commonwealth Health Research Board (the Board) is established as an independent body. The purpose of the Board ~~shall be~~ is to provide financial support from the Commonwealth Health Research Fund (the Fund), in the form of grants, donations, or other assistance, for research efforts that have the potential of maximizing human health benefits for the citizens of the Commonwealth. Research efforts eligible for support by the Board shall include traditional medical and biomedical research ~~relating to the causes and cures of diseases as well as research related~~ relating to health services ~~and, the delivery of health care, and the causes and cures of diseases.~~

~~B. The Board shall be composed of seven members. The, of whom three shall be appointed by the Governor shall appoint three members of the Board who shall be confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The and four shall be appointed by the Joint Rules Committee shall appoint the other four members of the Board who shall be confirmed by the affirmative vote of a majority of those voting in each house of. All appointments to the Board are subject to confirmation by the General Assembly. The initial members shall be appointed for terms of office as follows: one of the members appointed by the Governor shall be appointed for a term of one year; one of the members appointed by the Joint Rules Committee shall be appointed for a term of two years; one of the members appointed by the Governor and one of the members appointed by the Joint Rules Committee shall be appointed for terms of three years; one of the members appointed by the Joint Rules Committee shall be appointed for a term of four years; and one of the members~~

~~appointed by the Governor and one of the members appointed by the Joint Rules Committee shall be appointed for terms of five years. Appointments thereafter shall be for terms of five years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies in the membership of the Board shall be filled by appointment of the entity initially making the appointment for the unexpired portion of the term in the same manner as the original appointments.~~

~~No member shall be eligible to serve for more than two successive consecutive five-year terms; however, after the expiration of a term of four years or less or after the expiration of the remainder of a term to which he was appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Immediately after such appointment, the members shall enter upon the performance of their duties a member appointed to serve an unexpired term is eligible to serve two additional consecutive five-year terms immediately succeeding such unexpired term.~~

~~C. The members Members of the Board shall have substantial experience or expertise, personal or professional, in at least one of the following areas: medicine, medical or scientific research, public policy, government, business, or education. No member shall be an incumbent elected official, state official ~~or~~, state employee, or member of the governing board of a state agency or institution. Members of the Board need not be residents of the Commonwealth.~~

~~D. The members Board shall elect annually a chairman and vice-chairman from among its ~~members~~ membership. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board.~~

~~E. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business.~~

~~F. The Board shall meet annually or more frequently at the call of the chairman.~~

~~E. Notwithstanding the provisions of § 2.2-2813, members of the Board shall receive compensation for their services at the rate provided in Item 1 of Chapter 924 of the 1997 Acts of Assembly used to compensate General Assembly members for the time actually spent in the discharge of their duties and shall receive reimbursement for actual expenses incurred in the performance of their duties on behalf of the Board.~~

~~G. The members of the Board shall receive no compensation for their services but shall be reimbursed for the reasonable and necessary expenses incurred in the performance of their duties as provided in § 2.2-2825. Such compensation and expenses shall be paid from the Fund.~~

**Drafting note: The first sentence of existing subsection E of § 23-278 is recommended for repeal as obsolete. Currently, members of the Board do not receive such compensation for their services but are reimbursed for reasonable and necessary expenses. Technical changes are made, including removing language concerning the initial staggering of terms in existing subsection B.**

§ ~~23-279~~ 32.1-162.24. Duties of the Board.

The Board shall ~~perform the following duties:~~

1. Establish specific criteria and procedures governing its decisions to support research efforts consistent with its purposes, including, ~~but not limited to,~~ (i) encouraging collaborative research efforts among two or more institutions or organizations, (ii) giving priority to those research efforts ~~where~~ from which Board support can be leveraged to foster contributions from federal agencies or other entities, and (iii) supporting both new research efforts and the expansion or continuation of existing research efforts;
2. Establish requirements for the submission of research proposals, including, ~~but not limited to,~~ (i) a clear statement of the problem or opportunity to be addressed; (ii) the specific objectives; (iii) a description of how the results will maximize human health benefits for the citizens of the Commonwealth; (iv) a budget for the research effort, including other anticipated sources of financial assistance; and (v) the time frame for ~~the conduct of~~ conducting the research;
3. Evaluate the proposals in accordance with the criteria established by the Board and the provisions of this chapter; and
4. Evaluate the implementation and results of all research efforts receiving support from the Board.

**Drafting note: The phrase "but not limited to" is removed when using the term "including" based on § 1-218, which states "'Includes' means includes, but not limited to."**  
**Technical changes are made.**

§ ~~23-281~~ 32.1-162.25. Powers of the Board.

In order to carry out its ~~purpose~~ purposes, the Board ~~shall have the power to~~ may:

1. Make grants ~~or other expenditures or~~ and disbursements from the Fund ~~to provide that support for~~ research efforts approved by the Board in accordance with the purposes of this chapter; ~~however, the~~ and pay expenditures from the Fund that are necessary to carry out the purposes of this chapter. The Board ~~shall~~ is not ~~be~~ obligated to make annual or other periodic disbursements or expenditures;
2. Contract for the services of consultants to review research proposals and ~~to~~ assist in the evaluation of the research efforts funded by the Board;
3. Contract for other professional services to assist the Board in the performance of its duties and responsibilities;
4. Accept, hold, administer, and solicit gifts, grants, bequests, contributions, or other assistance from federal agencies, the Commonwealth, or any other public or private source to carry out the purposes of this chapter;
5. Enter into any agreement or contract relating to the acceptance or use of any grant, assistance, or support provided by or to the Board, or otherwise in furtherance of the purposes of this chapter;

6. Perform any lawful acts necessary or appropriate to carry out the purposes of the Board; and

7. Employ such staff as is necessary to perform the Board's duties. The Board may determine the duties of such staff and fix the salaries and compensation of such staff, which shall be paid from the Fund. Such staff ~~shall be~~ are employees of the Department of Accounts and ~~shall be~~ are entitled to all benefits available to state employees as provided by law.

**Drafting note: Technical changes.**

~~§ 23-280~~ 32.1-162.26. Conditions and restrictions on financial assistance.

A. The Board shall provide financial support only ~~to~~ for research efforts that satisfy the following conditions:

1. The research shall be conducted by ~~state~~ public institutions of higher education, agencies of the Commonwealth, or nonprofit organizations exempt from income taxation pursuant to § 501(c)(3) of the Internal Revenue Code and located in the Commonwealth;

2. The institution, agency, or organization shall ~~provide a cash amount for the support provided by the Board in such~~ match a percentage of the Board's support as in a cash amount required by the Board deems appropriate;

3. ~~Support~~ No support provided by the Board shall ~~not~~ be used by the recipient to finance capital improvements or renovations, for indirect costs incurred by the institution, agency, or organization in its administration of the financial support, or for any other purpose proscribed by the Board; and

4. Recipients of support provided by the Board shall agree to provide the Board with such information regarding the implementation of the research effort; and ~~to~~ allow such monitoring and review of the research effort; as may be required by the Board to ensure compliance with the terms ~~by~~ under which the support is provided.

B. Any support provided by the Board shall be used by the recipient only for personal services, contractual services, material, supplies, and equipment directly ~~related~~ relating to the approved research effort.

**Drafting note: Technical changes.**

~~§ 23-282.~~

**Drafting note: Repealed by Acts 2002, cc. 591 and 612.**

~~§ 23-283~~ 32.1-162.27. Cooperation with other agencies.

All agencies of the Commonwealth shall cooperate with the Board and, upon request, assist the Board in the performance of its duties and responsibilities.

**Drafting note: No change.**

~~§ 23-284~~ 32.1-162.28. Commonwealth Health Research Fund established; administration.

A. There is ~~hereby~~ created in the ~~State Treasury~~ state treasury a special, nonreverting revolving fund to be known as the Commonwealth Health Research Fund (the Fund). The Fund shall be established on the books of the ~~State~~ Comptroller.

B. The Fund shall consist of all stock and cash distributed to the Commonwealth as a policyholder pursuant to the conversion of Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield, from a mutual insurance company to a Virginia stock corporation known as Trigon Healthcare, Inc., exclusive of cash paid by Blue Cross and Blue Shield of Virginia or its successor to the Commonwealth in connection with such conversion, which was assumed as general fund revenue in Chapter 912 of the ~~1996~~ Acts of Assembly of 1996. The Fund shall also consist of any moneys appropriated from the general fund, grants and donations received by the Board, and other moneys received by the State Treasurer and designated for deposit in the Fund. Interest and other income earned on moneys in the Fund shall remain in the Fund and be credited to ~~the Fund~~ it. Any moneys remaining in the Fund, including interest and other income thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

C. Notwithstanding any other provision of law, the moneys and other property ~~comprising~~ constituting the Fund shall be invested, reinvested, and managed by the Board of the Virginia Retirement System as provided in § 51.1-124.36. The State Treasurer ~~shall is not be held~~ liable for losses suffered by the Virginia Retirement System on investments made under the authority of this section.

D. ~~The~~ Moneys in the Fund shall be expended solely for the purpose of supporting research efforts approved by the Board and any other purpose permitted by this chapter.

E. An amount not to exceed six percent of the moving average of the market value of the Fund calculated over the previous five years or since inception, whichever is shorter, on a one-year delayed basis, net of any administrative fee assessed pursuant to subsection E of § 51.1-124.36, may be expended in a calendar year for any purpose permitted by this chapter. The Board ~~shall is not be~~ required to expend such amount in a calendar year, and any amount up to such six percent that is not expended in a calendar year may be expended in any other calendar year.

F. ~~The disbursement of moneys~~ Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the ~~State~~ Comptroller ~~at the~~ upon written request ~~of~~ signed by the chairman of the Board.

**Drafting note: Technical changes are made, including updating special fund language to reflect current standard language for such funds.**

~~§ 23-285~~ 32.1-162.29. ~~Forms~~ Form and audit of accounts and records; ~~audit of same~~.

A. The accounts and records of the Board showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes.



B. The accounts and records of the Board ~~shall be~~ are subject to an annual audit by the Auditor of Public Accounts or his legal representative.

**Drafting note: Technical changes.**

~~§ 23-286 32.1-162.30. Reports to the Governor and General Assembly Annual report.~~

The Board shall submit ~~a report annually~~ to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. The ~~report~~ executive summary shall include information regarding research efforts supported by the Board and expenditures from the Fund.

**Drafting note: The current standard language for submitting reports to the Governor and the General Assembly is incorporated into the existing reporting language.**

#### ~~CHAPTER 22.1.~~

#### ~~CHRISTOPHER REEVE STEM CELL RESEARCH FUND.~~

**Drafting note: The contents of existing Chapter 22.1 (§ 23-286.1) of Title 23 are logically incorporated into proposed Chapter 5.3 of Title 32.1 (Health) since the Christopher Reeve Stem Cell Research Fund is created to be administered and implemented by the Commonwealth Health Research Board.**

~~§ 23-286.1 32.1-162.31.~~ Christopher Reeve Stem Cell Research Fund.

A. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is ~~hereby~~ created in the state treasury a special, nonreverting, revolving, and permanent fund, to be known as the Christopher Reeve Stem Cell Research Fund ~~(the Fund)~~. The Christopher Reeve Stem Cell Research Fund shall be established in on the books of the State Comptroller and shall be administered and implemented by the ~~Commonwealth Health Research Board, the independent body created in Chapter 22 (§ 23-277 et seq.)~~ in accordance with the provisions of this section. Interest earned on moneys in the Christopher Reeve Stem Cell Research Fund shall remain in the Christopher Reeve Stem Cell Research Fund and be credited to it. Any moneys remaining in the Christopher Reeve Stem Cell Research Fund, including interest thereon, at the end of each fiscal year, ~~including interest thereon,~~ shall not revert to the general fund but shall remain in the Christopher Reeve Stem Cell Research Fund. Expenditures and disbursements from the Christopher Reeve Stem Cell Research Fund, which may consist of grants, donations, or other assistance, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request ~~bearing the signature of~~ signed by the chairman or ~~the vice-chairman of the Commonwealth Health Research Board.~~

B. Moneys in the Christopher Reeve Stem Cell Research Fund shall be used solely to support medical and biomedical stem cell research conducted in ~~Virginia~~ institutions of higher

education in the Commonwealth that relates to the causes and cures of disease, including, ~~but not limited to,~~ paralysis caused by spinal cord injury, diabetes, cancer, heart disease, and neurological disorders; such as amyotrophic lateral sclerosis (Lou Gehrig's disease) and multiple sclerosis.

C. The grants, donations, or other assistance provided ~~hereunder~~ pursuant to this section shall be awarded in accordance with the ~~Commonwealth Health Research~~ Board's specific criteria and procedures, requirements for submission of research proposals, and evaluation mechanisms established pursuant to ~~Chapter 22 (§ 23-277 et seq.)~~ this chapter. However, no requirement for matching funds shall apply to the grants, donations, or other assistance awarded pursuant to the Christopher Reeve Stem Cell Research Fund, and the leveraging of funds ~~shall be~~ is incidental to the support provided under this section. The grants, donations, or other assistance provided ~~hereunder~~ pursuant to this section may be awarded to support stem cell research that is not eligible for federal research funds through the National Institutes of Health. No moneys from the Christopher Reeve Stem Cell Research Fund may be provided to any entity that conducts human stem cell research from stem cells obtained from human embryos; or for conducting such research; however, research conducted using stem cells other than embryonic stem cells may be funded.

**Drafting note: Technical changes are made, including (i) incorporating language from existing § 23-286.2 that clarifies the role of the Commonwealth Health Research Board in administering the Christopher Reeve Stem Cell Research Fund and (ii) updating special fund language to reflect current standard language for such funds.**

~~§ 23-286.2. Duties of the Commonwealth Health Research Board vis a vis the Fund.~~

~~In addition to the duties conferred on the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.), the Board shall administer and implement the Christopher Reeve Stem Cell Research Fund in accordance with the provisions of this chapter and, except where otherwise required, the provisions of its originating chapter.~~

**Drafting note: The provisions of existing § 23-286.2 are incorporated into proposed § 32.1-162.31 to remove redundancy.**

**APPENDIX A—COMPARATIVE TABLE: PROPOSED TITLE 23.1 TO TITLE 23**

<b>TITLE 23.1. INSTITUTIONS OF HIGHER EDUCATION; OTHER EDUCATIONAL AND CULTURAL INSTITUTIONS.</b>	
<b>SUBTITLE I. GENERAL PROVISIONS.</b>	
<b>CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS.</b>	
<b>Article 1. Definitions.</b>	
23.1-100. Definitions.	New section
<b>Article 2. General Provisions.</b>	
23.1-101. Endowment funds of public institutions of higher education.	23-9.2, 23-252 B (part), 23-253.7 (part), 23-287 A (part)
23.1-102. Chief executive officer of each public institution of higher education; duties.	23-4, 23-4.4 B, 23-1.1
23.1-103. Localities; conveyance of property and appropriation of funds to Commonwealth for certain educational purposes.	23-3.1
23.1-104. Disposition of lost or abandoned property.	23-4.2
23.1-105. Contracts with certain nonprofit private institutions of higher education.	23-9.10:3
23.1-106. Formation of not-for-profit benefits consortium.	23-4.2:1
23.1-107. Private institutions of higher education; human research review committees.	23-9.2:3.3
<b>CHAPTER 2. STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA.</b>	<b>Chapter 1.1</b>
<b>Article 1. Membership and Organization.</b>	
23.1-200. State Council of Higher Education for Virginia established; purpose; membership; terms; officers.	23-9.3
23.1-201. Student advisory committee.	23-9.3:1
23.1-202. Employment of director and other personnel.	23-9.4
<b>Article 2. Powers and Duties.</b>	
23.1-203. Duties of Council.	23-9.5, 23-9.6:1, 23-9.8, 23-9.8:1, 23-9.13, 23-9.10:1, 23-261 (part)
23.1-204. (Expires June 30, 2017) Post-graduation employment rates.	23-9.2:3.04, 23-2.4
23.1-205. Authority to carry out federal requirements.	23-261 (part)
23.1-206. Assessments of the performance of public institutions of higher education.	23-9.6:1.01
23.1-207. Tuition relief, refunds, and reinstatement for certain students in the uniformed services.	23-9.6:2
23.1-208. Budget requests and recommendations.	23-9.9, 23-9.9:1
23.1-209. Reports of expenditures of state funds.	23-9.9:01

23.1-210. Advisory services to accredited nonprofit private institutions of higher education; Private College Advisory Board.	23-9.10:2
23.1-211. Distance learning reciprocity agreements; participation; Distance Learning Reciprocity Advisory Council.	23-9.14:3
23.1-212. Effect upon powers of governing boards of public institutions of higher education; endowment funds.	23-9.14
<b>Article 3. Regulation of Certain Private and Out-of-State Institutions of Higher Education.</b>	<b>Chapter 21.1</b>
23.1-213. Definitions.	23-276.1
23.1-214. Certified mail; subsequent mail or notices may be sent by regular mail.	23-276.1:1
23.1-215. Authority of the Council; regulations; standards for postsecondary schools; delegation of authority to director.	23-276.3
23.1-216. Career College Advisory Board established.	23-276.13
23.1-217. Certification required.	23-276.14
23.1-218. List of postsecondary schools holding valid certification.	23-276.15
23.1-219. Council certification; requirements and prohibitions.	23-276.4
23.1-220. Approval procedures.	23-276.5
23.1-221. Refusal, suspension, and revocation of approval or certification.	23-276.6
23.1-222. Emergency actions.	23-276.7
23.1-223. Preservation of students' records.	23-276.8
23.1-224. Fees.	23-276.9
23.1-225. Prohibited acts.	23-276.10
23.1-226. Exemptions.	23-276.2
23.1-227. Virginia law to apply to contracts.	23-276.11
23.1-228. Violations; penalties; remedies.	23-276.12
23.1-229. Postsecondary school closure procedures.	23-276.16
<b>CHAPTER 3. THE VIRGINIA HIGHER EDUCATION OPPORTUNITY ACT OF 2011.</b>	<b>Chapter 4.9:1</b>
23.1-300. Definitions.	23-38.87:11
23.1-301. Short title; objective; purposes.	23-38.87:10
23.1-302. Public institutions of higher education; funding.	23-38.87:12
23.1-303. Calculation of state general fund share of an institution's basic operations and instruction funding need; cost of education.	23-38.87:13
23.1-304. Per student enrollment-based funding at public institutions of higher education.	23-38.87:14
23.1-305. Public institutions of higher education; targeted economic and innovation incentives.	23-38.87:16
23.1-306. Public institutions of higher education; six-year plans.	23-38.87:17, 23-38.87:15 (part)
23.1-307. Public institutions of higher education; tuition and fees.	23-38.87:18
23.1-308. STEM public-private partnership established; duties.	23-38.87:19

23.1-309. Higher Education Advisory Committee established; duties.	23-38.87:20, 23-38.87:15 (part)
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