Title 23.1 - Institutions of Higher Education; Other Educational and Cultural Institutions

Subtitle I - GENERAL PROVISIONS

Chapter 1 - DEFINITIONS AND GENERAL PROVISIONS

Article 1 - DEFINITIONS

§ 23.1-100. Definitions.

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 the Virginia Community College System, 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 an 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.

2016, c. 588.

Article 2 - GENERAL PROVISIONS

§ 23.1-101. Endowment funds of public institutions of higher education.

It is the public policy of the Commonwealth that:

1. Each public institution 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 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. 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 the Commonwealth, the availability of the

endowment funds and unrestricted gifts from private sources received by 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 neither be taken into consideration in nor used to reduce state appropriations or payments and shall be used in accordance with the wishes of the donors of such funds to strengthen the services rendered by these institutions to the people of the Commonwealth.

Code 1950, § 9-65.14, § 23-252; 1952, c. 707, § 23-9.2; 1956, c. 390; 1970, c. 466; 1972, c. 524; 1974, c. 124; 1977, c. 597; 1981, c. 505; 1997, c. 367, § 23-253.7; 1998, cc. 589, 786, § 23-287; 2000, cc. 104, 125; 2003, c. 879; 2004, c. 650; 2005, c. 758; 2013, c. 480; 2016, c. 588.

§ 23.1-102. Chief executive officer of each public institution of higher education; duties.
The chief executive officer of each public institution of higher education shall:

1. Maintain a register that contains a description of all of the property of the Commonwealth at the institution for the information of the governing board of the institution and any other interested party.

2. Include in its six-year plan adopted pursuant to § 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 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 the Commonwealth as reflected in the assignment agreement or awarding documents.

3. For any institution that maintains an intercollegiate athletics program, cause to be made out by the proper officer of such institution and forwarded to the Comptroller annually by December 31 a detailed statement of all athletics receipts and disbursements of such institution and of any affiliated committee, group, corporation, or association charged with administering the intercollegiate athletics program. Such report shall include all receipts from admission tickets, programs, refreshment concessions, radio, television, and newsreel or movie rights and all other receipts relating to any athletics 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 of the disbursement. The report shall be kept on file by the Comptroller and shall be open to public inspection at all reasonable times.

Code 1919, § 999, § 23-4; 1952, c. 172, § 23-1.1; 1979, c. 630; 1986, c. 358, § 23-4.4; 2003, c. 708; 2006, cc. 77, 899; 2009, cc. 325, 810; 2015, cc. 579, 580; 2016, c. 588.

§ 23.1-102.1. Executive officers; salaries.

The governing board of each public institution of higher education shall report by September 1 of each year to the Chairmen of the House Committees on Appropriations and Education and the Senate Committees on Finance and Education and Health the salary by position of any executive officer of such institution that exceeds for the previous fiscal year the salary limit for the chief executive officer for such institution set forth in the general appropriation act.

2019, c. 408.

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

A. The governing body of any locality may, subject to written advice from the Governor that the gift is acceptable, convey to the Commonwealth by deed of gift any land that is not required for the purposes of such locality, provided such land is to be used for the establishment, operation, or maintenance of a branch or division of a 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 the locality.

B. The governing body of any locality may appropriate a portion of the locality's public funds for capital outlays in connection with the operation or maintenance of any public institution of higher education or branch or division of such institution, the Jamestown-Yorktown Foundation, the Science Museum of Virginia, or the Virginia Museum of Fine Arts.

1995, c. 250, § 23-3.1; 2016, c. 588.

§ 23.1-104. Disposition of lost or abandoned property.

A. The governing board of each public institution of higher education and each accredited nonprofit private institution of higher education 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 nor any of its agents or employees is liable to any person claiming any interest in the property.

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 such property, shall make reasonable efforts to give notice that the property has been found to any person that the institution determines to reasonably appear to be the owner. The institution shall hold such property for at least 120 days. The institution shall allow a claim upon satisfactory proof of 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 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 shall be held for at least 90 days and if no claim is made 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 pursuant to this subsection shall be preceded by reasonable notice of the sale, taking into consideration the type and value of property. Such notice shall include 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 appear to be the owner.

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 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 on institutional property shall be credited to the institution's operating fund after the 90-day holding period. The governing board of a public institution of higher education that has a campus or part of a campus in a locality that has not adopted such an ordinance may adopt regulations dealing with motor vehicles abandoned on such campus or such part of the campus. Such regulations shall comply with all provisions of Chapter 12 of Title 46.2 and have the same legal effect as though the institution is a political subdivision as defined in that chapter and the regulation is an ordinance. The proceeds from any sale resulting from such regulations shall be held for at least 90 days and if no claim to the motor vehicle is made within that time, such funds shall be credited to the institution's operating fund.

D. Whenever any intangible personal property is believed to be lost or abandoned on the campus of a public institution of higher education, it shall be administered as provided in Article 3 (§ 55.1-2524 et seq.) of Chapter 25 of Title 55.1.

E. Whenever any personal property, tangible or intangible, has been accepted for safekeeping during a patient's stay by any hospital operated by a public institution of higher education and such property is believed by the appropriately designated official to be lost or abandoned, it shall be administered as provided in Article 3 (§ 55.1-2524 et seq.) of Chapter 25 of Title 55.1.

1981, c. 517, § 23-4.2; 1982, c. 210; 2016, c. 588.

§ 23.1-105. Contracts with certain nonprofit private institutions of higher education.

A. For the purposes of this section:

"Private college" means a 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.

"Services" includes a program or course of study offered or approved to be offered by a public institution of higher education or private college; use of professional personnel; use of any real or personal property owned, controlled, or leased for educational or related purposes by a public institution of higher education or private college; study, research, or investigation or similar activity by employees or students, or both, of 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.

C. No contract for services between private colleges and public institutions of higher education or educational agencies of the Commonwealth, including the Board of Education, is valid unless approved by the Council.

D. Except as provided in subsection C, contracts for services between private colleges and the Commonwealth or any of its political subdivisions may be entered into in any 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 public institutions of higher education. Private colleges shall report such contracts to the Council.

E. The Council shall provide continuing evaluation of the effectiveness of and make recommendations regarding contracts made pursuant to this section.

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

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

H. Nothing in this 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.

1975, c. 399, § 23-9.10:3; 1991, c. 590; 2015, c. 709; 2016, c. 588.

§ 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 nonprofit 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 § 23.1-213.

"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 agrees 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;

5. Provide that the number of directors of the corporation is equal to the number of members and includes 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 shall not serve on the board of directors at the same time;

6. Provide that the board of directors 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 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 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 indicates that the corporation is not an insurance company and is not carrying on the business of insurance.

C. 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, each benefits consortium organized under and operated in conformity with this section 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 is governed solely by and subject only to the provisions of the Employee Retirement Income Security Act of 1974 as implemented by the U.S. Department of Labor, is exempt from all state taxation, and is not otherwise subject to the provisions of Title 38.2, including regulation as a multiple employer welfare arrangement.

2007, c. 136, § 23-4.2:1; 2014, c. 578; 2016, c. 588.

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

The human research review committee at each 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.

1992, c. 603, § 23-9.2:3.3; 2016, c. 588; 2017, c. 314.

§ 23.1-108. Foundations; annual reporting requirements.

A. Each public institution of higher education shall release an annual report regarding foundations associated with the institution setting forth foundation expenses. The annual report shall include:

1. The total annual expenditures by each foundation;

2. The percentage of expenditures used for scholarships or financial aid by each foundation;

3. The percentage of expenditures used for faculty compensation by each foundation;

4. The percentage of expenditures used for program costs by each foundation;

5. The percentage of expenditures used for equipment and technology by each foundation;

6. The percentage of expenditures used for administrative support by each foundation; and

7. The percentage of expenditures used for executive compensation by each foundation.

B. This section shall not apply to the Virginia Community College System.

2020, c. 511.

§ 23.1-109. Public-private partnerships; wind and solar power.

A. Each public institution of higher education may enter into a public-private partnership with any private entity whereby such entity is permitted to use at no cost property owned or controlled by such public institution of higher education for the generation of wind or solar power in exchange for offering educational immersion programs that provide hands-on education and training in the construction, operations, and maintenance of its wind or solar power generators. Such educational immersion programs shall be open to high school students and students at public institutions of higher education on the basis of admissions criteria established by the partner public institution of higher education.

B. Any energy produced by solar or wind power generators as a result of a public-private partnership established pursuant to this section shall be (i) used to provide power for the partner public institution of higher education or (ii) introduced to applicable power grids and sold at market rates, with profits split as agreed upon by the private entity and the partner public institution of higher education. Any such profits gained by the partner public institution of higher education shall be used to further research, expand clean energy education programs, or lower student tuition rates.

2020, c. 775.

Subtitle III - Management and Financing

Chapter 10 - Restructured Higher Education Financial and Administrative Operations Act

Article 1 - DEFINITIONS

§ 23.1-1000. Definitions.

As used in this chapter, unless the context requires 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 consisting of (a) new construction of at least 5,000 square feet, (b) new construction costing at least $2 million, or (c) improvements or renovations costing at least $2 million.

"Covered employee" means any individual who is employed by a covered institution on either a salaried or wage basis.

"Covered institution" means a public institution of higher education that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 (§ 23.1-1004 et seq.).

"Enabling statutes" means 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 each individual public institution of higher education unless otherwise expressly provided in this chapter.

"Facilities" means all (i) real, personal, tangible, and intangible property, including all (a) infrastructure suitable for supporting a covered institution's mission and ancillary activities and (b) structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities 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 between the Commonwealth and a public institution of higher education that enables such institution to be governed by Article 4 (§ 23.1-1004 et seq.).

"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 program, research facility, or educational facility of a covered institution or equipment necessary or convenient to or consistent with the purposes of such institution, whether or not owned by the institution, including (a) research, training, teaching, dormitory, and classroom facilities and all related and supporting facilities and equipment necessary or desirable in connection with such facilities or incidental to such facilities; (b) office, parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational and athletics 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; (p) sanitariums; (q) hospices; (r) facilities for the residence or care of the elderly, handicapped, or chronically ill; (s) residential facilities for nurses, interns, and physicians; (t) other facilities for the treatment of sick, disturbed, or infirm 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 courses of study as may be appropriate; (v) vehicles, mobile medical facilities, and other transportation equipment; 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.

"Virginia Retirement System" includes any retirement system established or authorized by Title 51.1.

2005, cc. 933, 945, § 23-38.89; 2016, c. 588.

Article 2 - FINANCIAL AND ADMINISTRATIVE STANDARDS, AUTHORITY, AND INCENTIVES

§ 23.1-1001. Financial and administrative management standards for public institutions of higher education.

A. Each public institution of higher education shall 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 any standards for outstanding receivables and bad debts;

5. Substantial attainment of accounts payable standards approved by the State Comptroller including any standards for accounts payable past due; and

6. Other financial and administrative management standards established by the Governor or included in the general appropriation act currently in effect.

B. Each public institution of higher education that does not meet all of the financial management standards in subsection A according to the written certification of the Auditor of Public Accounts pursuant to § 30-133.1 shall develop and implement a written plan of corrective action to meet such standards as soon as practicable. The chairman or rector of the governing 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.

C. Each public institution of higher education that does not meet all of the administrative management standards established by the Governor and such standards currently in effect for such institutions according to the written certification of the Auditor of Public Accounts pursuant to § 30-133.1 shall develop and implement a written plan of corrective action to meet such standards as soon as practical. The chairman or rector of the governing 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.

2016, c. 588.

§ 23.1-1002. Eligibility for restructured financial and administrative operational authority and financial benefits.

A. 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 that meets the state goals set forth in subsection A on or after August 1, 2005, may:

1. Dispose of its surplus materials at the location where the surplus materials are held and retain any proceeds from such disposal as provided in subdivision B 14 of § 2.2-1124;

2. As provided in and pursuant to the conditions in subsection C of § 2.2-1132, 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 to comply with the Uniform Statewide Building Code (§ 36-97 et seq.) pursuant to subsection C of § 36-98.1;

3. For each public institution of higher education that 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, 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 that 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. Acquire easements as provided in subdivision 4 of § 2.2-1149;

5. Enter into an operating/income lease or capital lease pursuant to the conditions and provisions in subdivision 5 of § 2.2-1149;

6. 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 in subdivision C 2 of § 2.2-1153, sell surplus real property that is possessed and controlled by the institution and valued at less than $5 million;

8. For purposes of compliance with § 2.2-4310, procure goods, services, and construction from a vendor that the institution has certified as a small, women-owned, or minority-owned business enterprise pursuant to the conditions and provisions in § 2.2-1609;

9. Be exempt from review of its budget request for information technology by the CIO as provided in subdivision B 3 of § 2.2-2007.1;

10. Adopt policies for the designation of administrative and professional faculty positions at the institution pursuant to the conditions and provisions in subsection E of § 2.2-2901;

11. 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

12. Utilize as methods of procurement a fixed price, design-build, or construction management contract in compliance with the provisions of Chapter 43.1 (§ 2.2-4378 et seq.) of Title 2.2.

C. Each public institution of higher education that (i) has been certified during the fiscal year by the Council pursuant to § 23.1-206 as having met the institutional performance benchmarks for public insti-

tutions of higher education and (ii) meets the state goals set in subsection 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 institution, 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 as practicable after the end of such fiscal year;

2. Any unexpended appropriations of the public institution of higher education at the end of the fiscal year, which shall be reappropriated and allotted for expenditure by the institution in the immediately following fiscal year;

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 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 institution; 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 that is not registered with the Department of General Services' web-based electronic procurement program commonly known as "eVA," 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 of the fiscal year immediately following the year of certification or as soon as practicable after August 15 of such fiscal year.

2005, cc. 933, 945, § 23-38.88; 2006, c. 775; 2009, cc. 827, 845; 2011, cc. 828, 869; 2013, c. 482; 2014, c. 628; 2016, cc. 296, 588; 2017, cc. 699, 704.

Article 3 - RESTRUCTURED FINANCIAL AND ADMINISTRATIVE AUTHORITY; MEMORANDUM OF UNDERSTANDING

§ 23.1-1003. Memoranda of understanding.

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, as designated by the Governor, for restructured operational authority in any operational area 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 and:

1. The institution is certified by the Council pursuant to § 23.1-206 or 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 board has voted in the affirmative for a resolution expressing the sense of the board that the institution is qualified to be, and should be, governed by memoranda of understanding;

3. The institution 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 or (ii) the Secretary of Education and the Council if the measure is education-related. Any education-related measure is subject to the approval of the Council; and

4. The institution 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, the Cabinet Secretary receiving the request shall notify the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance of the request. The Cabinet Secretary shall determine within 90 calendar days whether to enter into the requested memorandum of understanding or a modified memorandum of understanding.

C. If the Cabinet Secretary enters into a memorandum of understanding with the public institution of higher education, he shall forward a copy of the governing 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 three years. Subsequent memoranda of understanding shall remain in effect for five years.

D. If the Cabinet Secretary does not enter into a memorandum of understanding with the public institution of higher education, 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 a public institution of higher education from submitting a future request to enter into a memorandum of understanding pursuant to this section.

2005, cc. 933, 945, §§ 23-38.88, 23-38.90; 2006, c. 775; 2008, cc. 824, 829; 2009, cc. 827, 845; 2011, cc. 332, 828, 869; 2013, cc. 438, 482; 2014, c. 628; 2016, c. 588.

Article 4 - RESTRUCTURED FINANCIAL AND ADMINISTRATIVE AUTHORITY; COVERED INSTITUTIONS; MANAGEMENT AGREEMENTS

§ 23.1-1004. Management agreement; eligibility and application.

A. The governing board and administration of each public institution of higher education that meets the state goals set forth in subsection A of § 23.1-1002 and meets the requirements of this 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 negotiate with the Governor to develop a management agreement with the Commonwealth to exercise restructured financial and administrative authority.

B. 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 the 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.

2005, cc. 933, 945, §§ 23-38.88, 23-38.91, 23-38.97; 2006, c. 775; 2009, cc. 827, 845; 2011, cc. 828, 869; 2013, c. 482; 2014, c. 628; 2016, c. 588; 2017, c. 314.

§ 23.1-1005. Approval of a management agreement.

A. If the Governor finds that the public institution of higher education meets the criteria set forth in § 23.1-1004, he shall authorize the appropriate Cabinet Secretary to enter into a management agreement with the governing board of such institution.

B. Each such management agreement shall be submitted no later than the succeeding November 15 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.

C. The General Assembly shall consider 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.

2005, cc. 933, 945, § 23-38.97; 2016, c. 588.

§ 23.1-1006. Management agreement; contents and scope.

A. Each covered institution that complies with the requirements of this article shall have the powers set forth in this article that are expressly included in the management agreement.

B. Each management agreement 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.

D. Except as specifically made inapplicable under this article or the express terms of a management agreement, the provisions of Title 2.2 relating generally to the operation, management, supervision, regulation, and control of public institutions of higher education are applicable to covered institutions as provided by the express terms of the management agreement.

E. In the event of a conflict between any provision of Title 2.2 and any provision of the management agreement, the provisions of the management agreement control. In the event of a conflict between any provision of this article and an institution's enabling statutes, the enabling statutes control.

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 board and the 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.

J. For purposes of §§ 23.1-101, 23.1-102, 23.1-103, 23.1-104, and 23.1-107, Chapter 2 (§ 23.1-200 et seq.), §§ 23.1-306, 23.1-402, 23.1-403, and 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, and 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 following its conversion to a covered institution governed by this article and shall retain the authority granted and any obligations required by such provisions.

K. State government-owned or operated and state-owned teaching hospitals that are a part of a covered institution as of the effective date of the covered institution's initial 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 for medical assistance services adopted pursuant to § 32.1-325, provided that the covered institution commits to serve indigent and medically indigent patients. 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, 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 effective date of the covered institution's initial 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.

2005, cc. 933, 945, §§ 23-38.88, 23-38.91, 23-38.92, 23-38.93, 23-38.96, 23-38.97; 2006, c. 775; 2009, cc. 827, 845; 2011, cc. 828, 869; 2013, c. 482; 2014, cc. 484, 628, 815; 2016, c. 588.

§ 23.1-1007. 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 covered 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 covered 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 covered 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, but no covered institution shall be deemed 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 is subject to such other reviews and audits as 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.

F. An institution's status as a covered institution may be revoked by an act of the General Assembly if the institution fails to meet the requirements of this article or the management agreement.

2005, cc. 933, 945, §§ 23-38.88, 23-38.94. 23-38.98; 2006, c. 775; 2009, cc. 827, 845; 2011, cc. 828, 869; 2013, c. 482; 2014, c. 628; 2016, c. 588.

§ 23.1-1008. Covered institutions; operational authority generally.

In addition to those powers granted in each covered institution's enabling statutes and the general appropriation act, each covered institution, subject to the express provisions of the management agreement, may exercise all the powers necessary or convenient to carry out the purposes and provisions of this article and:

1. Make and execute contracts, guarantees, or any other instruments and agreements necessary or convenient to the exercise of its powers, authority, and functions, including contracts with persons to (i) operate and manage any or all of the covered institution's facilities or operations and (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 state law;

2. 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

3. Procure insurance, participate in insurance plans, provide self-insurance, continue participation in the Commonwealth's insurance or self-insurance plans, continue 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 in §§ 23.1-1020 through 23.1-1026, and any combination of the foregoing, as provided in this 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. 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.

2005, cc. 933, 945, § 23-38.99; 2016, c. 588.

§ 23.1-1009. Covered institutions; operational authority; projects.

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. Such project may be owned or operated by the institution, other persons, or jointly by such institution and other persons and may be operated within or outside the Commonwealth as long as (i) the operations of such project are necessary or desirable to assist the institution in carrying out its public purposes within the Commonwealth and (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. Each covered institution may continue, adopt, and enforce policies for the operation of any facility, including any veterinary facility, hospital, or other health care and related facility owned or operated by the institution. Any such policies pertaining to the operation of any veterinary facility, hospital, or other health care or related facility may include the conditions of practicing any health profession or

veterinary medicine 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 do not discriminate on the basis of race, religion, color, sex, sexual orientation, gender identity, national origin, or any other factor prohibited by law.

2005, cc. 933, 945, § 23-38.100; 2016, c. 588; 2020, c. 1137.

§ 23.1-1010. Covered institutions; operational authority; creation of entities and participation in joint ventures.

Each covered institution may:

1. Create or assist in the creation of; own in whole or in part or otherwise control; participate in or with any entities, public or private; and 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 entity organized for any purpose within or 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 its public purposes.

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 its public purposes and the intent of this article.

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.

4. In carrying out any activities authorized by this article, 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) of the Constitution of Virginia 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 such entities are owned or controlled in whole or in part or directly or indirectly by such institution.

2005, cc. 933, 945, § 23-38.101; 2016, c. 588.

§ 23.1-1011. Covered institutions; operational authority; campus police.

A. A covered institution may establish or continue to operate a campus police department in accordance with the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8. Campus police shall possess the powers provided in Article 3 of Chapter 8, except that a covered institution's employment of campus police is governed by the provisions of this 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 are eligible to participate in the same state-sponsored retirement plans on the same terms and conditions as campus police officers of other public institutions of higher education.

2005, cc. 933, 945, § 23-38.102; 2016, c. 588.

§ 23.1-1012. Covered institutions; operational authority; financial operations generally.

A. Each covered institution may (i) independently manage its operations and finances, including holding and investing its tuition, fees, research funds, and auxiliary enterprise funds and all other public funds; (ii) create any policy deemed necessary to conduct its financial operations; (iii) adopt the budget for the institution; and (iv) 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, the governing board of each covered institution has the sole authority to establish tuition, 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 general appropriation act. In the event that the institution retains any nongeneral funds, it shall invest such funds consistent with an investment policy established by the governing board and retain all income earned on such investments. In the event that the Commonwealth holds any nongeneral funds on behalf of the institution, 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 § 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 shall include the quantification of cost savings realized as a result of the restructured operational authority pursuant to this article.

E. Each covered institution may enter into any contract 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, including contracts commonly known as interest rate swap agreements, futures, and contracts providing for payments based on levels of, or changes in, interest rates. Each covered institution may enter into such contracts in connection with, 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 § 23.1-1013. Such contracts 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 that may be appropriate. Any money set aside and pledged to secure

payments of bonds, notes, or other obligations or any contract entered into pursuant to this section may be pledged to and used to service any such contract.

F. The governing board of 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.

2005, cc. 933, 945, §§ 23-38.104, 23-38.106; 2016, c. 588.

§ 23.1-1013. Covered institutions; operational authority; financial operations; investment of operating funds.

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 board shall adopt written investment guidelines 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.

2005, cc. 933, 945, § 23-38.105; 2016, c. 588.

§ 23.1-1014. Covered institutions; operational authority; financial operations; financing and indebtedness.

A. Each covered institution may:

1. Borrow money and issue bonds, notes, or other obligations as provided in this article and 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 may borrow money and make and issue negotiable notes, bonds, notes, or other obligations 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 is exempt from any requirement or covenant contained in any outstanding bonds, notes, or other obligations.

2005, cc. 933, 945, § 23-38.107; 2016, c. 588; 2017, c. 314.

§ 23.1-1015. Covered institutions; operational authority; financial operations; power to issue bonds, notes, or other obligations.

A. Notwithstanding the provisions of § 23.1-1119, a covered institution may (i) issue bonds, notes, or other obligations for any purpose that is consistent with its institutional mission, including to (a) finance or refinance any project, (b) appropriately manage operational cash flows, (c) provide for short-term financing, (d) refund bonds, notes, or other obligations issued by or on behalf of such institution,

or otherwise, including bonds, notes, or other obligations or obligations not then subject to redemption, and (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.

B. Nothing in this article shall preclude a covered institution from participation in any financing program or bond issue established and implemented by the Commonwealth or any agency of the Commonwealth, including (i) any financing program or bond issue under Article X, Section 9 (b) or 9 (c) of the Constitution of Virginia and (ii) any financing program or bond issue under Article X, Section 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 and approved to participate and is otherwise able to fulfill any requirements that may be imposed upon it by virtue of its participation.

C. Notwithstanding Article 8 (§ 2.2-2415 et seq.) of Chapter 24 of Title 2.2, Chapter 11 (§ 23.1-1100 et seq.), and § 23.1-2205, each covered institution may issue bonds, notes, or other obligations consistent with debt capacity and management policies and guidelines established by its governing board without (i) obtaining the consent of any legislative body, elected official, commission, board, bureau, political subdivision, or agency of the Commonwealth; (ii) any proceedings or conditions other than those specifically required by this article; (iii) the approval required by the provisions of Article 8 (§ 2.2-2415 et seq.) of Chapter 24 of Title 2.2; or (iv) any regulation or procedure, including a review or approval procedure, adopted pursuant to Chapter 11 (§ 23.1-1100 et seq.).

D. Each covered institution may issue such types of bonds, notes, or other obligations as it determines are appropriate and consistent with debt capacity and management policies and guidelines established by its governing board, including 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, whether or not 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.

E. Any bonds, notes, or other obligations may be supported by any grant, contribution, or appropriation from a participating political subdivision, the covered institution, the Commonwealth, any political subdivision, agency, or instrumentality of the Commonwealth, any federal agency, or any unit, private corporation, partnership, association, or individual.

F. Bonds, notes, or other obligations of a covered institution are for an essential public and governmental purpose.

G. It is lawful for any bank or trust company within or outside the Commonwealth to serve as depository of the proceeds of bonds, notes, or other obligations or other revenues of a covered institution, furnish indemnifying bonds, notes, or other obligations, or pledge such securities as may be required by such institution, provided that any such deposits 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 Article 3 (§ 6.2-1047 et seq.) of Chapter 10 of Title 6.2 in the case of a trust company.

2005, cc. 933, 945, § 23-38.108; 2016, c. 588.

§ 23.1-1016. 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 the institution's governing board.

C. Except as otherwise provided in subdivision 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 such departments.

D. Capital projects undertaken at a covered institution are subject to the institution's capital project policies adopted pursuant to subsection A and:

1. Any capital project undertaken at a covered institution that costs $300,000 or more is subject to the environmental, historic preservation, and conservation requirements of state law that are generally applicable to capital projects in the Commonwealth;

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 supported by general funds, the project shall remain subject to the pre-appropriation approvals that are in effect within the executive and legislative branches of state government but may be exempt under the management agreement from any 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 such departments; and

3. If a covered institution constructs improvements on land or renovates property that was originally 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 supported by general funds, and such improvements or renovations are undertaken entirely with funds not appropriated by the General Assembly, such improvements or renovations shall be consistent with such institution's

master plan approved by its governing 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.

E. Each covered institution may designate a full-time employee to be its own building official and may determine the suitability for occupancy of and issue certifications for building occupancy for all capital projects undertaken at such institution. Such building official shall:

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;

2. Report directly and exclusively to the governing board of the institution and be subject to review by the appropriate personnel in the Department of General Services;

3. Be certified by the Department of Housing and Community Development to perform this function; 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 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.

2005, cc. 933, 945, § 23-38.109; 2016, c. 588.

§ 23.1-1017. Covered institutions; operational authority; procurement.

A. Subject to the express provisions of the management agreement, each covered institution may be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for §§ 2.2-4340, 2.2-4340.1, 2.2-4340.2, and 2.2-4342, which 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 in the management agreement shall be uniform across all covered institutions and (ii) the governing board of 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, (b) in each instance seek competition to the maximum practical degree, (c) implement a system of competitive negotiation for professional services pursuant to §§ 2.2-4303.1 and 2.2-4302.2, (d) prohibit discrimination in the solicitation and award of contracts on the basis of the bidder's or offeror's race,

religion, color, sex, sexual orientation, gender identity, national origin, 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, (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 (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 pre-qualification 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 other states, the District of Columbia, the territories, or the United States, and any combination of such organizations and entities.

C. Nothing in this section shall preclude a covered institution from requesting and utilizing the assistance of the Virginia Information Technologies Agency for information technology procurements and covered institutions are encouraged to utilize such assistance.

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.

E. As part of any procurement provisions of the management agreement, the governing board of a covered institution shall identify the public, educational, and operational interests served by any procurement rule that deviates from procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

2005, cc. 933, 945, § 23-38.110; 2011, c. 332; 2013, c. 583; 2015, cc. 760, 776; 2016, c. 588; 2020, cc. 496, 497, 1137.

§ 23.1-1018. Covered institutions; operational authority; information technology.

Subject to the terms of the management agreement, 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, if the governing board of such covered institution adopts and the covered institution complies with (i) policies for the procurement of information technology goods and services, including professional services, that are consistent with the requirements of § 23.1-1017 and include provisions addressing cooperative arrangements for such procurement as described in § 23.1-1017 and (ii) institutional policies and professional best practices regarding stra-

tegic planning for information technology, project management, security, budgeting, infrastructure, and ongoing operations.

2005, cc. 933, 945, § 23-38.111; 2010, cc. 136, 145; 2016, c. 588.

§ 23.1-1019. Covered institutions; operational authority; property, grants, and loans.

A. Nothing in this section shall limit or reduce the authority granted to a covered institution in §§ 23.1-1016 and 23.1-1028 concerning the planning, design, construction, and implementation of capital projects and leases.

B. Each covered institution may continue to hold, possess, operate, and dispose of any real, personal, tangible, or intangible property that such covered institution held, possessed, or operated prior to the effective date of its initial management agreement as follows:

1. For real property, including land, buildings, and any improvements to land or buildings, 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 shall (i) hold, possess, and operate such property in accordance with the institution's enabling statutes, this article, and any policies adopted by the governing board of the institution pursuant to this article and (ii) dispose of such property in accordance with general law applicable to state-owned property and the institution's enabling statutes.

2. For real property, including land, buildings, and any improvements to land or buildings, 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 statutes, notwithstanding the provisions of this article, the approval requirements of subdivision B 1 of § 23.1-1301, and any policies adopted by the governing board of the institution pursuant to this article.

3. For personal property, the covered institution shall hold, possess, operate, and dispose of such property in accordance with the institution's enabling statutes, this article, and any policies adopted by the governing board of the institution pursuant to this article.

C. After the effective date of the initial management agreement, a covered institution may acquire any real property, construct improvements 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:

1. For real property, including land, buildings, and improvements to land and buildings, 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 shall (i) hold, possess, and operate such property in accordance with the institution's enabling statutes, this article, and any policies adopted by the governing board of the institution pursuant to this article, and (ii) dispose of such property in accordance with general law applicable to state-owned property and with the covered institution's enabling statutes.

2. For real property, including land, buildings, and improvements to land or buildings, acquired with any funds in the covered institution's possession 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 institution shall hold, possess, operate, dispose of, and otherwise deal with such property, or any right, easement, estate, or interest 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 statutes, notwithstanding the provisions of this article, the approval requirements of subdivision B 1 of § 23.1-1301, and any policies adopted by the governing board of the institution pursuant to this article.

3. For personal property, the institution shall hold, possess, operate, and dispose of such property in accordance with the institution's enabling statutes, this article, and any policies adopted by the governing board of the institution pursuant to this article.

D. With the approval of the Governor or as otherwise provided by law, and consistent with subsections B and C, a covered institution may (i) sell, assign, encumber, mortgage, demolish, or otherwise dispose of any project, any other real, personal, tangible, or intangible property, any right, easement, estate, or interest 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 (ii) do any of the foregoing by public or private transaction.

E. A covered institution may accept loans, grants, contributions, or other assistance from the federal government, the Commonwealth, any political subdivision of the Commonwealth, or any other public or private source to carry out its mission as a public institution of higher education and any of the purposes of this article. A covered institution may enter into any agreement or contract regarding the acceptance, use, or repayment of any such loan, grant, contribution, or assistance and may enter into other agreements with any such entity in furtherance of the purposes of this article.

F. Localities may lend or donate money or other property to a covered institution for any of the institution's purposes. Any local government making a grant or loan may restrict the use of the grant or loan to a specific project, within or outside such locality.

G. Notwithstanding any other provision of this chapter, no covered institution shall take action with regard to any real or personal property if such action would be deemed to be in violation of any requirement or covenant contained in any outstanding bonds, notes, or other obligations.

2005, cc. 933, 945, § 23-38.112; 2016, c. 588.

§ 23.1-1020. Covered institutions; operational authority; human resources; covered employees generally.

A. Each covered employee shall continue to be a state employee who is governed by and eligible to participate in the human resources and benefits programs that governed him and in which he was eligible to participate immediately prior to the effective date of the initial management agreement for the covered institution by which he is employed, 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 pursuant to 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. All human resources programs, plans, policies, and procedures established by the governing board of a covered institution pursuant to this article shall apply to and govern all participating covered employees, except as provided in § 23.1-1022.

C. All covered institutions are responsible for meeting the human resource reporting requirements established by the Governor and General Assembly.

2005, cc. 933, 945, § 23-38.114; 2016, c. 588.

§ 23.1-1021. 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 board of each covered institution may elect to adopt for its nonfaculty participating 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 contract with another covered institution or 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.

C. Each covered institution may (i) establish a human resources program or programs for participating covered employees who are not subject to a human resources program established pursuant to subsection B, including a program or programs relating to such employees that its enabling statutes

authorizes it to employ and (ii) contract for such consultants, attorneys, accountants, financial experts, and independent providers of expert advice and consultation as such institution deems necessary or desirable to assist in the establishment of such program.

D. Any human resources program adopted by the governing board of a covered institution for participating 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 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 Forces of the United States or the Virginia National Guard.

2005, cc. 933, 945, § 23-38.116; 2016, c. 588.

§ 23.1-1022. Covered institutions; operational authority; human resources; election by certain covered employees.

A. If the governing board of a covered institution establishes a human resources program or programs pursuant to § 23.1-1021, a salaried nonfaculty covered employee who was employed by the covered institution on the day prior to the effective date of the initial management agreement, except employees of the University of Virginia Medical Center, 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 board of the covered institution pursuant to § 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 (a) a comparison of the state program and the institution's program, including an assessment of compensation and benefits, and (b) an opportunity to 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 who elects to participate in and be governed by the human resources program or programs established by the governing board of the covered institution pursuant to § 23.1-1021 shall be deemed to have elected to be eligible to participate in and be governed by the human resources plans, programs, policies, and procedures adopted by the covered institution for his employment classification pursuant to §§ 23.1-1024, 23.1-1025, and 23.1-1026.

2005, cc. 933, 945, § 23-38.115; 2016, c. 588.

§ 23.1-1023. Covered institutions; operational authority; human resources; grievance procedures.
A. No covered institution is exempt from the State Grievance Procedure (§ 2.2-3000 et seq.), which shall continue to apply to all eligible nonfaculty covered employees of a covered institution. The governing board of each covered institution shall adopt policies that encourage the resolution of employment-related problems and complaints of its nonfaculty covered employees. Such policies shall provide that nonfaculty covered employees of the institution 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.) shall apply (i) to the covered institution's nonfaculty participating 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 and (ii) to the covered institution's salaried nonfaculty covered employees who have elected pursuant to § 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. The grievance policies that were applicable to faculty covered employees prior to the effective date of the initial management agreement shall continue in effect but may be amended by the covered institution.

C. A covered institution 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 the grievance policies adopted pursuant to subsection A.

2005, cc. 933, 945, § 23-38.117; 2016, c. 588.

§ 23.1-1024. Covered institutions; operational authority; human resources; miscellaneous personnel matters.
A. Each covered institution shall base all appointments, promotions, and tenure 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 or change in rate of pay shall become effective except on order of the appointing covered institution.

C. No 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 abstain from smoking or using tobacco products outside the course of his employment, provided that this subsection shall not apply to those classes of employees to which § 27-40.1 or 51.1-813 is applicable.

2005, cc. 933, 945, § 23-38.118; 2016, c. 588.

§ 23.1-1025. Covered institutions; operational authority; human resources; certain insurance plans.
A. Insurance plans provided under this article and all proceeds 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 made through completion of forms provided by the covered institution or its vendor and (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.

B. Each covered institution (i) shall purchase or make available group life and accidental death and dismemberment insurance plans covering in whole or in part those of its participating covered employees eligible to participate in the Virginia Retirement System and (ii) may purchase or make available such additional insurance plans covering its participating covered employees as it deems appropriate. Participating covered employees shall not be required to present evidence of insurability satisfactory to an insurance company for basic group life insurance coverage. Each covered institution shall offer all salaried participating covered employees basic group life insurance at a level of coverage determined by the institution's governing board. A covered institution may require participating 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 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 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 with the same terms, costs, conditions, and benefits as other state employees.

C. For those of its participating 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), (ii), and (iii). A covered institution may require participating covered employees to pay all or a portion of the cost of the insurance coverage offered pursuant to clause (i), (iii), or (iv), which may be collected through a payroll deduction program. However, no such covered institution shall be required to contribute to the program established for state agencies on behalf of participating covered employees who do not participate in that program.

D. If a covered institution's governing 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, or both, may participate in any future insurance programs established for state employees with the same terms, conditions, and benefits as other state employees.

2005, cc. 933, 945, § 23-38.119; 2016, c. 588.

§ 23.1-1026. Covered institutions; operational authority; human resources; severance policies.
A. Each covered institution shall adopt a severance policy for its eligible participating covered employees that is applicable to voluntary 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.

B. The terms and conditions of a covered institution's severance policy for eligible participating covered employees shall be determined by the institution's governing 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 who participate in the Virginia Retirement System.

C. Covered 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 the effective date of the initial management agreement, (ii) would otherwise be eligible for severance benefits under the Workforce Transition Act (§ 2.2-3200 et seq.), and (iii) are separated by a covered institution because of a reduction in workforce have the same preferential hiring rights with state agencies and other executive branch institutions as other state employees have under § 2.2-3201. 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 and (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 § 23.1-1021 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 is a participating covered employee for purposes of this article. Classification decisions that are made pursuant to this subsection and apply to employees transferring between state agencies, between other executive branch institutions and covered institutions, and between covered institutions as a result of a reduction in workforce and with the preferential hiring rights provided in this subsection and in § 2.2-3201 are presumed appropriate, and a separated employee who grieves the classification decision bears the burden of demonstrating that the classification violates the separated employee's preferential hiring rights.

D. An employee's transition from being an employee of a public institution of higher education to being a 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 workforce that would make either the covered institution's severance policy adopted pursuant to subsection A or the Workforce Transition Act (§ 2.2-3200 et seq.) applicable to that employee.

2005, cc. 933, 945, § 23-38.120; 2016, c. 588; 2017, c. 314.

§ 23.1-1027. Covered institutions; duties; tuition, fees, rentals, and other charges.
Each covered institution shall fix, revise, 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.

2005, cc. 933, 945, § 23-38.103; 2016, c. 588.

§ 23.1-1028. Covered institutions; duties; leases of property.
The governing board of 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 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 and provisions of general law that expressly apply to covered institutions, such institutions are exempt from any state or local statutes, ordinances, rules, regulations, and guidelines relating to (i) operating/income leases of real property by public entities and (ii) except as otherwise provided in §§ 23.1-1016 and 23.1-1019, capital leases.

2005, cc. 933, 945, § 23-38.113; 2016, c. 588.

Chapter 11 - BONDS AND OTHER OBLIGATIONS

§ 23.1-1100. Definitions.
As used in this chapter, unless the context requires a different meaning:

"Board" means the members of the board of visitors, board of trustees, or other governing board of an institution.

"Bond" means any bond, note, or other evidence of indebtedness or obligation of an institution issued by an institution pursuant to this chapter.

"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 that is necessary or convenient to carry out the purposes of an institution, including 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, athletics facilities, garages, parking facilities, warehouses and storage buildings, and book and student supplies centers, or (b) building, land, appurtenance, furnishing, or equipment necessary or desirable in connection with or incidental to a project or (ii) any personal property at an institution.

1933, p. 83, § 23-15; 1946, p. 184; 1964, c. 635; 1996, cc. 672, 689; 2016, c. 588.

§ 23.1-1101. Powers of institutions vested in majority of members of board; quorum.

The powers of each institution derived directly or indirectly from this chapter are vested in and may be exercised by a majority of the members of its board, and a majority of such board constitutes a quorum for the transaction of any business authorized by this chapter.

1933, p. 83, § 23-14; 1946, p. 183; 1956, c. 373; 1960, c. 180; 1962, c. 69; 1964, cc. 358, 440, 635; 1966, c. 616; 1972, cc. 550, 861; 1974, c. 317; 1975, c. 396; 1976, c. 189; 1977, cc. 296, 319, 668; 1979, cc. 136, 145; 1987, c. 329; 1992, c. 103; 1999, cc. 424, 437; 2000, cc. 108, 671; 2001, c. 578; 2002, cc. 87, 158, 257, 478; 2004, cc. 176, 195, 857; 2005, cc. 774, 799; 2006, cc. 808, 842; 2008, c. 56; 2013, c. 805; 2015, cc. 369, 542; 2016, c. 588.

§ 23.1-1102. Purpose of institutions.

In addition to any other purposes provided by law or otherwise, the purpose of every institution is to acquire, install, modify, and erect projects.

1933, p. 85, § 23-17; 1996, cc. 672, 689; 2016, c. 588.

§ 23.1-1103. Institutions; powers generally.

Any institution may, in its proper corporate name and style:

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.

2. Adopt and alter a common seal.

3. Acquire and hold real or personal property or interests in such property in its own name.

4. Execute any instrument that it deems necessary or convenient to carry out the purposes of this chapter.

5. With the consent of the Governor, issue bonds and provide for and secure the rights of the bondholders.

6. Perform any act authorized by this chapter through its own officers, agents, or employees, or by contracts with private corporations, firms, or individuals.

7. Perform any act that it deems necessary or convenient to carry out the powers and purposes expressly provided in this chapter.

1933, p. 84, § 23-16; 2016, c. 588.

§ 23.1-1104. Institutions; powers; projects and bonds.

With the prior consent of the Governor, any institution may acquire any project by purchase, gift, or otherwise, erect any project, or refinance the cost of acquiring or erecting any project, and in connection with any such acquisition, erection, or refinancing, any institution may borrow money; make, issue, and sell its bonds as provided in this chapter; and enter into and perform all lawful contracts and agreements, do all lawful acts necessary or proper, and make such lawful contracts and agreements and perform all such lawful acts as may be necessary, proper, or advisable for the purpose of obtaining or securing grants, loans, or financial assistance of any kind under any act of Congress or the Commonwealth.

1933, p. 85, § 23-18; 1946, p. 184; 1966, c. 572; 2016, c. 588.

§ 23.1-1105. Institutions; powers; borrowing upon endowment and other investments.

A. Any institution may, with the approval of the Governor and upon the affirmative vote of at least two-thirds of its board, borrow sums that it deems necessary for and in the name of the institution and secure payment of such sums by the pledge of any stock, note, bond, and other asset held by such institution as a part of its endowment funds or unrestricted gifts from private sources.

B. Any institution may issue bonds pursuant to this section in one or more series, and such bonds shall bear such date, mature at such time, bear interest at such rate or rates not exceeding the rate specified in § 23.1-1112 that is payable at such time, 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 board of such institution may provide by resolution.

C. Any bonds issued pursuant to this section may be sold at public or private sale for such price or prices as the board determines. The interest cost to maturity of the moneys received for any such issue of bonds shall not exceed the rate specified in § 23.1-1112. Bonds so issued and the interest thereon (i) is payable only out of the sale or liquidation of the endowment investments, investments of unrestricted gifts from private sources, and interest accruing on such sale, liquidation, or investment that is pledged to secure the bonds so issued and (ii) is not a general obligation of such institution, the

Commonwealth, the Governor, the members of the board of such institution, or any person executing the bonds so issued.

D. All moneys received or derived from the sale of any bonds issued pursuant to this section are a part of the local funds of the institution and are not state funds.

E. Each institution may use funds available for such purpose to purchase any bond issued pursuant to this section at a price not more than the sum of the principal amount of such bond and accrued interest thereon. Any bond so purchased shall be canceled unless purchased as an endowment fund investment. This subsection shall not apply to the redemption of bonds.

F. Any bond issued pursuant to this section is a security in which all public officers and bodies of the Commonwealth and its political subdivisions, insurance companies and associations, and savings banks and savings institutions, including savings and loan associations, in the Commonwealth may properly and legally invest funds under their control.

G. Any bond issued pursuant to this section, the transfer of such bond, and the income from such bond, including any profit derived from the sale of such bond, is exempt from taxation by the Commonwealth or by any locality or political subdivision of the Commonwealth.

H. Any resolution of the board authorizing the issuance of bonds pursuant to this section may contain any provision that is authorized 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 bonds.

§ 23-30.01; 2016, c. 588.

§ 23.1-1106. Bonds generally.

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 may execute its bonds in an aggregate principal amount determined by its board, approved by the Governor, and approved by the Treasury Board pursuant to § 2.2-2416. Such aggregate principal amount may include any cost associated with the development and management of the project, legal or accounting expenses incurred by the institution in connection with the project for which such bonds are issued, and the cost of issuing the bonds, including printing, engraving, advertising, legal, and other similar expenses.

C. Bonds issued pursuant to this chapter shall:

1. Be subject to approval by the Governor and authorization by resolution of the board, and any such resolution may contain provisions, which shall be part of the contract with the bondholders, relating to:

a. Fixing, revising, charging, and collecting fees, rents, and charges for or in connection with the use, occupation, or services of the project or pledging such fees, rents, and charges and any increase in revenues derived from any existing facilities at such institution resulting from any increase in such fees, rents, or charges to the payment of the principal of and the interest on such bonds;

b. Fixing, revising, charging, and collecting fees, rents, and charges for or in connection with the use, occupation, or services of any existing facility at such institution and pledging such fees, rents, and charges to the payment of the principal of and the interest on such bonds;

c. Fixing, revising, charging, and collecting student building fees and other student fees from students enrolled at such institution and pledging all or part of such fees to the payment of the principal of and the interest on such bonds;

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 moneys appropriated to such institution from the general fund of the Commonwealth or from nongeneral funds 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;

e. Paying the cost of operating and maintaining any project and any such existing facilities from any revenue source mentioned in subdivision a, b, c, or d, creating reserves for such purposes, and providing for the use and application of such reserves;

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 of such reserves;

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 in such project or other existing facilities;

h. Limiting the purposes to which the proceeds of sale of any issue of bonds may be applied;

i. Limiting the issuance of additional bonds;

j. Setting forth the procedure by which the terms of any contract with the bondholders may be amended or abrogated and the manner in which such bondholders may give consent to any such amendment or abrogation; and

k. Setting forth such other conditions precedent as may be required by the United States or any federal agency to obtain a direct grant or loan to erect or defray the cost of labor and material to erect any project from the United States or any federal agency, 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 general appropriation act;

4. Be pledged pursuant to a resolution of the board and payable only from the revenue sources set forth in subdivisions 1 a, b, c, and 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 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. Neither the Governor nor the members of the board nor any person executing bonds pursuant to this chapter are liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance of such bonds.

F. Any institution may purchase with funds available for such purchase any bond that it has issued at a price not more than the sum of the principal amount and accrued interest. All bonds so purchased shall be cancelled unless purchased as an endowment fund investment. Nothing in this subsection shall be construed to apply to the redemption of bonds.

G. In any case in which an institution obtains a loan from the United States or any federal agency 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 and pledge such securities to meet the debt service requirements if the

revenues derived from any source set forth in 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 is the value of any securities so deposited. Nothing in this subsection shall be construed 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 such securities are purchased with funds whose use is in no way limited or restricted or are donated to such institution for the purpose of establishing such debt service reserve.

1933, p. 85, § 23-19; 1936-7, p. 28; 1946, p. 184; 1950, p. 366; 1954, c. 397; 1958, cc. 17, 486; 1959, Ex. Sess., c. 61; 1962, c. 373; 1964, c. 635; 1970, c. 609; 1990, cc. 54, 856; 1996, cc. 636, 656, 672, 689; 2016, c. 588.

§ 23.1-1107. Bondholders; remedies and trustees.

A. The provisions of this section shall apply to an issuance of bonds only if the resolution authorizing such bonds provides that the bondholders are entitled to all the benefits of and subject to the provisions of this section.

B. If any institution (i) defaults on the payment of principal of or interest on any series of its bonds after the payment becomes due, whether at maturity or upon call for redemption, and such default continues for a period of 30 days; (ii) fails or refuses to comply with the provisions of this chapter; or (iii) defaults on any agreement made with the bondholders of any series, the holders of 25 percent of the aggregate principal amount of the bonds of such series then outstanding, by instrument 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 bondholders of such series for the purposes provided in this section.

C. The trustee may, and upon written request of the holders of 25 percent of the aggregate principal amount of the bonds of such series then outstanding shall, in his own name:

1. By mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the 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 or (ii) carry out and perform any other agreements with the bondholders of such series and their duties under this chapter;

2. Bring suit upon such bonds;

3. By action or suit in equity, require such institution to account as if it were the trustee of an express trust for the bondholders; and

4. By action or suit in equity, enjoin any acts that may be unlawful or in violation of the rights of the bondholders.

D. If the resolution that authorizes any bond contains the provision required by subsection A and provides that any trustee appointed by the bondholders pursuant to this section has the powers provided by this subsection, then any such trustee, whether or not all such bonds have been declared

due and payable, is entitled to the appointment of a receiver who may (i) enter and take possession of any property of the institution from which any of the revenues are pledged for the security of the bonds of the holders that are represented by such trustee, (ii) operate and maintain such property, and (iii) collect and receive all fees, rents, charges, and other revenues arising from such property in the same manner as the institution is permitted to do and shall deposit all such moneys in a separate account and apply all such moneys in such manner as the court directs. In any suit, action, or proceeding by the trustee, any fees, counsel fees, and expenses of the trustee and receiver 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. Each trustee appointed pursuant to subsection B has all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of the bondholders he represents in the enforcement and protection of their rights.

1933, p. 87, § 23-20; 1946, p. 186; 2016, c. 588.

§ 23.1-1108. Bonds mutilated, lost, or destroyed.

If any bond issued by an institution is mutilated, lost, or destroyed, the board may execute and deliver a new bond of like date, number, and tenor in exchange and substitution for, and upon cancellation of a mutilated bond and its interest coupons or in lieu of and in substitution for 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 (i) has paid the reasonable expense and charges in connection 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 bondholder was the owner of the bond; and (iii) has furnished indemnity satisfactory to the State Treasurer.

1962, c. 205, § 23-20.1; 2016, c. 588.

§ 23.1-1109. Bonds and revenues; disposition.

All moneys derived from the sale of bonds pursuant to § 23.1-1106 and all revenues derived from any source set forth in subdivision C 1 a, b, or c of § 23.1-1106, except those moneys that are exempt from deposit into the state treasury, shall be paid into the state treasury, set aside in special funds, and devoted solely to the payment of (i) the cost of erecting the project for which such bonds have been issued, (ii) the principal of and the interest on such bonds, and (iii) the cost of maintenance and operation of such project and any other existing facilities for which 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 specifically appropriated for 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.

1933, p. 88, § 23-21; 1946, p. 187; 1962, c. 373; 1964, c. 635; 1997, c. 308; 2016, c. 588.

§ 23.1-1110. Bonds as legal investments.

Any bonds issued pursuant to this chapter are securities in which all public officers and bodies of the Commonwealth and its political subdivisions, insurance companies and associations, and savings banks and savings institutions, including savings and loan associations, in the Commonwealth may properly and legally invest funds in their control.

1933, p. 90, § 23-23; 2016, c. 588.

§ 23.1-1111. Bonds; prohibition against obligating Commonwealth.

The bonds and other obligations of an institution are not a debt of the Commonwealth, do not create or constitute any indebtedness or obligation of the Commonwealth, legal, moral, or otherwise, and are not payable out of any funds other than those of the institution. Nothing in this chapter shall be construed to authorize any institution to incur any indebtedness on behalf of the Commonwealth or in any way to obligate the Commonwealth.

1933, p. 91, § 23-24; 2016, c. 588.

§ 23.1-1112. Bonds; interest.

No bond issued by an institution pursuant to this chapter shall (i) bear interest at an annual percentage rate exceeding the greater of the rates authorized under § 6.2-303 or 15.2-2612 or (ii) be sold at public or private sale such that the interest cost to maturity exceeds the greater of such annual percentage rates authorized under § 6.2-303 or 15.2-2612.

1970, c. 609, § 23-30.03; 2016, c. 588.

§ 23.1-1113. Bonds; surplus to be paid into state treasury.

When any institution fully meets and discharges its bonds, interest thereon, 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 bondholders and pays in full or otherwise discharges all of its liabilities incurred pursuant to this chapter, such institution shall pay into the state treasury all such sums of money it receives pursuant to the provisions of this chapter or that are derived from any project erected pursuant to this chapter as may be in its possession or control.

1933, p. 91, § 23-28; 2016, c. 588.

§ 23.1-1114. Projects; accounts to be kept by boards.

The board of each institution shall keep and preserve complete and accurate accounts of all sums of money received and disbursed to acquire, erect, lease, operate, or maintain any project and any other existing facilities, including a complete and accurate record of all revenues derived from any source set forth in subdivision C 1 a, b, c, or d of § 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 this chapter. The annual portion of such revenues that are not required to discharge any obligation, liability, or debt of the institution incurred in connection with the project or other existing facilities, including the creation of reserves for such purposes, shall be paid into the state treasury as provided in § 23.1-1109.

1933, p. 89, § 23-22; 1962, c. 373; 1964, c. 635; 1984, c. 734; 2016, c. 588.

§ 23.1-1115. Projects; exemption from taxation.

The acquisition, erection, leasing, operation, and maintenance of any project authorized by this chapter are for the benefit of the citizens of the Commonwealth, for the increase of their pleasure, knowledge, and welfare, and for the dissemination of education among them. Each institution performs a governmental function and is an incorporated institution of learning in carrying out its purposes and exercising its powers pursuant to this chapter and, so far as may be consistent with the Constitution of Virginia, is not required to pay taxes or assessments of any kind upon any project that it (i) acquires, erects, or leases and (ii) operates and maintains. Any such project is exempt from taxation and, insofar as may be permitted under the Constitution of Virginia, the bonds of such institution are exempt from taxation except for inheritance taxes.

1933, p. 91, § 23-25; 2016, c. 588.

§ 23.1-1116. Commonwealth not to limit revenues of institutions.

The Commonwealth shall not (i) limit or alter the rights vested in any institution to establish, collect, and pledge fees, rents, and charges, including student building fees and other student fees, as provided for in subdivision C 1 a, b, c, or d of § 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 fulfill the terms of any agreement made with the bondholders or (ii) in any way impair the rights and remedies of such bondholders until the bonds, the interest thereon, 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 bondholders are fully met and discharged.

1933, p. 91, § 23-26; 1962, c. 373; 1964, c. 635; 2016, c. 588.

§ 23.1-1117. Borrowing to purchase real estate.

A. Any institution may, with the approval of the Governor and upon the affirmative vote of at least two-thirds of its board, (i) borrow for and in the name of the institution such sums as it determines necessary for the acquisition of improved or unimproved real estate whether such acquisition is for the purpose of erecting a project and (ii) secure payment of such debts by a lien on such real estate or the pledge of any endowment funds or unrestricted gifts from private sources available for the use of such institution that are not required by law or by previous binding contract to be devoted to some other purpose.

B. Bonds issued by an institution pursuant to this section and the interest thereon shall be paid only from the real estate, endowment funds, or unrestricted gifts from private sources pledged to secure the bonds so issued or the proceeds from the sale or liquidation of such real estate, funds, or gifts, and shall not constitute a general obligation of such institution, the Commonwealth, the Governor, the members of the board, or any person executing the bonds so issued.

C. Any bonds issued by an institution pursuant to this section are securities in which all public officers and bodies of the Commonwealth and its political subdivisions, insurance companies and

associations, and savings banks and savings institutions, including savings and loan associations, in the Commonwealth may properly and legally invest funds under their control.

D. Any bonds issued pursuant to this section, the transfer of such bonds, or the income from such bonds, including any profit derived from the sale of such bonds, is exempt from taxation by the Commonwealth or any locality or political subdivision of the Commonwealth.

E. Any board resolution authorizing the issuance of bonds pursuant to this section may contain any provision authorized by this chapter in connection with the issuance of bonds by institutions. Such provision shall be part of the contract with the holders of such bonds.

1970, c. 609, § 23-30.02; 1981, c. 505; 2016, c. 588.

§ 23.1-1118. Discretion of Governor in granting or withholding consent or approval.
The Governor is vested with absolute discretion with respect to withholding or granting any consent or approval made pursuant to this chapter.

1933, p. 91, § 23-27; 2016, c. 588.

§ 23.1-1119. Payment of interest on bonds of the Commonwealth held by public institutions of higher education and private institutions of higher education.
The Comptroller shall draw upon the state treasury in favor of the proper authorities of any public institution of higher education or private institution of higher education for all accrued interest, upon all obligations of the Commonwealth or the James River and Kanawha Company guaranteed by the Commonwealth that are held by or for such institution. No interest shall be paid upon any such bonds.

Code 1919, § 990, § 23-5; 2016, c. 588.

§ 23.1-1120. Exchange and cancellation of consol coupon bonds of the Commonwealth.
The following sections of the Code of Virginia of 1919 are continued in effect:

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

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

Code 1919, §§ 991, 992, § 23-6; 2016, c. 588.

§ 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 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.

§ 23-30; 2016, c. 588.

§ 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 or the charter or other organic law of any institution, the provisions of this chapter control.

1933, p. 92, § 23-29; 1962, c. 577; 1964, c. 90; 1997, c. 310; 2016, c. 588.

Chapter 12 - VIRGINIA COLLEGE BUILDING AUTHORITY

Article 1 - GENERAL PROVISIONS; POWERS AND DUTIES

§ 23.1-1200. Definitions; findings.

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

"Authority" means the Virginia College Building Authority.

"Bond" means any bond, note, or other evidences of indebtedness or obligation of the Authority pursuant to this article.

"Eligible institution" means public institutions 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 computer hardware and software, and any other improvements, including infrastructure improvements relating to equipment, used to support academic instruction and research at eligible institutions.

"Project" has the same meaning as set forth in § 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 institutions 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.

1964, c. 607, § 23-30.24; 1966, c. 685; 1986, c. 597; 1996, cc. 672, 689; 2016, c. 588.

§ 23.1-1201. Virginia College Building Authority established.

A. The Virginia College Building Authority is established as a public body corporate and a political subdivision, agency, and instrumentality of the Commonwealth. The Authority is vested with the powers, rights, and duties conferred in this chapter.

B. The Authority shall consist of the State Treasurer, the State Comptroller, the Director of the Department of Planning and Budget, and the Director of the Council, all of whom shall serve ex officio, and seven additional members appointed by the Governor, subject to confirmation by the General Assembly. Each member shall serve at the pleasure of the Governor. Appointed members shall serve for a term of four years. Ex officio members shall serve terms coincident with their terms of office. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No appointed member shall serve more than two consecutive terms.

C. The Governor shall appoint one member as chairman who shall serve a two-year term. No member 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 determines. No ex officio member is eligible to serve as chairman.

D. The Authority shall elect one appointed member 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 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 and the secretary and the assistant secretary shall execute a surety bond in such penal sum as shall be determined by the Attorney General to be (i) conditioned upon the faithful performance of the duties of his office, (ii) executed by a surety company authorized to transact business in the Commonwealth as surety, (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.

1964, c. 607, § 23-30.25; 1966, c. 685; 1980, c. 728; 1986, c. 597; 2011, cc. 691, 714; 2016, c. 588.

§ 23.1-1202. Action by Authority may be authorized by resolution.

The Authority may authorize any action taken by the Authority pursuant to the provisions of this article by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

1964, c. 607, § 23-30.35; 1966, c. 685; 2016, c. 588.

§ 23.1-1203. Powers of Authority generally.

To enable the Authority to carry out the purposes for which it is established, the Authority may:

1. Sue and be sued;

2. Make contracts;

3. Adopt, use, and alter a common seal;

4. Have perpetual succession as a public body corporate;

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

6. Maintain an office at such place as it may designate;

7. Collect, or authorize the trustee under any trust indenture securing any bonds of the Authority to collect, (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 eligible institutions, including lease payments and other sources of revenue, as such principal, interest, and other assets or moneys become due;

8. Conduct a program of purchasing equipment for eligible institutions as authorized by this article;

9. Collect, or authorize the trustee under any trust indenture securing any bonds of the Authority to collect, (i) payments due under leases or agreements of sale of equipment or leases or other obligations of real property by the Authority to eligible institutions as such payments become due and (ii) the principal of and the interest on all bonds of eligible institutions purchased by the Authority;

10. Repossess and sell, or 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;

11. Repossess and re-lease, or 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;

12. Assist eligible institutions in applying for grants from, or entering into other 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;

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;

14. Select, appoint, and employ financial experts, corporate depositories, trustees, paying agents, attorneys, accountants, consulting engineers, construction experts, and other individuals to perform such other services as may be necessary in the judgment of the Authority and pay their compensation and reasonable expenses either from moneys received by the Authority under the provisions of this article or from appropriations made by the General Assembly for such purposes;

15. Issue bonds of the Authority as authorized by this article and refund any such bonds;

16. Receive and accept any grants, aid, or contributions of money, property, labor, or other things of value from any source or reject any such grants, aid, or contributions; and

17. Perform any other act necessary, appropriate, incidental, or convenient to carrying out the powers expressly granted in this article.

1964, c. 607, § 23-30.31; 1966, c. 685; 1986, c. 597; 1996, cc. 672, 689; 2016, c. 588.

§ 23.1-1204. Duties; administration of assets, moneys, or obligations.

The Authority shall manage and administer all assets, moneys, or obligations set aside and transferred to it by the General Assembly or eligible institutions as provided in this article.

1966, c. 685, § 23-30.26; 1996, cc. 672, 689; 2016, c. 588.

§ 23.1-1205. Powers; purchase or sale of bonds or other obligations of eligible institutions.

A. The Authority 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 determines, bonds or other obligations issued by eligible institutions pursuant to Chapter 11 (§ 23.1-1100 et seq.).

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 bonds of eligible institutions so purchased, including payments of principal and interest thereon, as such payments become due. The Authority may, subject to any such pledge, sell any such bonds so purchased and apply the proceeds of such sale (i) to purchase like bonds of other eligible institutions or (ii) for the purpose and in the manner provided by any resolution authorizing the issuance of bonds of the Authority.

1966, c. 685, § 23-30.27; 2016, c. 588.

§ 23.1-1206. Powers; acquisition or disposition of equipment.

A. The Authority may (i) acquire equipment or any interest in equipment by purchase, exchange, gift, lease, or otherwise; (ii) sell, exchange, donate, convey, lease, and dispose of such equipment or any portion of or interest in such equipment, including security interests in such equipment; and (iii) retain or receive security interests in such equipment.

B. Notwithstanding any other provision of law to the contrary, eligible institutions may grant security interests in or other liens on equipment held or acquired by the eligible institution under any lease or agreement of sale with the Authority.

C. The Authority 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 determines, provided that the Authority finances the acquisition of equipment for sale to eligible institutions only pursuant to standards and procedures approved through the Commonwealth's budget and appropriation process. The budget document shall present 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 may establish and maintain such accounts as it deems appropriate to provide funds for acquisition of equipment on a continuing basis. The Authority may deposit in such accounts such funds as it deems appropriate, including the proceeds of any Authority bonds issued to finance the purchase of equipment and payments made to the Authority under equipment lease or sale agreements with eligible institutions or other entities. Any moneys held in such accounts may be (i) used to secure payment of principal of and interest on any Authority bonds, whether issued to finance the purchase of equipment, issued to pay administrative costs of the authority, or incurred in connection with the purchase, lease, or sale of equipment, or (ii) transferred by the Authority to be used in connection with any other program of the Authority. 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 of higher education pursuant to Article 2 (§ 23.1-1220 et seq.).

E. The Authority may (i) determine and charge rent or determine sale prices for equipment that it leases or sells to eligible institutions and terminate such lease or sale agreements upon the failure of an eligible institution to comply with any obligations contained in such agreements or (ii) include in such lease agreements options for the eligible institution to renew the lease or 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.

1986, c. 597, § 23-30.27:1; 2016, c. 588.

§ 23.1-1207. Powers; bonds of Authority generally.

A. To provide funds for the purchase of bonds of eligible institutions as authorized by § 23.1-1205, the acquisition of equipment as authorized by § 23.1-1206, the reimbursement of the Central Capital Planning Fund established pursuant to § 2.2-1520, the payment of pre-planning or detailed planning expenses for all projects that have been approved for construction by the General Assembly, or the payment of all or any part of the cost of any project or any portion of a project, the Authority may provide by resolution for the issuance of bonds of the Authority in such amount as the Authority determines. Such bonds of the Authority are payable solely from funds of the Authority, including (i) payments of principal of and interest on bonds of eligible institutions purchased by the Authority; (ii) the proceeds of the sale of any such 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 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 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 § 23.1-1206; (x) any reserve or sinking 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 article do not 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 their face a statement to the effect that neither the faith and credit nor the taxing power of the Commonwealth or of any political subdivision of the Commonwealth shall be pledged to pay the principal of or the interest on such bonds.

C. The bonds of each issue shall be dated and mature at such time 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, at such rate or rates, and in such manner as may be determined by the Authority, including the determination by agents designated by the Authority under guidelines established by it. The principal of and interest on such bonds may be made payable in any lawful medium. The Authority shall determine the form, manner of execution, denomination, and place of payment of principal and interest for the bonds, which may be at the office of the State Treasurer or at any bank or trust company within or outside the Commonwealth.

D. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons 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 article, other than bonds registered as to principal or in registered form, are negotiable instruments. Revenue bonds shall be in such form 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 as the Authority may determine. The principal of and premium, if any, and interest on revenue bonds are payable in United States currency. The Authority shall fix the denomination of revenue bonds and place of payment of principal, premium, if any, and interest at any bank or trust company within or 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 bonds issued under the provisions of this article in such manner, either at public or private sale, and for such price as it determines to be in its best interest. The proceeds of such bonds shall be disbursed for the purposes for which such bonds are issued and under such restrictions, if any, as the resolution authorizing the issuance of such bonds or the trust indenture 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 have been executed and are available for delivery. The Authority may also provide for the replacement of any bond that becomes mutilated or 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 that are specified and required by this article.

I. Neither the members of the Authority nor any person executing any bonds issued under the provisions of this article is liable personally on such bonds or is subject to any personal liability or accountability by reason of the issuance of such bonds.

J. The Authority shall not undertake a project for an eligible institution if such project was not approved by the General Assembly pursuant to a bill, and any such project to be financed by bonds issued by the Authority secured by a pledge of any revenue source cited in subdivision C 1 a, b, c, or d of § 23.1-1106 shall be designated by the eligible institution's governing board as a project to be undertaken by the Authority.

1964, c. 607, § 23-30.28; 1966, c. 685; 1986, c. 597; 1994, cc. 191, 219; 1996, cc. 672, 689; 2000, cc. 414, 445; 2004, c. 711; 2008, Sp. Sess. I, cc. 1, 2; 2016, c. 588.

§ 23.1-1208. Security for bonds.

A. The Authority may secure any bonds issued under the provisions of this 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 outside the Commonwealth. Such trust indenture or the resolution providing for the issuance of such bonds may:

1. Pledge or assign all or part of the funds of the Authority available for such purpose, including (i) payments of principal of and interest on bonds of eligible institutions purchased by the Authority; (ii) proceeds of the sale of any such 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 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 eligible institution in, or other liens on, equipment, whether such equipment has been leased or sold to an eligible institution; (vii) all or part of the payments due the Authority from eligible institutions under any lease, sale agreement, loan, or other agreement between the Authority and eligible institutions pursuant to § 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 fund established pursuant to § 23.1-1206; (x) any reserve or sinking fund created by the Authority to secure such bonds; and (xi) other available funds of the Authority;

2. Pledge or assign any other rights of the Authority in equipment owned by, or leases or sales of equipment made by, the Authority;

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;

4. Provide for the creation and maintenance of such reserves as the Authority determines to be proper;

5. Include covenants setting forth the duties of the Authority in relation to the acquisition of any equipment or bonds of eligible institutions; the care, leasing, or sale of equipment to eligible institutions; the substitution of any bonds of eligible institutions, equipment, 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 of and interest on any bonds of eligible institutions or obligations or other assets held by the Authority. Any bank or trust company incorporated under the laws of the Commonwealth that acts as depository of the proceeds of bonds or revenues may furnish such indemnifying bonds or pledge such securities as may be required by the Authority;

6. Set forth the rights and remedies of the bondholders and the trustee;

7. Restrict the individual right of action by bondholders; and

8. Contain such other provisions as the Authority 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.

1964, c. 607, § 23-30.29; 1966, c. 685; 1986, c. 597; 1996, cc. 672, 689; 2016, c. 588.

§ 23.1-1209. Reserve fund; limitations.

A. If the Authority deems it proper to create a reserve fund from its bond proceeds or other funds to support an issuance of bonds in accordance with the provisions of this section, all moneys held in such reserve fund, except as 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. The Authority may transfer income or interest earned on, or increment to, any reserve fund to its other funds or accounts if such transfer does not reduce the amount of the reserve fund below its minimum requirement.

B. 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 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. Any sum 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 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.

1996, cc. 672, 689, § 23-30.29:1; 2016, c. 588.

§ 23.1-1210. Payment on bonds; pledge of revenues.

To provide funds for the repayment of bonds issued by the Authority to (i) purchase any eligible institution's bonds or (ii) provide funds to pay all or part of the cost of any project or any portion of a project, each eligible institution may agree to pledge and transfer to the Authority all or part of the eligible institution's revenues derived from any source mentioned in subdivision C 1 a, b, c, or d of § 23.1-1106. Any agreement relating to such transfer may contain other provisions that the Authority and eligible institution deem reasonable and proper and are not in violation of law. No such agreement shall 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 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 the Secretary of Finance and the Secretary of Education.

1996, cc. 672, 689, § 23-30.29:2; 2016, c. 588.

§ 23.1-1211. 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 an eligible institution has defaulted on the payment of the principal of or premium, if any, or interest on its bonds pursuant to this 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, 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 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 shall be credited as if made directly by the eligible institution and charged by the State Comptroller against the appropriations of the eligible institution. The owners or paying agent of the bonds in default at the time of 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 board of the defaulting eligible institution under the provisions of this section.

C. The Governor shall direct the State Comptroller to (i) charge against the appropriations available to 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 (ii) make such payments to the owners or paying agent of the bonds on behalf of the eligible institution to ensure that no future default will occur on such bonds. The charge and payment shall be made upon receipt of documentation that the State Comptroller deems to be satisfactory evidence of the claim. The owners or paying agent of 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.

1996, cc. 672, 689, § 23-30.29:3; 2016, c. 588; 2017, c. 314.

§ 23.1-1212. Investment of funds.

Any moneys or funds held by the Authority or the trustee under any trust indenture under the provisions of this 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.

1966, c. 685, § 23-30.30; 2016, c. 588.

§ 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 article or any of the coupons appertaining to such bonds and (ii) trustee under any trust indenture 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, the trust indenture, or the resolution authorizing the issuance of such bonds and (b) enforce and compel the performance of all duties required by this article or such trust indenture or resolution to be performed by the Authority or by any officer of the Authority, except to the extent that such rights are restricted by the trust indenture or the resolution authorizing the issuance of such bonds.

1964, c. 607, § 23-30.32; 1966, c. 685; 2016, c. 588.

§ 23.1-1214. Exemption of bonds from taxation.

The bonds issued by the Authority under the provisions of this article, the transfer of such bonds, and the income from such bonds, including any profit made on the sale of such bonds, is exempt from taxation by the Commonwealth and any locality or political subdivision of the Commonwealth.

1964, c. 607, § 23-30.33; 1966, c. 685; 2016, c. 588.

§ 23.1-1215. Bonds made lawful investments.

All bonds issued by the Authority under the provisions of this article are securities (i) in which all public officers and bodies of the Commonwealth and its localities and political subdivisions and all insurance companies and associations, 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 and (ii) that may properly and legally be deposited with and received by any state 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 authorized by law.

1964, c. 607, § 23-30.34; 1966, c. 685; 2016, c. 588.

§ 23.1-1216. Annual report; examination of records, books, and accounts.

A. The Authority shall submit 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 are subject to examination and inspection by duly authorized representatives of the General Assembly and any bondholder at any reasonable time, provided that such examination and inspection do not unduly interrupt or interfere with the business of the Authority.

1964, c. 607, § 23-30.36; 1966, c. 685; 1984, c. 734; 1985, c. 146; 2004, c. 650; 2016, c. 588.

§ 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 shall be borne by the Authority.

1987, c. 74, § 23-30.36:1; 2016, c. 588.

§ 23.1-1218. Article liberally construed; powers of Authority not subject to supervision by certain entities.

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

B. Except as otherwise expressly provided in this article, none of the powers granted to the Authority under the provisions of this article are subject to the supervision or regulation or require the approval or consent of (i) any locality or political subdivision of the Commonwealth or (ii) any commission, board, bureau, official, or agency of (a) any such locality or political subdivision or (b) the Commonwealth.

1964, c. 607, § 23-30.37; 1966, c. 685; 2015, c. 709; 2016, c. 588.

§ 23.1-1219. Jurisdiction of suits against Authority; service of process.

The Circuit Court of the City of Richmond has exclusive jurisdiction over any suit brought in 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.

1964, c. 607, § 23-30.38; 1966, c. 685; 2016, c. 588.

Article 2 - NONPROFIT PRIVATE INSTITUTIONS OF HIGHER EDUCATION; PROJECTS

§ 23.1-1220. Definitions.

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

"Authority" means the Virginia College Building Authority established in § 23.1-1200.

"Bonds" or "revenue bonds" means revenue bonds of the Authority issued under the provisions of this article, including revenue refunding bonds, notes, and other obligations that may be secured by a mortgage, the full faith and credit, or any other lawfully pledged security of a participating institution.

"Costs" 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 in connection with a project; (ii) the cost of demolishing or removing any building or structure on land acquired in connection with a project, including the cost of acquiring any lands to which such building or 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, and estimates of cost and 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 constructing and acquiring the project, financing such construction, acquiring the project, and placing the project in operation.

"Participating institution" means any (i) organization that is exempt from federal income taxation pursuant to § 501(c)(3) of the Internal Revenue Code and that is owned or controlled by a public institution of higher education or whose purpose is to support or otherwise benefit a public institution of higher education or (ii) nonprofit private 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 that (a)(1) finances and constructs or (2) acquires a project or (b) refunds or refinances obligations, a mortgage, or advances as provided in this article.

"Project" means a structure 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, athletics facility, health care facility, maintenance, storage or utility facility, any related structure or facility, or any other structure or facility required or useful for instructing students, conducting research, or operating an institution of higher education, including parking facilities and other facilities or structures essential or convenient for the orderly conduct of such institution of higher education. "Project" includes landscaping, site preparation, furniture, equipment and machinery, and other similar items necessary or convenient for the intended use of a particular facility or structure. "Project" does not include books, fuel, supplies, or other items whose costs are customarily deemed to result in a current operating charge, any facility used for sectarian instruction or as a place of religious worship, or any facility used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

1972, c. 686, § 23-30.41; 1973, c. 205; 2016, cc. 532, 588, 658.

§ 23.1-1221. Declaration of policy and purpose.

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 develop their intellectual and mental capacities and (ii) participating institutions 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.

B. The purpose of this article is to provide a measure of assistance and an alternative method to enable participating institutions to provide the facilities and structures that are sorely needed to accomplish the purposes of this article, all to the public benefit and good, to the extent and manner provided in this article.

1972, c. 686, § 23-30.39; 2016, c. 588.

§ 23.1-1222. Expenses of administering article.

All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the provisions of this article, and no liability or obligation shall be incurred by the Authority pursuant to this article beyond the extent to which moneys have been provided under the provisions of this article.

1972, c. 686, § 23-30.43; 2016, c. 588.

§ 23.1-1223. Powers and duties of Authority.

A. The Authority shall assist participating institutions in the acquisition, construction, financing, and refinancing of projects.

B. The Authority may:

1. Determine the location and character of any project to be financed under the provisions of this article;

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

3. Enter into contracts for any purpose set forth in subdivision 2;

4. Enter into contracts for the management and operation of any project;

5. Issue bonds, bond anticipation notes, and other obligations of the Authority for any of its corporate purposes and fund or refund such bonds, bond anticipation notes, or other obligations as provided in this article;

6. Fix, revise, charge, and collect rates, rents, fees, and charges for the use of and for the services furnished by a project or any portion of a project;

7. Contract with any person, partnership, association, corporation, or other entity to fix, revise, charge, and collect rates, rents, fees, and charges pursuant to subdivision 9;

8. Designate a participating institution as its agent to take actions pursuant to subdivisions 1 through 4, 6, and 7;

9. Establish regulations for the use of a project or any portion of a project or designate a participating institution as its agent to establish regulations for the use of a project in which such institution is participating;

10. Employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as it deems necessary and determine their compensation;

11. Receive and accept from any public agency loans or grants for or in aid of the construction of a project or any portion of a project;

12. Receive and accept from any source loans, grants, aid, or contributions of 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;

13. Mortgage any project and the site of any project for the benefit of the holders of revenue bonds issued to finance such project;

14. Make loans to any participating institution for the cost of a project in accordance with an agreement between the Authority and such institution, but no such loan shall exceed the total cost of the project as determined by such institution and approved by the Authority;

15. Make loans to participating institutions to refund outstanding obligations, mortgages, or advances issued, made, or given by such participating institutions for the cost of a project;

16. Charge to and equitably apportion among participating institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this article; and

17. Do all things necessary or convenient to carry out the purposes of this article.

C. In carrying out the purposes of this article, the Authority may undertake a joint project for two or more participating institutions, and all other provisions of this article shall apply to and for the benefit of the Authority and the institutions of higher education participating in such joint project.

1972, c. 686, § 23-30.42; 2016, cc. 532, 588, 658.

§ 23.1-1224. 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 project for any participating institutions, including any revenue refunding bonds issued to refund and refinance such revenue bonds, have been fully paid and retired or (b) adequate provision has been made to fully pay and retire 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 of such resolution or trust agreement, the Authority shall convey title to such project to such participating institution free and clear of all liens and encumbrances if title to such project is not yet vested in such participating institution.

1972, c. 686, § 23-30.45; 2016, c. 588.

§ 23.1-1225. Powers; acquisition of property.

The Authority may, directly or through a participating institution as its agent, acquire by (i) purchase solely from funds provided under the provisions of this 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, 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 it deems reasonable and can be agreed upon between it and the owner of the property and take title to the property in the name of the Authority or any participating institution as its agent.

1972, c. 686, § 23-30.44; 2016, c. 588; 2017, c. 314.

§ 23.1-1226. Powers; issuance of negotiable notes.

The Authority may issue negotiable notes for any corporate purpose or renew any notes by the issuance of new notes, whether or not the notes to be renewed have matured. The Authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. Such notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any resolution authorizing notes or any issuance of notes by the Authority may contain any provision that the Authority may include in any resolution authorizing revenue bonds or any issuance of revenue bonds by the Authority, and the Authority may include in any note any term, covenant, or condition that it may include in any bond. All such notes are payable solely from the revenues of the Authority, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

1972, c. 686, § 23-30.46; 2016, c. 588.

§ 23.1-1227. Powers; issuance of revenue bonds.

A. The Authority may 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 article are negotiable for all purposes, notwithstanding their payment from a limited source and without regard to any other law.

B. In anticipation of the sale of such revenue bonds, the Authority may issue and renew negotiable bond anticipation notes, but the maximum maturity of any such note, including renewals, shall not exceed five years from the date on which the original note was issued. Such notes shall be paid from any revenues of the Authority available for such purpose and not otherwise pledged or from the proceeds of sale of the Authority's revenue bonds issued in anticipation of such sale. Such notes shall be issued in the same manner as the revenue bonds. Such notes and the resolution authorizing such notes may contain any provisions, conditions, or limitations that the Authority may include in a bond resolution.

C. The revenue bonds and notes of every issue are payable solely out of revenues to the Authority, subject only to any agreement with (i) the holders of particular revenue bonds or notes to pledge any particular revenues or (ii) any participating institution.

D. Revenue bonds and notes 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. Revenue bonds may be issued as serial bonds, term bonds, or both. Revenue bonds shall be authorized by resolution of the members of the Authority and bear such date, mature at such time, not exceeding 50 years from such date, bear interest at such rate or rates that is payable at such time, be in such denomination, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful United States currency at such place, and be subject to such terms of redemption as such resolution provides. Revenue bonds or notes may be sold at

public or private sale for such price or prices as the Authority determines. Pending preparation of the definitive bonds, the Authority may issue interim receipts or certificates that shall be exchanged for such definitive bonds.

F. Any resolution authorizing revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of such revenue bonds, relating to:

1. Pledging all or any part of the revenues of a project, to any revenue-producing contract made by the Authority with any individual, partnership, corporation, association, or other public or private body to secure the payment of the revenue bonds or any particular issue of revenue bonds, subject to any existing agreements with bondholders;

2. Charging rentals, fees, and other charges and setting forth the amounts to be raised annually with such charges and the use and disposition of the revenues;

3. Establishing, setting aside, regulating, and disposing of reserves or sinking funds;

4. Limiting the right of the Authority or its agent to restrict and regulate the use of the project;

5. Limiting the purpose to which the proceeds of the sale of any issue of revenue bonds 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. Limiting the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

7. Establishing a procedure by which the terms of any contract with bondholders may be amended or abrogated that includes the number of bondholders required to consent to such amendment or abrogation and the manner in which such consent may be given;

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 acts or omissions 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. Setting forth the duties, obligations, and liabilities of any trustee or paying agent; and

11. Mortgaging a project and the site of such project for the purpose of securing the bondholders.

G. Neither the members of the Authority nor any person executing revenue bonds or notes is liable personally on the revenue bonds or notes or is subject to any personal liability or accountability by reason of the issuance of such revenue bonds or notes.

H. The Authority 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.

1972, c. 686, § 23-30.47; 2016, c. 588.

§ 23.1-1228. Powers; security for revenue bonds.

A. The Authority may secure any revenue bonds issued under the provisions of this article by a trust agreement between the Authority and a corporate trustee 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 pledged, (ii) convey or mortgage the project or any portion of the project, or (iii) contain provisions for protecting and enforcing the rights and remedies of the bondholders that the Authority deems reasonable and proper and are not in violation of law, including provisions that may be included in any resolution of the Authority authorizing revenue bonds pursuant to this article.

B. Any bank or trust company incorporated under the laws of the Commonwealth that may act as depository of the proceeds of bonds, 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 the trustee and restrict the individual right of action by bondholders.

D. Any such trust agreement or resolution may contain such other provisions as the Authority 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.

1972, c. 686, § 23-30.48; 2016, c. 588.

§ 23.1-1229. 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 the services furnished by each project and contract with any person, partnership, association, corporation, or other public or private body to perform such acts. The aggregate of such rates, rents, fees, and charges shall be fixed and adjusted to provide funds that, when combined with other revenues, is sufficient to (i) pay the uncovered cost of maintaining, repairing, and operating each portion of the project; (ii) pay the principal of and the interest on outstanding revenue bonds of the Authority as such principal and interest becomes due and payable; and (iii) create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such revenue bonds of the Authority. No such rate, rent, fee, or charge shall be subject to supervision or regulation by any department, commission, board, body, bureau, or agency of the Commonwealth other than the Authority.

B. The Authority shall set aside in a sinking fund or other similar fund a sufficient amount of the revenues derived from a project, except the part of such revenues that is necessary to pay the cost of maintenance, repair, and operation of the project, provide reserves, or make renewals, replacements, extensions, enlargements, and improvements as set forth in the resolution authorizing the issuance of any revenue bonds of the Authority or in the trust agreement securing 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 such principal and interest becomes due and the redemption or purchase price of bonds retired by call or purchase as 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 is valid and binding from the time when the pledge is made. The rates, rents, fees, and charges and other revenues or moneys so pledged and received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery or further act. The lien of any such pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of whether such parties have notice of such lien. No resolution 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 is subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Such sinking fund or other similar fund is a fund for all such revenue bonds issued to finance a project by a participating institution, without distinction or priority of one revenue bond over another, but the Authority may provide in any such resolution or trust agreement (i) that such sinking fund or other similar fund is the fund for a particular project by a participating institution and the revenue bonds issued to finance a particular project and (ii) for the issuance of revenue bonds having a subordinate lien 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 with respect to such subordinate lien bonds.

1972, c. 686, § 23-30.50; 2016, cc. 532, 588, 658.

§ 23.1-1230. Powers; issuance of refunding revenue bonds.

A. The Authority may provide for the issuance of revenue bonds to (i) refund any of its outstanding revenue bonds, including the payment of any redemption premium thereon and any interest accrued or to accrue on the earliest or any subsequent date of redemption, purchase, or maturity of such revenue bonds 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 of a project.

B. The Authority may (i) apply the proceeds of any revenue bonds issued to refund outstanding revenue bonds to purchase, retire at maturity, or redeem such outstanding revenue bonds either on their earliest or any subsequent redemption date, upon their purchase, or at their maturity 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, retirement, or redemption on the date that it determines.

C. The Authority may invest and reinvest proceeds placed in escrow pursuant to subsection B in direct obligations of the United States, certificates of deposit, or time deposits secured by direct obligations of the United States that mature at such time as is appropriate to ensure the prompt payment of principal, interest, and any redemption premium 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 earned or realized on any such investment to 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 earned or realized on the investments on such proceeds may be returned to the Authority for its lawful use.

D. The Authority may invest or reinvest the portion of the proceeds of any revenue bonds issued to pay all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project in direct obligations of the United States or certificates of deposit or time deposits secured by direct obligations of the United States that mature not later than the time when such proceeds are needed to pay all or any part of such cost. The Authority may apply any interest, income, and profits earned or realized on such investment to the payment of all or any part of such cost or use such interest, income, and profits in any lawful manner.

E. All refunding revenue bonds issued pursuant to this section are subject to the provisions of this article in the same manner and to the same extent as other revenue bonds issued pursuant to this article.

1972, c. 686, § 23-30.54; 2016, c. 588.

§ 23.1-1231. Revenue bonds not obligations of Commonwealth or political subdivision.

Revenue bonds issued under the provisions of this article (i) do not constitute a debt, liability, or pledge of the faith and credit of the Commonwealth or any political subdivision of the Commonwealth and (ii) are payable solely from the funds provided from revenues as set forth in this article. Each such revenue bond shall state on its face that (a) neither the Commonwealth nor the Authority is obligated to pay such revenue bonds or the interest thereon except from revenues of the project or the portion of the project for which they are issued and (b) neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision 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 article shall not directly, indirectly, or contingently obligate the Commonwealth or any political subdivision of the Commonwealth to levy or pledge any form of taxation for such bonds or make any appropriation for their payment.

1972, c. 686, § 23-30.49; 2016, c. 588.

§ 23.1-1232. Moneys received deemed trust funds.

All moneys that the Authority receives pursuant to this article, whether as proceeds from the sale of bonds or as revenues, are trust funds to be held and applied solely as provided in this article. Any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this article, the resolution authorizing the bonds of any issue, or the trust agreement securing such bonds.

1972, c. 686, § 23-30.51; 2016, c. 588.

§ 23.1-1233. Remedies of bondholders 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 article or any of the coupons appertaining to any such obligation and (ii) trustee under any trust agreement, except to the extent that such rights 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 all rights under the laws of the Commonwealth or such resolution or trust agreement and (b) enforce and compel the performance of all duties required by this article or by such resolution or trust agreement to be performed by the Authority or any officer, employee, or agent of the Authority, including the fixing, charging, and collecting of the rates, rents, fees, and charges authorized by this article and required by the provisions of such resolution or trust agreement to be fixed, charged, and collected.

1972, c. 686, § 23-30.52; 2016, c. 588.

§ 23.1-1234. Exemption from taxation.

Neither the Authority nor its agent are required to pay any taxes or assessments upon or with respect to a project, any property acquired or used by the Authority or its agent under the provisions of this article, or the income from any such project or property. Any bonds issued under the provisions of this article, the transfer of such bonds, and the income from such bonds, including any profit made on the sale of such bonds, are exempt from taxation of any kind by the Commonwealth and the localities and other political subdivisions of the Commonwealth.

1972, c. 686, § 23-30.53; 2016, c. 588.

§ 23.1-1235. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this article are securities (i) in which all public officers and bodies of the Commonwealth and its political subdivisions, 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 and (ii) that may properly and legally be deposited with and received by any officer of the Commonwealth or any of its localities or any agency or political subdivision of the Commonwealth for any lawful purpose.

1972, c. 686, § 23-30.55; 2016, c. 588.

§ 23.1-1236. Nature of article.

This article is supplemental and additional to powers conferred by other laws, but the issuance of revenue bonds and revenue refunding bonds under the provisions of this article need not comply with the requirements of any other law applicable to the issuance of bonds. Except as otherwise expressly provided in this article, no power granted to the Authority under the provisions of this article is subject to the supervision or regulation of or requires the approval or consent of the Commonwealth, any locality or political subdivision of the Commonwealth, or any department, division, commission, board, body, bureau, official, or agency of any such locality or political subdivision.

1972, c. 686, § 23-30.56; 2016, c. 588.

§ 23.1-1237. Article liberally construed.

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

1972, c. 686, § 23-30.57; 2016, c. 588.

§ 23.1-1238. Article controls inconsistent laws.

To the extent that the provisions of this article are inconsistent with the provisions of any general statute or special act or parts thereof, the provisions of this article control.

1972, c. 686, § 23-30.58; 1973, c. 205; 2015, c. 709; 2016, c. 588.

Chapter 12.1 - Tech Talent Investment Program

§ 23.1-1239. Definitions.

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

"Designated reviewers" means the Secretaries of Education and Finance, the director of the Department of Planning and Budget, the director of the Council, the president of the Virginia Economic Development Partnership, and the staff directors of the House Committee on Appropriations and the Senate Committee on Finance, or their designees.

"Eligible degree" means a new bachelor's or master's degree, or a certificate issued by a baccalaureate public institution of higher education in association with a bachelor's degree, in the field of computer science, computer engineering, or other closely related fields of study, or that otherwise aligns with traded-sector, technology-focused growth opportunities identified by the Virginia Economic Development Partnership Authority.

"Fund" means the Tech Talent Investment Fund.

"Grant" means a grant paid from the Tech Talent Investment Fund.

"Memorandum of understanding" means the negotiated instrument entered into by a qualified institution and the Commonwealth, regardless of whether the terms of the memorandum of understanding are encompassed or included within any other institutional partnership or performance agreement required by law. A memorandum of understanding shall contain criteria for eligible degrees, eligible expenses, and degree production goals for a period ending in 2039.

"New bachelor's and master's degrees" means the awarding of eligible degrees produced by a qualified institution to meet the degree production goals set forth in a qualified institution's memorandum of understanding.

"Qualified institution" means (i) any associate-degree-granting public institution of higher education, as defined in § 23.1-100, that has a transfer plan that culminates in an eligible degree and (ii) any baccalaureate public institution of higher education, as defined in § 23.1-100.

2019, cc. 638, 639.

§ 23.1-1240. Tech Talent Investment Fund created.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Tech Talent Investment Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for 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 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 to fund grants approved pursuant to the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.

B. Moneys in the Fund shall be used to support the efforts of qualified institutions to increase by fiscal year 2039 the number of new eligible degrees by at least 25,000 more degrees than the number of such degrees awarded in 2018 and to improve the readiness of graduates to be employed in technology-related fields and fields that align with traded-sector growth opportunities identified by the Virginia Economic Development Partnership. Funds from the Fund may be used to support admissions and advising programs designed to convey labor market information to students to guide decisions to enroll in eligible degree programs and academic programs and to fund facility construction, renovation, and enhancement and equipment purchases related to the initiative to increase the number of eligible degrees awarded.

2019, cc. 638, 639.

§ 23.1-1241. Approval and update of memorandum of understanding.

A. In order to support the goal of the creation of at least 25,000 new eligible degrees by 2039, the amount of grants available under this chapter shall be calculated in accordance with a memorandum of understanding negotiated with each qualified institution. Each memorandum of understanding shall contain criteria for eligible degrees, eligible expenses, and degree production goals for the institution to reach by 2039.

B. Each memorandum of understanding shall be structured in accordance with and be consistent with the objectives and purposes of this chapter and the criteria and requirements developed by, and in the form and manner prescribed by, the Secretary of Finance in consultation with the other designated reviewers. Such criteria and requirements shall include:

1. The submission of an enrollment plan by the qualified institution detailing the number of eligible degrees produced between July 1, 2013, and June 30, 2018;

2. A detailed plan of (i) how the qualified institution proposes to materially increase the enrollment, retention, and graduation of students pursuing eligible degrees, (ii) the resources necessary to accomplish such increase in enrollment, retention, and graduation, and (iii) how the qualified institution plans to track new enrollment;

3. An accounting of the anticipated number of in-state and out-of-state students enrolling in eligible degree programs;

4. The existing capacity of current eligible degree programs, and an estimate of the amount of funding necessary to grow the qualified institution's enrollment capacity pursuant to the plan submitted pursuant to subdivision 2;

5. Where applicable, proposed plans to partner with other qualified institutions to provide courses or programs that will lead to the completion of an eligible degree;

6. Where applicable, existing or proposed articulation agreements with the Virginia Community College System to provide guaranteed admission for qualified students with an associate degree for transfer into an eligible degree program;

7. A proposed reallocation of existing funds held by or appropriated to the qualified institution to meet increased enrollment, retention, and graduation goals in eligible degree programs; and

8. Any other information deemed relevant.

C. The designated reviewers shall review each qualified institution's proposed memorandum of understanding, or amendments thereto; provide comments or affirmation to the qualified institution by September 1 of the applicable year; and forward the proposed memorandum of understanding and any comments or affirmations to the Governor for approval of specific funding recommendations.

D. The Secretary of Finance, in consultation with the other designated reviewers, shall make a recommendation regarding the amount of annual grant payments for which a qualified institution may be eligible pursuant to its memorandum of understanding. In determining the appropriate amount of such grants, the Secretary and designated reviewers shall consider (i) the actual cost of eligible degrees at the qualified institution, (ii) the number of students enrolled in qualified degree programs adjusted for actual graduation rates at the qualified institution, (iii) tuition revenues generated by in-state and out-of-state students in eligible degree programs at the qualified institution, and (iv) the reallocation of other funds held by or appropriated to the qualified institution for eligible new degree programs. A qualified institution shall be eligible to receive grants pursuant to this chapter, and subject to appropriation, upon signature of the memorandum of understanding by the Governor.

E. A qualified institution with an approved memorandum of understanding may request an update to its memorandum of understanding no more than once annually and no later than July 1 of each year. The designated reviewers shall review the request and determine if an update is warranted. The Secretary of Finance, in consultation with the other designated reviewers, may request that a qualified institution update its agreement at any point during the year. No amendment to a memorandum of understanding shall be final until signed by the Governor.

F. A new or amended memorandum of understanding shall be approved and signed pursuant to subsection D no later than November 1 in order for a qualified institution to apply for a grant in the next fiscal year.

2019, cc. 638, 639.

§ 23.1-1242. Eligibility for grant payments.

A. A qualified institution with a memorandum of understanding approved and signed in accordance with the provisions of § 23.1-1241 shall be eligible to apply for a grant each fiscal year beginning with the Commonwealth's fiscal year beginning July 1, 2019, through the Commonwealth's fiscal year

starting on July 1, 2038. Grants available under this chapter shall be paid to the qualified institution from the Fund, subject to appropriation by the General Assembly, during each such fiscal year, contingent upon the qualified institution's meeting the requirements set forth in its memorandum of understanding. If the total amount of moneys appropriated to the Fund in a fiscal year is less than anticipated, grants to all qualified institutions under this chapter may be prorated to reflect the actual amount appropriated.

B. To apply for a grant each year, a qualified institution shall report to the Secretary of Finance regarding the qualified institution's progress on increasing the number of eligible degrees and meeting the requirements pursuant to its memorandum of understanding. Such report shall include, at a minimum: (i) progress on increasing the number of eligible degrees, as set forth in the memorandum of understanding, including actual enrollment in qualified degree programs; (ii) the aggregate number of new eligible degrees created and maintained as of the last day of the calendar year that immediately precedes the date of the application, including information related to the retention of students who enrolled in the calendar year immediately preceding the application; and (iii) the average annual cost incurred in the production of the new eligible degrees described in clause (ii). For applications filed four years or more after the date of a qualified institution's original memorandum of understanding, the qualified institution shall also include actual graduation rates from qualified degree programs. The report shall be filed with the Secretary no later than May 1 of the year following the calendar year upon which the report is based, as an application for a grant in the fiscal year beginning on the immediately following July 1. Failure to meet the reporting deadline shall result in a deferral of a payment in the upcoming fiscal year.

C. A report received pursuant to subsection B shall be reviewed by the designated reviewers. Within 60 days of receipt of the report, the Secretary of Finance, in consultation with the other designated reviewers, shall certify to the Comptroller and the qualified institution the amount of the grant payment to be paid to the qualified institution, subject to appropriation. Payment of such grant shall be made by check issued by the State Treasurer on warrant of the Comptroller in the fiscal year immediately following the submission of such application, as provided in the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks for the grant installments under this section without a specific appropriation for the same.

D. As a condition of receipt of grant payments, a qualified institution shall make available for inspection to the designated reviewers all documents relevant and applicable to determining whether the qualified institution has met the requirements for the receipt of a grant as set forth in this chapter and subject to the memorandum of understanding.

E. Failure of a qualified institution to meet the goals, metrics, and requirements set forth in its memorandum of understanding shall result in the adjustment of any future awards to the qualified institution to reflect such discrepancy.

2019, cc. 638, 639.

§ 23.1-1243. Annual report.

The Secretary of Finance, in consultation with the other designated reviewers, shall submit a report by December 1 of each year to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Such report shall provide an update as to the progress of each qualified institution in meeting the goals set forth in its memorandum of understanding and the aggregate amount of grants awarded to the qualified institution pursuant to this chapter.

2019, cc. 638, 639.

Subtitle IV - Public Institutions of Higher Education

Chapter 13 - Governing Boards of Public Institutions of Higher Education

§ 23.1-1300. Members of governing boards; removal; terms; nonvoting, advisory representatives; residency.

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 qualified. 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 a public institution of higher education 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 § 23.1-1304 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. No member of the board of visitors of a baccalaureate public institution of higher education or the State Board for Community Colleges who fails to attend the educational programs required by § 23.1-1304 during his first four-year term is eligible for reappointment to such board.

F. The governing board of each public institution of higher education shall adopt in its bylaws policies (i) for removing members pursuant to subsection E and (ii) referencing the Governor's power to remove members described in subsection C.

G. The governing board of each public institution of higher education and each local community college board may appoint one or more nonvoting, advisory faculty representatives to its respective board. In the case of local community college boards and boards of visitors, such representatives shall be chosen from individuals elected by the faculty or the institution's faculty senate or its equivalent. In the case of the State Board, such representatives shall be chosen from individuals elected by the Chancellor's Faculty Advisory Committee. Such representatives shall be appointed to serve (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 and the Chancellor's Faculty Advisory Committee, or by the local community college board or the board of visitors, and the institution's faculty senate or its equivalent.

H. The board of visitors of any 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.

I. Nothing in subsections G and H shall prohibit 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 matter.

J. The president or any one of the vice presidents of the board of visitors of Virginia Military Institute, the chairman or the vice-chairman of the State Board, and the rector or vice-rector of the governing board of each other public institution of higher education shall be a resident of the Commonwealth.

K. No baccalaureate public institution of higher education shall employ an individual appointed by the Governor to the board of visitors of such institution within two years of the expiration of his term. Such prohibition shall not apply to the employment of an individual to serve as an institution president or, in the case of Virginia Military Institute, the Superintendent.

Code 1919, §§ 807, 835, 859, 935, §§ 23-41, 23-70, 23-72, 23-93, 23-95, 23-115, 23-117; 1924, p. 145; 1930, pp. 80, 81, 739; 1936, p. 262; 1938, p. 443; 1944, pp. 344, 345, 399, 400, 401; 1945, pp. 49, 50, 51, 52, 53, 55; 1946, cc. 414, 415; 1952, c. 213; 1954, c. 343; 1960, cc. 180, 187; 1962, c. 69, §§ 23-49.14, 23-49.16; 1964, cc. 48, 50, 70, 97, 159 §§ 23-155.4, 23-164.3, 23-164.5, 23-165.4, 23-165.5, 23-185, 23-187; 1966, cc. 14, 18, 679, § 23-216; 1968, cc. 93, 532, 719, §§ 23-50.6, 23-174.4; 1970, cc. 601, 624; 1972, cc. 51, 136, 550, 861, §§ 23-91.26, 23-91.28, 23-91.36, 23-91.38; 1973, c.

55; 1974, cc. 29, 317; 1975, c. 484; 1976, cc. 21, 25 §§ 23-49.25, 23-49.26; 1977, c. 670; 1978, cc. 376, 453; 1979, cc. 17, 147, 623; 1980, cc. 100, 559, 625, 648; 1981, c. 225; 1982, c. 356, § 23-9.2:5; 1983, c. 148; 1984, c. 772; 1989, c. 107; 1989, Sp. Sess., c. 5; 1991, c. 96; 1992, cc. 53, 103; 1993, c. 697; 1995, c. 40; 1999, cc. 752, 1013; 2000, cc. 699, 715, 844; 2002, c. 158, 257; 2003, c. 802; 2004, cc. 499, 519, 695, § 23-9.2:4.1; 2005, c. 12; 2007, cc. 471, 727; 2008, cc. 55, 155, 399, 465, 477; 2012, c. 599; 2014, cc. 190, 597; 2015, c. 560, § 23-2.06; 2016, cc. 473, 588; 2017, cc. 314, 764, 766; 2019, c. 373.

§ 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:

1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has 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 shall be held, used, and administered in the same manner as all other gifts and bequests;

2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes on any property owned 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;

10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state public body" for purposes of subsection D of § 2.2-3708.2; 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.

Code 1919, §§ 811, 837, 842, 864, 865, 935, 936, 951, §§ 23-76, 23-99, 23-103, 23-122, 23-124, 23-128, 23-167; 1922, p. 319; 1924, pp. 143, 144, 164, 208; 1930, p. 768; 1936, p. 522, § 23-77.1; 1938, pp. 442, 444; Michie Code 1942, § 938a; 1944, p. 402; 1945, p. 52; 1954, cc. 92, 185, 296 §§ 23-4.1, 23-77.2; 1956, cc. 12, 689; 1960, c. 180, §§ 23-44, 23-45; 1962, c. 69, §§ 23-49.17, 23-49.18; 1964, cc. 50, 70, 159, §§ 23-155.7, 23-155.8, 23-164.6, 23-164.7, 23-165.6, 23-165.7, 23-188, 23-189; 1966, cc. 18, 313, § 23-49.21; 1968, cc. 93, 532, 545, 993, §§ 23-50.8, 23-50.10, 23-50.11, 23-50.13, 23-174.6; 1970, cc. 98, 166; 1972, cc. 550, 861, §§ 23-91.29, 23-91.30, 23-91.33, 23-91.40, 23-91.41, 23-91.44; 1974, c. 317; 1976, c. 21, §§ 23-49.28, 23-49.29, 23-49.32; 1977, cc. 296, 319; 1978, c. 376; 1979, cc. 136, 145, 146, 147; 1980, c. 100; 1986, c. 358, § 23-4.4; 1990, c. 106; 1992, c. 103; 1996, cc. 905, 1046; 2002, cc. 158, 257, 368; 2003, c. 708; 2004, cc. 176, 195; 2006, cc. 77, 899; 2009, cc. 325, 810; 2013, c. 577, § 23-2.01; 2015, cc. 579, 580; 2016, c. 588; 2018, c. 55.

§ 23.1-1301.1. Repealed.

Repealed by Acts 2020, c. 490, cl. 2.

§ 23.1-1302. Governing boards; additional powers; voluntary early retirement.

A. The governing board of 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 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 old; (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 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 board. Any such compensation plan shall explicitly reserve to the governing board the authority to modify, amend, or repeal the plan. However, no such amendment, modification, or repeal 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 Council, 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. 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.) does not apply to the establishment of such compensation plans or any implementing regulations or criteria.

1988, c. 246, § 23-9.2:3.1; 2005, c. 633; 2016, c. 588.

§ 23.1-1303. Governing boards; duties.

A. 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. The governing board of each public institution of higher education shall:

1. Adopt and post conspicuously on its website bylaws for its own governance, including provisions that (i) establish the requirement of transparency, to the extent required by law, in all board actions; (ii) describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in subdivision B 10 of § 23.1-1301, including the requirements that (a) the board record minutes of each open meeting and post the minutes on the board's website, in accordance with subsection H of § 2.2-3707 and § 2.2-3707.1, (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 be held in an open meeting, (c) the board give public notice of all meetings, in accordance with subsection C of § 2.2-3707, and (d) any action taken in a closed meeting be approved in an open meeting before it can have any force or effect, in accordance with subsection B of § 2.2-3711; and (iii) require that the board 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 Council in enforcing the provisions relating to eligibility for financial aid;

4. Notwithstanding any other provision of state law, 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 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;

5. Establish policies and procedures requiring the release of the educational record of a dependent student, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), to a parent at his request;

6. Establish programs to seek to ensure that all graduates have the technology skills necessary to compete in the twenty-first century and that all students matriculating in teacher-training programs receive instruction in the effective use of educational technology;

7. Establish policies for the discipline of students who participate in varsity intercollegiate athletics, including a provision requiring an annual report by the administration of the institution to the governing board regarding enforcement actions taken pursuant to such policies;

8. In addition to all meetings prescribed in Chapters 14 (§ 23.1-1400 et seq.) through 29 (§ 23.1-2900 et seq.), meet with the chief executive officer of 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 chief executive officer's performance. Any change to the chief executive officer'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;

9. If human research, as defined in § 32.1-162.16, is conducted 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. Such regulations shall require the human research committee to submit to the Governor, the General Assembly, and the chief executive officer of the institution or his designee at least annually a report on the human research projects reviewed and approved by the committee and require the committee to report any significant deviations from approved proposals;

10. Submit the annual financial statements for the fiscal 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;

11. No later than December 1 of each year, report to the Council (i) the value of investments as reflected on the Statement of Net Position as of June 30 of the previous fiscal year, excluding any funds derived from endowment donations, endowment income, or other private philanthropy; (ii) the cash earnings on such balances in the previous fiscal year; and (iii) the use of the cash earnings on such balances. In the event that the commitment of any such investment earnings spans more than one fiscal year, the report shall reflect the commitments made in each future fiscal year. The reports of the Boards of Visitors of Virginia Commonwealth University and the University of Virginia shall exclude the value of and earnings on any investments held by the Virginia Commonwealth University Health System Authority and the University of Virginia Medical Center, respectively. As used in this subdivision, "investments" includes all short-term, long-term, liquid, and illiquid Statement of Net Position accounts, and subaccounts thereof, in which moneys have been invested in securities.

12. 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;

13. Make available to any interested party upon request a copy of 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 institutions of higher education;

14. Adopt policies or institution regulations regarding the ownership, protection, assignment, and use of intellectual property and provide a copy of such policies or institution regulations to the Governor and the Joint Commission on Technology and Science. All employees, including student employees, of public institutions of higher education are bound by the intellectual property policies or institution regulations of the institution employing them; and

15. Adopt policies that are supportive of the intellectual property rights of matriculated students who are not employed by such institution.

Code 1919, § 837, § 23-99; 1970, c. 197, § 23-9.2:3; 1972, c. 861, § 23-91.40; 1984, c. 734, § 23-1.01; 1985, cc. 146, 520; 1986, c. 358, § 23-4.3; 1987, c. 109; 1990, c. 646, § 23-9.1:1; 1992, cc. 603, 630, § 23-9.2:3.3; 1997, c. 827; 1998, cc. 39, 362, 483, 784; 2001, cc. 664, 673; 2004, cc. 176, 195, 650; 2005, cc. 633, 818; 2006, cc. 77, 121, 899; 2008, cc. 441, 495; 2012, cc. 448, 658, 716; 2013, c. 577, §§ 23-2.02, 23-2.03, 23-2.05; 2014, c. 557, § 23-2.5; 2016, cc. 441, 588; 2017, cc. 314, 320, 616.

§ 23.1-1304. Governing boards; additional duties; educational programs.

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. In addition, the Council shall develop educational materials for board members with more than two years of service on the governing board. Each such board member shall participate in further training on board governance at least once every two years, and the Council shall develop criteria by which such board members shall demonstrate compliance with this requirement.

B. Educational programs for the governing boards of public institutions of higher education shall include presentations relating to:

1. Board members' primary duty to the citizens of the Commonwealth;

2. Governing board committee structure and function;

3. The duties of the executive committee set forth in § 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 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, mandatory fees, and other necessary charges, including a review of student debt trends;

11. Overseeing planning, construction, maintenance, expansion, and renovation projects that affect the 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 and the chief executive officer of the institution, including perspectives from chief executive officers of public institutions of higher education;

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.

1996, cc. 868, 992, § 23-9.14:1; 2013, c. 577; 2014, c. 644; 2016, c. 588; 2019, cc. 642, 643; 2020, cc. 155, 156.

§ 23.1-1304.1. Governing boards; additional duties; policy; acceptance of terms and conditions associated with donations, gifts, and other private philanthropic support.

The governing board of each public institution of higher education shall establish a policy for the acceptance of terms and conditions associated with any donation, gift, or other private philanthropic support. Each such policy shall include an administrative process for reviewing, accepting, and documenting terms and conditions associated with (i) gifts that direct academic decision-making and (ii) gifts of $1,000,000 or more that impose a new obligation on the institution of higher education, excluding gifts for scholarships or other financial aid. Each public institution of higher education shall retain documentation of such terms and conditions in compliance with the Virginia Public Records Act (§ 42.1-76 et seq.) and such documentation shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

2020, c. 691.

§ 23.1-1305. Governing boards; student accounts; collections.

No governing board shall refer a student account to collections for nonpayment before such referral is required by the provisions of § 2.2-4806. This section shall not apply to public institutions of higher education that have entered into management agreements with the Commonwealth pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.).

1970, c. 197, § 23-9.2:3; 1985, c. 520; 1987, c. 109; 1992, c. 630; 1997, c. 827; 1998, cc. 39, 362, 483, 784; 2001, cc. 664, 673; 2005, c. 818; 2006, c. 121; 2008, cc. 441, 495; 2012, cc. 448, 658, 716; 2016, c. 588; 2017, c. 314.

§ 23.1-1306. Governing board executive committee; duties.

The executive committee of the governing board of each public institution of higher education shall (i) organize the working processes of the board; (ii) recommend best practices for board governance; (iii) develop and recommend to the board a statement of governance setting out the board's role; (iv) periodically review the board's bylaws and recommend amendments; (v) provide advice to the board on committee structure, appointments, and meetings; (vi) develop an orientation and continuing education process for board members that includes training on the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); (vii) create, monitor, oversee, and review compliance with a code of ethics for board members; and (viii) develop a set of qualifications and competencies for membership on the board for approval by the board and recommendation to the Governor.

2013, c. 577, § 23-2.04; 2016, c. 588.

§ 23.1-1307. Governing boards; expenses of members.

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.

Code 1919, §§ 814, 864, 988, §§ 23-3, 23-79, 23-122; 1924, p. 143; 1970, c. 98; 2016, c. 588.

§ 23.1-1308. Governing board procedures; textbook sales and bookstores; open educational resources.

A. No employee of a public 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. 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 governing board of each public institution of higher education 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.

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.

D. The governing board of each public institution of higher education shall implement policies, procedures, and guidelines that encourage efforts to minimize the cost of textbooks for students while maintaining the quality of education and academic freedom. The guidelines shall ensure that:

1. Faculty textbook adoptions are made with sufficient lead time to university-managed or contract-managed bookstores so as to confirm availability of the requested materials and, when possible, ensure maximum availability of used textbooks;

2. 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 the institution and students and such items are made available by the publisher;

3. Faculty members affirmatively acknowledge the bookstore's quoted retail price of textbooks selected for use in each course;

4. 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. Provisions address the availability of required textbooks to students otherwise unable to afford the cost.

E. The governing board of each public institution of higher education shall implement guidelines for the adoption and use of low-cost and no-cost open educational resources in courses offered at such institution. Such guidelines may include provisions for low-cost commercially published materials.

F. The registrar or another appropriate employee of each public institution of higher education shall identify conspicuously in the online course catalogue or registration system, as soon as practicable after the necessary information becomes available, each course for which the instructor exclusively uses no-cost course materials or low-cost course materials.

G. No funds provided for financial aid from university bookstore revenue shall be counted in the calculation for state appropriations for student financial aid.

2005, c. 530, § 23-4.3:1; 2006, c. 561. 2016, c. 588; 2018, c. 752; 2019, c. 590.

§ 23.1-1309. Boards of visitors; baccalaureate public institutions of higher education; intercollegiate athletics programs.

A. 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 baccalaureate public institution of higher education.

"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. The Auditor of Public Accounts, in collaboration with the Council, State Comptroller, 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. Each fiscal year, 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 (§ 23.1-1000 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 (§ 23.1-1000 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 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.

2015, c. 704, § 23-1.2; 2016, c. 588.

§ 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.

Code 1919, § 936; 1960, c. 180, § 23-40; 1962, cc. 69, 610, § 23-49.13; 1964, cc. 50, 70, 97, 159, §§ 23-155.3, 23-164.2, 23-165.3, 23-184; 1966, c. 18; 1968, c. 532, § 23-174.3; 1972, cc. 550, 861, §§ 23-91.25, 23-91.35; 1974, c. 317; 1976, c. 21, § 23-49.24; 1977, cc. 168, 296, 319; 1992, c. 103; 1979, cc. 136, 145, 146, 147, 294; 2002, cc. 158, 257; 2004, cc. 176, 195; 2016, c. 588.

Chapter 14 - CHRISTOPHER NEWPORT UNIVERSITY

§ 23.1-1400. Corporate name; name of the University.

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" 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 Christopher Newport University (the University).

1976, c. 21, § 23-49.23; 1992, c. 103; 2016, c. 588.

§ 23.1-1401. Membership.

The board shall consist of 14 members appointed by the Governor, of whom at least six shall be alumni of the University.

1976, c. 21, § 23-49.25; 1978, c. 376; 1992, c. 103; 1995, c. 40; 2014, cc. 190, 597; 2016, c. 588.

§ 23.1-1402. Meetings; officers; committees.

A. The board shall meet at the University at least four times a year and at such other times 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. 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 to preside at its meetings, 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.

D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector, vice-rector, and secretary.

E. Vacancies in the offices of rector, vice-rector, and secretary may be filled by the board for the unexpired term.

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.

1976, c. 21, § 23-49.28; 1978, c. 376; 1990, c. 106; 1992, c. 103; 2016, c. 588.

§ 23.1-1403. 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 may confer degrees and, subject to the provisions of § 23.1-203, approve new academic programs and discontinue academic programs offered by the University.

1976, c. 21, §§ 23-49.28, 23-49.30, 23-49.31; 1978, c. 376; 1990, c. 106; 1992, c. 103; 2016, c. 588.

Chapter 15 - GEORGE MASON UNIVERSITY

§ 23.1-1500. Corporate name; name of the University.

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" 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 George Mason University (the University).

1972, c. 550, § 23-91.24; 2016, c. 588.

§ 23.1-1501. Membership.

A. The board shall consist of 16 members appointed by the Governor. 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.

1972, c. 550, §§ 23-91.26, 3-91.27; 1977, c. 670; 2016, c. 588.

§ 23.1-1502. Meetings; officers; committees.

A. The board shall meet at the University once a year and at such other times 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. Eight members shall constitute a quorum.

C. Every other year, the board shall appoint from its membership a rector to preside at its meetings, 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.

D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector, vice-rector, and secretary.

E. Vacancies in the offices of rector, vice-rector, and secretary may be filled by the board for the unexpired term.

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, consisting of at least three and not more than five members, to serve for a period of one year or until the next regular annual meeting.

1972, c. 550, § 23-91.29; 2016, c. 588.

§ 23.1-1503. 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 may confer degrees and, subject to the provisions of § 23.1-203, approve new academic programs and discontinue academic programs offered by the University.

1972, c. 550, §§ 23-91.29, 23-91.31, 23-91.32; 2016, c. 588.

§ 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 may create a corporation or other legal entity controlled by the University to establish and operate a branch campus of the University in the Republic of Korea. Establishment of the branch campus is subject to Council guidelines governing the approval of branch campuses, pursuant to § 23.1-203.

B. The board has the same powers with respect to operation and governance of its branch campus in Korea as are vested in the board with respect to the University.

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.

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 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 the University.

2010, c. 694, § 23-91.29:12016, c. 588.

Chapter 16 - JAMES MADISON UNIVERSITY

§ 23.1-1600. Corporate name; name of the University.

A. 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" 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 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 the University or the board, respectively.

1964, c. 97, § 23-164.1; 1977, cc. 296, 319; 2016, c. 588.

§ 23.1-1601. Membership.

A. The board shall consist of 15 members appointed by the Governor, 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. The Governor is not limited in his appointments to the individuals so nominated.

1964, c. 97, §§ 23-164.3, 23-164.4; 1977, cc. 296, 319; 1979, c. 623; 1989, c. 107; 2016, c. 588.

§ 23.1-1602. Powers and duties.

A. The board shall appoint all teachers and agents and fix their salaries and generally direct the affairs of the University.

B. The board may confer degrees.

1964, c. 97, §§ 23-164.6, 23-164.8; 1977, cc. 296, 319; 2016, c. 588.

§ 23.1-1603. Program of instruction to educate and train teachers.

The University shall 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.

1964, c. 97, § 23-164.9; 1977, cc. 296, 319; 2016, c. 588.

Chapter 17 - LONGWOOD UNIVERSITY

§ 23.1-1700. Corporate name; name of the University.

A. The board of visitors of Longwood University (the board) is a corporation under the name and style of "The Visitors of Longwood 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 Longwood University (the University).

1964, c. 159, §§ 23-182, 23-183; 2002, cc. 158, 257; 2016, c. 588.

§ 23.1-1701. Membership.

A. The board shall consist of 13 members 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 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.

1964, c. 159, §§ 23-185, 23-186; 1973, c. 55; 1984, c. 772; 2002, cc. 158, 257; 2008, c. 399; 2016, c. 588.

§ 23.1-1702. Powers and duties.

A. The board shall appoint all teachers and agents and fix their salaries and generally direct the affairs of the University.

B. The board may confer degrees.

1964, c. 159, §§ 23-188, 23-190; 2002, cc. 158, 257; 2016, c. 588.

§ 23.1-1703. Program of instruction to educate and train teachers.

The University shall 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.

1964, c. 159, § 23-191; 2002, cc. 158, 257; 2016, c. 588.

Chapter 18 - UNIVERSITY OF MARY WASHINGTON

§ 23.1-1800. Corporate name; name of the University.

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" 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 the University of Mary Washington (the University).

1972, c. 861, § 23-91.34; 2004, cc. 176, 195; 2016, c. 588.

§ 23.1-1801. Membership.

A. The board shall consist of 12 members appointed by the Governor, of whom at least nine shall be residents of the Commonwealth and at least six shall be alumni of the University.

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.

1972, c. 861, §§ 23-91.36, 23-91.37; 2004, cc. 176, 195; 2016, c. 588.

§ 23.1-1802. Meetings; officers; committees.

A. The board shall meet at the University once a year and at such other times as it determines.

B. A majority of the members shall constitute a quorum.

C. At the first meeting after July 1 in every even-numbered year, the board shall appoint from its membership a rector to preside at its meetings, 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.

D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector, vice-rector, and secretary.

E. Vacancies in the offices of rector, vice-rector, 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 case, the secretary shall give notice of the time of meetings to each member.

G. At every regular annual meeting of the board, it may appoint an executive committee for the transaction of business in the recess of the board, consisting of at least three and not more than five members, to serve for a period of one year or until the next regular annual meeting.

1972, c. 861, § 23-91.40; 2004, cc. 176, 195; 2016, c. 588.

§ 23.1-1803. 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 may confer degrees and, subject to the provisions of § 23.1-203, approve new academic programs and discontinue academic programs offered by the University.

1972, c. 861, §§ 23-91.40, 23-91.42, 23-91.43; 2004, cc. 176, 195; 2016, c. 588.

Chapter 19 - NORFOLK STATE UNIVERSITY

§ 23.1-1900. Corporate name; name of the University.

A. 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 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 Norfolk State University (the University).

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

1968, c. 532, §§ 23-174.1, 23-174.2; 1979, c. 146; 2016, c. 588.

§ 23.1-1901. Membership; executive committee.

A. The board of visitors shall consist of 13 members appointed by the Governor, of whom at least four shall be alumni of the University. Of the alumni appointed, at least one shall be a resident of the Commonwealth.

B. 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.

1968, c. 532, § 23-174.4; 1980, c. 625; 1999, c. 1013; 2000, c. 844; 2003, c. 802; 2016, c. 588.

§ 23.1-1902. Powers and duties.

A. The board shall (i) make all provisions for teachers, staff members, and agents, fix their salaries, and prescribe their duties and (ii) generally direct the affairs of the University.

B. The board may take, hold, receive, and enjoy any gift, grant, devise, or bequest to the University for the uses and purposes designated by the donor, or if not so designated, for the general purposes of the board.

C. The board may confer degrees.

1968, c. 532, §§ 23-174.5, 23-174.6, 23-174.7; 1979, c. 146; 2016, c. 588.

Chapter 2 - STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Article 1 - MEMBERSHIP AND ORGANIZATION

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

A. The State Council of Higher Education for Virginia 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 and lead state-level strategic planning and policy development and implementation based on research and analysis and in accordance with § 23.1-301 and subsection A of § 23.1-1002. The Council shall seek to facilitate collaboration among

institutions of higher education that will enhance quality and create operational efficiencies and work with institutions of higher education and their governing boards on board development.

B. The Council shall be composed of individuals selected from the Commonwealth at large without regard to political affiliation but with due consideration of geographical representation. Nonlegislative citizen members shall have demonstrated experience, knowledge, and understanding of higher education and workforce needs. 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 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 Board of Education is eligible for appointment to the Council except as specified in this section. All members of the Council are members at large who shall serve 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 one ex officio member. At least one nonlegislative citizen member shall have served as a chief executive officer of a public institution of higher education. At least one nonlegislative citizen member shall be a 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.

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 qualified. Ex officio members shall serve terms coincident with their terms of office.

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

G. At each meeting, the Council shall involve the chief executive officer of each public institution of higher education in its agenda. The chief executive officers shall present information and comment on issues of common interest 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 private institutions of higher education, in its agenda.

1956, c. 311, § 23-9.3; 1964, c. 597; 1970, c. 117; 1972, c. 210; 1974, c. 544; 1980, c. 728; 1991, c. 590; 2013, c. 605; 2016, c. 588; 2017, c. 314; 2018, c. 202.

§ 23.1-201. Student advisory committee.

A. The Director of the Council shall appoint a student advisory committee consisting of students enrolled in public institutions of higher education and accredited private institutions of higher education 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.

B. Members shall serve for terms of one year. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Members may be reappointed to serve subsequent or consecutive terms.

C. The Director of the 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 advise the Director of the Council regarding such matters as may come before it.

2003, c. 710, § 23-9.3:1; 2006, c. 92; 2009, c. 434; 2016, c. 588; 2017, c. 314; 2020, c. 578.

§ 23.1-202. Employment of director and other personnel.

The Council shall appoint and 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 of its powers and duties.

1956, c. 311, § 23-9.4; 1974, c. 544; 1997, cc. 803, 888, 891; 2002, cc. 591, 612; 2016, c. 588.

Article 2 - Powers and Duties

§ 23.1-203. Duties of Council.

The Council shall:

1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of § 23.1-1002 or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5 of § 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 the Commonwealth at both the undergraduate and the graduate levels 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 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 public institution of higher education and define the mission of all newly created public institutions of higher education. The Council shall report such approvals, disapprovals, and definitions to the Governor and the General Assembly 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 in this subdivision shall be construed to authorize the Council to modify any mission statement adopted by the General Assembly 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 relating to academic standards, residence, or other criteria. 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 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 organized numerically by level of enrollment and shall be used solely for budgetary, fiscal, and strategic planning purposes. 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 such institutions and their specific programs shall remain the sole responsibility of the individual governing boards but all baccalaureate public institutions of higher education shall adopt dual admissions policies with comprehensive community colleges as required by § 23.1-907.

5. Review and approve or disapprove all new undergraduate or graduate academic programs that any public institution of higher education proposes.

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 unnecessarily duplicative of academic programs offered at other public institutions of higher education. 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 establishment of any department, school, college, branch, division, or extension of any public institution of higher education that such institution proposes to establish, whether located on or off the main campus of such institution. 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 subdivision shall be construed to authorize the Council to disapprove the establishment of any such department, school, college, branch, division, or extension 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, 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.

10. In cooperation with public institutions of higher education, develop guidelines for the assessment of student achievement. 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 each institution's assessment of student achievement in the revisions to the Commonwealth's statewide strategic plan for higher education.

11. In cooperation with the appropriate state financial and accounting officials, develop and establish uniform standards and systems of accounting, recordkeeping, and statistical reporting for 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 proposes and report such approvals and disapprovals to the Governor and the General Assembly. No such change shall 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 public institution of higher education at such times as the Council deems appropriate and 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 each 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 on academic, administrative, financial, and space utilization matters. The Council may review and advise on joint activities, including contracts for services between public institutions of higher education and such private institutions of higher education or between such private institutions of higher education and any agency or political subdivision of the Commonwealth.

15. Adopt such policies and regulations as the Council deems necessary to implement its duties established by state law. Each public institution of higher education shall comply with such policies and regulations.

16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and Privacy Act (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 each institution of higher education formed, chartered, or established in the Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of institutional closure or revocation of approval to operate in the Commonwealth. An institution may 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, 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 subdivision shall be deemed to interfere with the right of a student to his own transcripts 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 associate-degree-granting and baccalaureate public institutions of higher education.

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

20. Develop, pursuant to the provisions of § 23.1-907, guidelines for articulation, dual admissions, and guaranteed admissions agreements, including guidelines related to a one-year Uniform Certificate of General Studies Program and a one-semester Passport Program to be offered at each comprehensive community college. The guidelines developed pursuant to this subdivision shall be developed in consultation with all public institutions of higher education in the Commonwealth, the Department of Education, and the Virginia Association of School Superintendents and shall ensure standardization, quality, and transparency in the implementation of the programs and agreements. At the discretion of

the Council, private institutions of higher education eligible for tuition assistance grants may also be consulted.

21. Cooperate with the Board of Education in matters of interest to both public elementary and secondary schools and public institutions of higher education, particularly in connection with coordination of the college admission requirements, coordination of teacher training programs with the public school programs, and the Board of Education's Six-Year Educational Technology Plan for Virginia. The Council shall encourage public institutions of higher education to design programs that include the skills necessary for the successful implementation of such Plan.

22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship 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. 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.

25. Serve as the planning and coordinating agency for all postsecondary educational programs for all health professions and occupations and make recommendations, including those relating to financing, for providing adequate and coordinated educational programs to produce an appropriate supply of properly trained personnel. The Council 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 subdivision.

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

27. Insofar as practicable, preserve the individuality, traditions, and sense of responsibility of each public institution of higher education in carrying out its duties.

28. Insofar as practicable, seek the assistance and advice of each public institution of higher education in fulfilling its duties and responsibilities.

29. Administer the Virginia Longitudinal Data System as a multiagency partnership for the purposes of developing educational, health, social service, and employment outcome data; improving the efficacy of state services; and aiding decision making.

1956, c. 311, §§ 23-9.5, 23-9.8, 23-9.13; 1970, c. 294, § 23-9.10:1; 1974, c. 544, § 23-9.6:1; 1977, cc. 319, 413, 676, § 23-261; 1979, cc. 2, 28, 136, 145, 619; 1980, c. 728; 1985, c. 448; 1989, c. 105; 1991, cc. 454, 590; 1992, c. 103; 1996, c. 215; 1997, c. 827; 1999, cc. 451, 460; 2001, c. 841; 2002, cc. 95, 158, 257; 2003, cc. 715, 725; 2004, cc. 176, 195, 502; 2005, cc. 753, 818, 834, 933, 945, § 23-9.8:1; 2006, c. 379; 2009, cc. 55, 56; 2010, cc. 68, 527; 2011, cc. 828, 869; 2012, c. 142; 2014, c. 628; 2016, c. 588, 775; 2017, cc. 314, 376, 796, 816; 2018, cc. 832, 845; 2020, cc. 1164, 1169.

§ 23.1-204. Expired.

Expired by the terms of Acts 2012, c. 694, cl. 2, on June 30, 2017.

§ 23.1-204.1. Postgraduation employment rates.

A. The Council shall annually collect and publish on its website data on the proportion of graduates of each public institution of higher education and each nonprofit private institution of higher education eligible to participate in the Tuition Assistance Grant Program (§ 23.1-628 et seq.) who are employed (i) 18 months after the date of graduation and (ii) five years after the date of graduation. The data shall include the program and the program level, as recognized by the Council, for each degree awarded by each institution; the percentage of graduates known to be employed in the Commonwealth, by degree program and level; the average salary, hours worked, as available, occupation or occupation code, as available, and the average higher education-related debt for the graduates on which the data is based, by degree program and level; 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, alignment between secondary and postsecondary education, and alignment between postsecondary education and workforce preparation. 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.

B. The Council shall disseminate to each public high school and each public institution of higher education and private institution of higher education for which the Council has student-level data a link on its website to the published data.

C. 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.

D. Each public institution of higher education and each nonprofit private institution of higher education eligible to participate in the Tuition Assistance Grant Program (§ 23.1-628 et seq.) shall provide a link on its website to the postsecondary education and employment data published pursuant to subsection A and shall make such link available to each admitted student.

2017, c. 376; 2018, cc. 387, 590.

§ 23.1-205. Authority to carry out federal requirements.

The Council 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.

1977, c. 676, § 23-261; 1991, c. 590; 2016, c. 588.

§ 23.1-206. Assessments of the performance of public institutions of higher education.

A. 1. The Council shall develop and revise as appropriate, 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, 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 Council shall develop objective measures and institutional performance benchmarks for the goals and objectives set forth in subsection A of § 23.1-1002.

2. The Governor shall develop and revise as appropriate objective measures of financial and administrative management performance and related institutional performance benchmarks for the goals and objectives set forth in subdivision A 11 of § 23.1-1002.

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 Council shall annually assess the degree to which each 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. Such annual assessment shall be based upon the objective measures and institutional performance benchmarks included in the current general appropriation act. The Council shall request assistance from the Secretaries of Finance and Administration who shall provide such assistance for the purpose of assessing whether public institutions of higher education have met the financial and administrative management performance benchmarks.

No later than June 1 of every fiscal year, the Council shall provide a certified written report of the results of such annual assessment to the Governor and the respective Chairmen of the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health.

Each public institution of higher education that is certified by the 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 is entitled to the financial benefits set forth in subsection C of § 23.1-1002. Such benefits shall first be provided as determined under such subsection.

1977, c. 676, § 23-261; 1991, c. 590; 2005, cc. 933, 945, § 23-9.6:1.01; 2011, cc. 828, 869; 2013, c. 482; 2016, c. 588.

§ 23.1-207. Tuition relief and refunds and reinstatement for certain students in the Armed Forces.
A. The Council shall issue and revise guidelines for tuition relief, refunds, and reinstatement for students whose service in the Armed Forces of the United States or the Commonwealth 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 such guidelines. The Council shall consult with the Office of the Attorney General and provide opportunity for public comment prior to issuing such guidelines or revisions.

C. Such guidelines shall include procedures for the required reenrollment of students whose service in the Armed Forces of the United States or the Commonwealth precluded their completion of a semester or equivalent term and policies for the required reenrollment of such students in such armed forces.

1991, c. 80, § 23-9.6:2; 2004, c. 740; 2011, c. 27; 2016, c. 588.

§ 23.1-208. Budget requests and recommendations.

A. The Council 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 and similarities in institutional missions. Such policies, formulae, and guidelines 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 ensure that they are consistent with the requirements of the Department of Planning and Budget.

B. Not less than 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 in this section shall prevent any institution of higher education from appearing through its representatives or otherwise before the Governor, the Governor's advisory committee on the budget, the General Assembly, or any committee of the General Assembly at any time.

D. Funds for any consortium created by 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 Council.

1956, c. 311, § 23-9.9; 1974, c. 544; 1979, c. 294, § 23-9.9:1; 1991, c. 590; 2016, c. 588.

§ 23.1-209. Reports of expenditures of state funds.

The governing board of each public institution of higher education shall provide the Council 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.

2003, c. 184, § 23-9.9:01; 2007, c. 630; 2012, cc. 803, 835; 2016, c. 588.

§ 23.1-210. Advisory services to accredited nonprofit private institutions of higher education; Private College Advisory Board.

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

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. The Private College Advisory Board shall be composed of representatives of nonprofit private institutions of higher education and such other members as the Council may select and shall be broadly representative of nonprofit private institutions of higher education.

C. The Private College Advisory Board shall meet at least once each year.

1974, c. 40, § 23-9.10:2; 1980, c. 728; 1985, c. 448; 2016, c. 588; 2017, c. 314.

§ 23.1-211. Distance learning reciprocity agreements; participation; Distance Learning Reciprocity Advisory Council.

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

B. The Council shall establish the Distance Learning Reciprocity Advisory Council, which shall include representatives from each institution that offers postsecondary distance education pursuant to an interstate reciprocity agreement as set forth in subsection A. The Advisory Council shall advise the 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 Council.

2014, c. 323, § 23-9.14:3; 2016, c. 588.

§ 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 public institutions of higher education over the affairs of such institutions are not impaired by the provisions of this chapter except to the extent that powers and duties are specifically conferred upon the Council 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 public institution of higher education.

1956, c. 311, § 23-9.14; 1974, c. 544; 2016, c. 588.

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

§ 23.1-213. (Effective until July 1, 2022) Definitions.

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

"Academic-vocational non-college degree school" means a 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 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" 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 consisting of courses that may also be taken for degree credit 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 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 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 such professional field.

"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" means any earned credits awarded for successful completion of the requirements of a course of study or instruction beyond the secondary school level that may be used toward completion of a certificate or degree.

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

"Institution of higher education" or "institution" means any person or other entity, other than a public institution of higher education or any other entity authorized to issue bonds pursuant to Chapter 11 (§ 23.1-1100 et seq.), 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; and (iii) offer approved courses for degree credit or programs of study leading to a degree or offer degrees either at a site or via telecommunications equipment located in the Commonwealth.

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

"Non-college degree school" means any person or other entity that offers courses or programs of study that do not lead to a degree. "Non-college degree school" includes academic-vocational non-college degree schools and vocational non-college degree schools.

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

"Out-of-state" means formed, chartered, established, or incorporated outside of the Commonwealth.

"Postsecondary school" means any 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. "Postsecondary school" includes programs of academic, vocational, and continuing professional education, except courses 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.

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

"Program area" means a general group of disciplines in which one or more programs may be offered.

"Proprietary" means privately owned, privately managed, and corporately structured as a for-profit entity.

"Site" means a location in the Commonwealth where a postsecondary school (i) offers at least one course on an established schedule and (ii) enrolls at least two individuals who are not members of the same household, regardless of the presence or absence of administrative capability at such location.

"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 ceases to offer an educational program before all students enrolled in that program complete the program.

"University" means any baccalaureate institution of higher education.

"Vocational non-college degree school" means a non-college degree school that offers only courses for nondegree credit. "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 that prepare individuals to teach such pursuits.

Code 1950, § 23-265; 1980, c. 658; 1996, cc. 691, 832; 1999, cc. 458, 499; 2002, c. 178, § 23-276.1; 2004, cc. 671, 991; 2005, c. 447; 2007, cc. 82, 115; 2008, c. 856; 2010, cc. 67, 263; 2013, c. 229; 2016, c. 588.

§ 23.1-213. (Effective July 1, 2022) Definitions.

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

"Academic-vocational non-college degree school" means a 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 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" 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 consisting of courses that may also be taken for degree credit 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 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 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 such professional field.

"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" means any earned credits awarded for successful completion of the requirements of a course of study or instruction beyond the secondary school level that may be used toward completion of a certificate or degree.

"Distance learning" or "distance learning modality" means any course offered by a postsecondary school for which the primary mode of instructional delivery is by television, videocassette or disc, film, radio, computer, or other telecommunications devices.

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

"Institution of higher education" or "institution" means any person or other entity, other than a public institution of higher education or any other entity authorized to issue bonds pursuant to Chapter 11 (§ 23.1-1100 et seq.), 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; and (iii) offer approved courses for degree credit or programs of study leading to a degree or offer degrees either at a site or via a distance learning modality.

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

"Non-college degree school" means any person or other entity that offers courses or programs of study that do not lead to a degree. "Non-college degree school" includes academic-vocational non-college degree schools and vocational non-college degree schools.

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

"Out-of-state" means formed, chartered, established, or incorporated outside of the Commonwealth.

"Postsecondary school" means any 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. "Postsecondary school" includes programs of academic, vocational, and continuing professional education, except courses 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.

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

"Program area" means a general group of disciplines in which one or more programs may be offered.

"Proprietary" means privately owned, privately managed, and corporately structured as a for-profit entity.

"Site" means a location in the Commonwealth where a postsecondary school (i) offers at least one course on an established schedule and (ii) enrolls at least two individuals who are not members of the same household, regardless of the presence or absence of administrative capability at such location.

"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 ceases to offer an educational program before all students enrolled in that program complete the program.

"University" means any baccalaureate institution of higher education.

"Vocational non-college degree school" means a non-college degree school that offers only courses for nondegree credit. "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 that prepare individuals to teach such pursuits.

Code 1950, § 23-265; 1980, c. 658; 1996, cc. 691, 832; 1999, cc. 458, 499; 2002, c. 178, § 23-276.1; 2004, cc. 671, 991; 2005, c. 447; 2007, cc. 82, 115; 2008, c. 856; 2010, cc. 67, 263; 2013, c. 229; 2016, c. 588; 2020, c. 380.

§ 23.1-214. Certified mail; subsequent mail or notices may be sent by regular mail.

Whenever 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, the Council may send any subsequent, identical mail or notice by regular mail.

2011, c. 566, § 23-276.1:1; 2016, c. 588.

§ 23.1-215. Authority of the Council; regulations; standards for postsecondary schools; delegation of authority to director.

A. The Council 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 article, including (i) procedures by which a postsecondary school may apply for Council approval to confer degrees in the Commonwealth; (ii) measures designed to ensure that all postsecondary schools that are subject to the provisions of this article meet the minimal standards established pursuant to subsection B; (iii) protections for students pursuing postsecondary education opportunities in postsecondary schools subject to the provisions of this article; and (iv) information to assist persons who rely on postsecondary degrees or certificates to judge the competence of individuals in receipt of such degrees or certificates.

B. The Council shall establish minimal standards 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 adopted by an accrediting agency recognized by the U.S. Department of Education.

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

D. The Council may establish separate certification criteria for various postsecondary school classifications.

E. The Council may grant to its director the authority to take specific actions on its behalf in furtherance of the provisions of this article.

Code 1950, § 23-268; 1980, c. 658; 1996, cc. 691, 832; 2002, c. 178, § 23-276.3; 2004, c. 991; 2005, c. 447; 2016, c. 588.

§ 23.1-216. 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 relating to proprietary private 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 proprietary private postsecondary schools, excluding vocational non-college degree schools.

B. The Career College Advisory Board shall meet at least twice each year and advise the Council and proprietary private postsecondary schools, excluding vocational non-college degree schools, regarding such matters as may come before 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.

2004, c. 991, § 23-276.13; 2016, c. 588.

§ 23.1-217. Certification required.

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

2004, c. 991, § 23-276.14; 2016, c. 588.

§ 23.1-218. List of postsecondary schools holding valid certification.

A. The Council shall maintain a list of postsecondary schools holding valid certification under the provisions of this article and shall make such list available to the public.

B. 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.

2004, c. 991, § 23-276.15; 2016, c. 588.

§ 23.1-219. (Effective until July 1, 2022) Council certification; 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 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, either at a site or via telecommunications equipment located within the Commonwealth; or

4. Initiate other programs for degree credit or award degrees or certificates at a new or additional level.

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

C. All out-of-state academic-vocational non-college degree schools subject to the provisions of this article shall disclose their accreditation status in all written materials advertising or describing such school that are distributed to prospective or enrolled students or the general public.

D. No postsecondary school shall be required to obtain another certification from the Council to operate in the Commonwealth if it (i) was formed, chartered, or established in the Commonwealth or chartered by an Act of Congress; (ii) has maintained its main campus continuously in the Commonwealth for at least 20 calendar years under its current ownership; (iii) was continuously approved or authorized to confer or grant academic or professional degrees by the Council, the Board of Education, or an act of the General Assembly during those 20 years; and (iv) is fully accredited by an accrediting agency that is recognized by and has met the criteria for Title IV eligibility of the U.S. Department of Education. If the Council revokes an institution's authorization to confer or grant academic or professional degrees, the institution is required to seek recertification annually until it meets the criteria of this subsection.

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

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

2. All courses, degrees, or certificates offered at any site are also offered at an out-of-state campus of the institution or school;

3. All credits earned at any site are transferable to an 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.

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

Code 1950, § 23-267; 1980, c. 658; 1996, cc. 691, 832; 2002, c. 178, § 23-276.4; 2004, c. 991; 2005, c. 447; 2006, c. 814; 2014, c. 629; 2016, c. 588.

§ 23.1-219. (Effective July 1, 2022) Council certification; 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 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, either at a site or via a distance learning modality; or

4. Initiate other programs for degree credit or award degrees or certificates at a new or additional level.

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

C. All out-of-state academic-vocational non-college degree schools subject to the provisions of this article shall disclose their accreditation status in all written materials advertising or describing such school that are distributed to prospective or enrolled students or the general public.

D. No postsecondary school shall be required to obtain another certification from the Council to operate in the Commonwealth if it (i) was formed, chartered, or established in the Commonwealth or

chartered by an Act of Congress; (ii) has maintained its main campus continuously in the Commonwealth for at least 20 calendar years under its current ownership; (iii) was continuously approved or authorized to confer or grant academic or professional degrees by the Council, the Board of Education, or an act of the General Assembly during those 20 years; and (iv) is fully accredited by an accrediting agency that is recognized by and has met the criteria for Title IV eligibility of the U.S. Department of Education. If the Council revokes an institution's authorization to confer or grant academic or professional degrees, the institution is required to seek recertification annually until it meets the criteria of this subsection.

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

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

2. All courses, degrees, or certificates offered at any site are also offered at an out-of-state campus of the institution or school;

3. All credits earned at any site are transferable to an 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.

F. Any degree-granting postsecondary school providing distance learning to residents of the Commonwealth from a location outside of the Commonwealth shall be certified to operate in the Commonwealth or shall be a participant in a reciprocity agreement to which the Commonwealth belongs, in accordance with Council's authority pursuant to § 23.1-211, for the purpose of consumer protection.

G. Any postsecondary school that seeks to conduct distance learning activities from a site shall apply for Council approval to conduct such activity and shall comply with this article and the Council's regulations in the same manner as any other postsecondary school subject to this article.

Code 1950, § 23-267; 1980, c. 658; 1996, cc. 691, 832; 2002, c. 178, § 23-276.4; 2004, c. 991; 2005, c. 447; 2006, c. 814; 2014, c. 629; 2016, c. 588; 2020, c. 380.

§ 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, 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 § 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 of higher education or other questions of need when considering an application.

Code 1950, § 23-269; 1980, c. 658; 1996, cc. 691, 832; 2002, c. 178, § 23-276.5; 2003, c. 461; 2004, c. 991; 2005, c. 447; 2016, c. 588.

§ 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, including any approval or authorization issued prior to July 1, 1980, and may add conditions to any approval or certification on such grounds as may be provided in its regulations or if the postsecondary school:

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

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

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

4. Violates any provision of this article or the Council's regulations; or

5. Fails or refuses to furnish the Council with any requested information or records required by this 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 of higher education but shall not 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 "public university," "public college," and "community college."

C. The Council shall notify a postsecondary school by certified mail, return receipt requested, of its intention to deny an application, suspend or revoke a prior approval or certification, or add conditions to an approval or certification and 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 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, suspend or revoke a prior approval or certification, or add conditions to an approval or certification or (ii) any order to comply with this article or the Council's regulations 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 revoked or suspended by the Council shall file a new application for certification and provide clear and convincing evidence that the conditions resulting in the suspension or revocation have been remedied and the postsecondary school is in compliance with this article and the Council's regulations.

Code 1950, § 23-271; 1980, c. 658; 1996, cc. 691, 832; 2002, c. 178, § 23-276.6; 2003, c. 461; 2004, c. 991; 2005, c. 447; 2016, c. 588.

§ 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 the Commonwealth is the subject of an adverse action by the U.S. Department of Education or 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:

1. Suspend new enrollment in specified programs or degree levels or 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 deems necessary.

2002, c. 178, § 23-276.7; 2005, c. 447; 2016, c. 588.

§ 23.1-223. Preservation of students' records.

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 into 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).

2002, c. 178, § 23-276.8; 2005, c. 447; 2013, c. 229; 2016, c. 588.

§ 23.1-224. Fees.

The Council may establish nonrefundable fees for services and methods for collecting such fees.

2002, c. 178, § 23-276.9; 2016, c. 588.

§ 23.1-225. Prohibited acts.

A. Without prior Council approval, no person or other entity subject to the provisions of this article shall use in any manner within the Commonwealth the term "college" or "university" or abbreviations or words of similar meaning in its name, 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 the Commonwealth by the Council between July 1, 1970, and July 1, 2002, and maintains valid authority to so operate in the Commonwealth on or after July 1, 2002; (iii) was exempted from the provisions of former Chapter 21 (§ 23-265 et seq.) of 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, or certificate.

C. No person or other entity shall:

1. Use or attempt to use, in connection with any business, trade, profession, or occupation, any degree credit, degree, or certificate, including any transcript of coursework that it knows or has reason to know has been fraudulently issued, obtained, forged, materially altered, or purchased;

2. Issue or manufacture a fraudulent academic credential;

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;

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

5. Represent that credits earned at or granted by any institution of higher education or academic-vocational 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.

Code 1950, § 23-272; 1980, c. 658; 2002, c. 178, § 23-276.10; 2004, c. 991; 2008, c. 856; 2016, c. 588.

§ 23.1-226. Exemptions.

A. The provisions of this article shall not apply to any public institution of higher education as that term is defined in § 23.1-100 or any entity authorized to issue bonds pursuant to Chapter 11 (§ 23.1-1100 et seq.).

B. The following activities or programs offered by postsecondary schools that are otherwise subject to this article are exempt from its provisions:

1. The awarding of 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 of the requirements of a program or course of study;

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) another state or federal governmental agency;

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

5. Any course or program offered through approved multistate compacts, including the Southern Regional Education Board's Electronic Campus;

6. Any course offered and delivered by a postsecondary school solely on a contractual basis for which no individual is charged tuition and 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 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 as provided in this article, if the school collects any tuition, fees, or charges as permitted by Title 22.1 in the case of a public school or pursuant to regulations prescribed by the relevant governing body in the case of a private school; or

9. Tutorial instruction delivered and designed to (i) supplement regular classes for students enrolled in any public or private school, (ii) prepare an individual for an examination for professional practice or

higher education, or (iii) prepare an individual for an examination to demonstrate proficiency or to maintain proficiency in an occupational field.

C. The Council shall exempt from the provisions of this article any postsecondary school whose primary purpose is to provide religious or theological education. Postsecondary schools shall apply for exemptions to confer certificates or degrees 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 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 are subject to the provisions of subsection B of § 23.1-221 and a postsecondary school may seek Council approval for an otherwise exempt activity or program.

Code 1950, § 23-266; 1980, c. 658; 1991, c. 590; 1996, cc. 691, 832; 1999, cc. 458, 499; 2002, c. 178, § 23-276.2; 2003, c. 461; 2004, cc. 671, 991; 2005, c. 447; 2016, c. 588; 2019, c. 599.

§ 23.1-227. Laws of the Commonwealth to apply to contracts.

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

Code 1950, § 23-276; 1980, c. 658; 2002, c. 178, § 23-276.11; 2004, c. 991; 2005, c. 447; 2016, c. 588; 2017, c. 314.

§ 23.1-228. Violations; penalties; remedies.

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

B. If no criminal prosecution is instituted against such postsecondary school pursuant to subsection A, the Council may recover a civil penalty of at least $200 but not more than $1,000 per separate 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. 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 cir-

cumstances would render such an award unjust, the Council is entitled to an award of reasonable attorney fees and costs in any such action.

Code 1950, § 23-273; 1980, c. 658; 2002, c. 178, § 23-276.12; 2006, c. 48; 2008, c. 856; 2016, c. 588.

§ 23.1-229. Postsecondary school closure procedures.

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 such postsecondary school or at another postsecondary school certified by the Council or authorized to operate in the Commonwealth. Each closing postsecondary school shall obtain the Council's approval of the teachout plan prior to implementation.

B. 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.

2013, c. 229, § 23-276.16; 2016, c. 588.

§ 23.1-230. Enrollment agreements required.

A. No postsecondary school that is required to be certified by the Council shall enroll students without entering into an enrollment agreement with each student. Such enrollment agreement shall be signed by the student and an authorized representative of the school and shall contain all disclosures prescribed by the Council.

B. No postsecondary school that is required to be certified by the Council shall condition the enrollment of a student on:

1. Entering into an agreement that requires the student to arbitrate any dispute between the student and the school, regardless of whether the agreement permits the student to opt out of the requirement to arbitrate any such dispute in the future; or

2. Entering into an agreement that requires the student to resolve a dispute on an individual basis and waive the right to class or group actions.

2017, c. 298; 2020, c. 1135.

Article 4 - Office of the Qualified Education Loan Ombudsman

§ 23.1-231. Definitions.

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

"Qualified education loan" means any qualified education loan obtained specifically to finance education or other school-related expenses. "Qualified education loan" does not include credit card debt, home equity loan, or revolving debt.

"Qualified education loan borrower" means (i) any current resident of the Commonwealth who has received or agreed to pay a qualified education loan or (ii) any person who shares responsibility with such resident for repaying the qualified education loan.

"Qualified education loan servicer" or "loan servicer" means any person, wherever located, responsible for the servicing of any qualified education loan to any qualified education loan borrower.

"Servicing" means (i) receiving any scheduled periodic payments from a qualified education loan borrower pursuant to the terms of a qualified education loan; (ii) applying the payments of principal and interest and such other payments, with respect to the amounts received from a qualified education loan borrower, as may be required pursuant to the terms of a qualified education loan; and (iii) performing other administrative services with respect to a qualified education loan.

2018, cc. 489, 755.

§ 23.1-232. Office of the Qualified Education Loan Ombudsman established; duties.

A. The Council shall create within the agency the Office of the Qualified Education Loan Ombudsman. The Office of the Qualified Education Loan Ombudsman shall provide timely assistance to any qualified education loan borrower of any qualified education loan in the Commonwealth. All state agencies shall assist and cooperate with the Office of the Qualified Education Loan Ombudsman in the performance of its duties under this article.

B. The Office of the Qualified Education Loan Ombudsman shall:

1. Receive, review, and attempt to resolve any complaints from qualified education loan borrowers, including attempts to resolve such complaints in collaboration with institutions of higher education, qualified education loan servicers, and any other participants in qualified education loan lending;

2. Compile and analyze data on qualified education loan borrower complaints as described in subdivision 1;

3. Assist qualified education loan borrowers to understand their rights and responsibilities under the terms of qualified education loans;

4. Provide information to the public, state agencies, legislators, and other persons regarding the problems and concerns of qualified education loan borrowers and make recommendations for resolving those problems and concerns;

5. Analyze and monitor the development and implementation of federal and state laws and policies relating to qualified education loan borrowers and recommend any changes the Office of the Qualified Education Loan Ombudsman deems necessary;

6. Review the complete qualified education loan history of any qualified education loan borrower who has provided written consent for such review;

7. Disseminate information concerning the availability of the Office of the Qualified Education Loan Ombudsman to assist qualified education loan borrowers and potential qualified education loan borrowers, as well as public institutions of higher education, qualified education loan servicers, and any other participant in qualified education loan lending, with any qualified education loan servicing concerns; and

8. Take any other actions necessary to fulfill the duties of the Office of the Qualified Education Loan Ombudsman as set forth in this article.

2018, cc. 489, 755.

§ 23.1-233. Qualified education loan borrower education course.

On or before December 1, 2019, the Office of the Qualified Education Loan Ombudsman, in consultation with the Council, shall establish and maintain a qualified education loan borrower education course that shall include educational presentations and materials regarding qualified education loans. Topics covered by the course shall include, but shall not be limited to, key loan terms, documentation requirements, monthly payment obligations, income-driven repayment options, loan forgiveness programs, and disclosure requirements. The course shall be web-based and available to the public at any time. The Office of the Qualified Education Loan Ombudsman may also establish in-person classes.

2018, cc. 489, 755.

§ 23.1-233.1. (Effective July 1, 2021) Qualified education loans; certain providers; contact information and summary.

Any provider of private education loans, as defined in 12 C.F.R. § 1026.46(b)(5), shall disclose to any student attending an institution of higher education in the Commonwealth, prior to issuing a qualified education loan to such student, the contact information for the Office of the Qualified Education Loan Ombudsman and a summary of the student loan information applicable to private education loans that may be found on the Council's website. Any such disclosure may be made in conjunction with or incorporated into another disclosure to such student prior to issuing the qualified education loan. The summary shall be developed by the Office of the Qualified Education Loan Ombudsman in consultation with relevant stakeholders.

2020, c. 436.

§ 23.1-234. Reports.

On or before January 1, 2019, and annually thereafter, the Council shall submit a report to the House Committees on Commerce and Labor and Education and the Senate Committees on Commerce and Labor and Education and Health. The report shall address (i) the implementation of this article and (ii) the overall effectiveness of the Office of the Qualified Education Loan Ombudsman.

2018, cc. 489, 755.

Chapter 20 - OLD DOMINION UNIVERSITY

§ 23.1-2000. Corporate name; name of the University.

A. The board of visitors of Old Dominion University (the board) is a corporation under the name and style of "Old Dominion 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 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.

1962, c. 69, § 23-49.11; 1966, c. 18; 1974, c. 317; 2016, c. 588.

§ 23.1-2001. Membership.

A. The board shall consist of 17 members appointed by the Governor, of whom at least 14 shall be residents of the Commonwealth and at least three shall be alumni of the University.

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.

1962, c. 69, §§ 23-49.14, 23-49.15; 1966, c. 18; 1970, c. 624; 1974, c. 317; 1980, c. 100; 2016, c. 588.

§ 23.1-2002. Meetings; officers; committees.

A. The board shall meet at the University once a year and at such other times 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. A majority of members shall constitute a quorum.

C. In every even-numbered year, the board shall elect from its membership a rector to preside at its meetings, 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. Such officers shall assume their duties on July 1 of such year.

D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector, vice-rector, and secretary.

E. Vacancies in the offices of rector, vice-rector, and secretary may be filled by the board for the unexpired term.

F. At every regular annual meeting of the board, an executive committee for the transaction of business in the recess of the board may be appointed, consisting of at least five members. The executive committee shall consist of the officers of the board and such other members as the rector may appoint.

1962, c. 69, § 23-49.17; 1966, c. 18; 1974, c. 317; 1980, c. 100; 2002, c. 368; 2016, c. 588; 2018, c. 715.

§ 23.1-2003. 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 may confer degrees.

C. The board may take, hold, and enjoy any gift, grant, devise, or bequest made to the University for any use or purpose designated by the donor or for the general purposes of the board when no use or purpose is designated, whether such gift, grant, devise, or bequest is made directly to the corporation or to trustees for its benefit.

1962, c. 69, §§ 23-49.13, 23-49.17, 23-49.19; 1966, c. 18; 1974, c. 317; 1980, c. 100; 2002, c. 368; 2016, c. 588.

§ 23.1-2004. Program of instruction to educate and train teachers.

The University may maintain a program of instruction to educate and train teachers for the public elementary and secondary schools of the Commonwealth.

1962, c. 69, § 23-49.20; 1966, c. 18; 1974, c. 317; 2016, c. 588.

Chapter 21 - Radford University

§ 23.1-2100. Corporate name; name of the University.

A. The board of visitors of Radford University (the board) is a corporation under the name and style of "The Visitors of Radford 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 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.

1964, c. 50, §§ 23-155.1, 23-155.2; 1979, cc. 136, 145; 2016, c. 588.

§ 23.1-2101. Membership.

A. The board shall consist of 15 members appointed by the Governor, of whom at least 11 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.

1964, c. 50, §§ 23-155.4, 23-155.5; 1976, c. 25; 2007, cc. 471, 727; 2016, c. 588.

§ 23.1-2102. Powers and duties.

A. The board shall (i) provide for the employment of personnel as required and fix their salaries and (ii) generally direct the affairs of the University.

B. The board may confer degrees.

1964, c. 50, §§ 23-155.7, 23-155.9; 1979, cc. 136, 145; 2016, c. 588.

§ 23.1-2103. Program of instruction to educate and train teachers.

The University shall 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.

1964, c. 50, § 23-155.10; 1979, cc. 136, 145; 2016, c. 588.

§ 23.1-2104. Authority to establish Radford University-Roanoke Division.

A. In recognition of the fact that maintaining an innovative academic health center in Roanoke addresses the increased health care training needs in the Commonwealth, the board may establish the Radford University-Roanoke Division (the Division) through the acquisition of Jefferson College of Health Sciences, a nonprofit private institution wholly owned and operated by Carilion Clinic.

B. Upon establishment of the Division, the board may (i) exercise the same powers with respect to the operation of the Division as are vested in the board regarding the University and (ii) offer at the Division all programs of instruction offered by Jefferson College of Health Sciences at the time of acquisition, including associate-degree programs. However, the board shall cease to offer such associate-degree programs at the Division when the Council, the nationally recognized regional accreditation body, and the programmatic accreditation body approve Virginia Western Community College to offer such associate-degree programs in the Roanoke region. Nothing in this section shall authorize the University to offer any other associate-degree programs in the Roanoke region.

C. Notwithstanding any other provision of law, the University may award merit-based and need-based institutional aid to students enrolled at the Division in a manner that is consistent with practices at the former Jefferson College of Health Sciences.

2019, cc. 60, 64.

Chapter 22 - UNIVERSITY OF VIRGINIA

Article 1 - GENERAL PROVISIONS

§ 23.1-2200. Corporate name; name of the University.

A. The board of visitors of the University of Virginia (the board) is a corporation under the name and style of "the Rector and Visitors of the University of Virginia" 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 the University of Virginia (the University).

Code 1919, § 806, § 23-69; 2016, c. 588.

§ 23.1-2201. Membership.

A. The board shall consist of 17 members appointed by the Governor, of whom at least (i) 12 shall be appointed from the Commonwealth at large, (ii) 12 shall be alumni of the University, and (iii) one shall be a physician with administrative and clinical experience in an academic medical center.

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 members from the list of nominees.

Code 1919, § 807, §§ 23-70, 23-71; 1924, p. 145; 1930, p. 80; 1944, pp. 399, 400; 1945, p. 52; 1954, c. 343; 1980, c. 559; 1989, Sp. Sess., c. 5; 2008, cc. 55, 155; 2012, c. 599; 2016, c. 588.

§ 23.1-2202. Meetings; officers; committees.

A. The board shall meet at the University 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 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 shall appoint from its membership a rector to preside at its meetings and a vice-rector to preside at 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 perform any additional duties as 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 appoint a secretary who shall serve a term and perform duties as prescribed by the board.

E. Vacancies in the offices of rector, vice-rector, and secretary may be filled by the board for the unexpired term.

F. At every annual meeting of the board, the board shall appoint an executive committee for the transaction of business in the recess of the board, consisting of at least three and not more than seven members, to serve for the period of one year or until the next regular annual meeting.

Code 1919, §§ 809, 810, §§ 23-74, 23-75; 1966, c. 467; 2003, c. 655; 2014, c. 567; 2015, c. 327; 2016, c. 588.

§ 23.1-2203. Courses of study to be taught.

The following 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.

Code 1919, § 817, § 23-63; 2016, c. 588.

§ 23.1-2204. Salary of president and professors; fees.

The president and each of the professors shall receive a stated salary. The board may supplement such stated salary out of the fees for tuition and other revenues of the University.

Code 1919, § 816, § 23-64; 2016, c. 588.

§ 23.1-2205. Secured obligations.

It shall be unlawful for the board to issue its obligations to be secured by deed of trust on its real estate without the prior consent of the General Assembly.

Code 1919, § 821, § 23-65; 2016, c. 588.

§ 23.1-2206. Payment of bonds of the University.

For the payment of the bonds, with the interest on such bonds, issued 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, the current revenue of the University and the property held by the Commonwealth for the purposes of the University shall continue liable.

Code 1919, § 818, § 23-66; 2016, c. 588.

§ 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, 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 § 23.1-1109, and to constitute a sinking fund for the liquidation of the principal of such debt. Such sum shall be applied to no other purpose or object.

Code 1919, § 820, § 23-67; 2016, c. 588.

§ 23.1-2208. Provision for interest on certain bonds.

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 donated by William W. Corcoran, of Washington, D.C., to the University and under the act of January 13, 1877, and the act of April 2, 1879, converted into registered bonds in the name of the board.

Code 1919, § 827, § 23-68; 2016, c. 588.

§ 23.1-2209. Powers and duties.

A. The board shall (i) care for and preserve all property belonging to the University, (ii) grant to the president of the University supreme administrative direction over all the schools, colleges, divisions, and branches of the University, and (iii) examine the progress of the students in each year and give to those who excel in any course of study such honors as it deems proper.

B. The board may (i) remove the president of the University or any professor with the assent of two-thirds of its members, (ii) prescribe the duties of each professor and the course and mode of instruction, (iii) appoint a comptroller and proctor and employ any other agent or servant, (iv) regulate the renting of the rooms and dormitories, and (v) to enable the board to procure a supply of water and construct and maintain a system of waterworks, drainage, and sewerage for the University, acquire such springs, lands, and rights-of-way as may be necessary, according to the provisions of Title 25.1.

Code 1919, §§ 811, 813, §§ 23-76, 23-78; 1938, p. 442; 1956, cc. 12, 689; 2016, c. 588.

§ 23.1-2210. Investment of endowment funds, endowment income, 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 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.).

C. No member of the board is personally liable for losses suffered by any endowment fund, endowment income, gift, other nongeneral fund reserve and balance, or local funds of or held by the University arising from investments made pursuant to the provisions of subsection B.

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 is not subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

E. In addition to the investment practices authorized by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board may 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.

F. The authority provided in this section 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.

1998, cc. 121, § 23-76.1, 132; 2000, cc. 818, 1014; 2002, cc. 582, 595; 2007, c. 434; 2008, c. 184; 2016, c. 588.

Article 2 - THE UNIVERSITY OF VIRGINIA'S COLLEGE AT WISE

§ 23.1-2211. The University of Virginia's College at Wise.

A. The University of Virginia's College at Wise (the College), established in Wise County, Virginia, is a division of the University and a baccalaureate public institution of higher education subject to the supervision, management, and control of the board.

B. Direct and indirect appropriations from the Commonwealth to the College shall be expended as directed by the board.

C. All property, property rights, duties, contracts, and agreements of the College are vested in the board. The board shall care for and preserve all property belonging to the College.

D. With respect to the College, the board has all the powers that are vested in 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 executive officer of the College.

1966, c. 68, §§ 23-91.20, 23-91.21, 23-91.22; 1999, cc. 424, 437; 2016, c. 588.

Article 3 - MEDICAL CENTER

§ 23.1-2212. Operations of Medical Center.

A. The ability of the University 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 article as the Medical Center, and the maintenance of a Medical Center serving such purposes requires specialized management and operation that permit the Medical Center to remain economically viable and 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 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.). This subsection shall not be construed as a waiver of the Commonwealth's sovereign immunity.

C. The University may create, own in whole or in part, or otherwise control corporations, partnerships, insurers, or other entities whose activities promote the operations of the Medical Center and its mission; cooperate or enter into joint ventures with such entities and with government bodies; and enter into contracts in connection with its operations. Without limiting the power of the University to issue bonds, notes, guarantees, or other evidence of indebtedness 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 agency of the Commonwealth for the operations or obligations of any such entity or in any way make the University, the Commonwealth, or any agency 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 11 (§ 23.1-1100 et seq.), 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 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 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 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 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.

8. All such indebtedness is reflected on the financial statements of the Medical Center.

E. Subject to meeting the conditions set forth in subsection D, such debt may be in such form and have such terms as the board may provide and shall be in all respects debt of the University for the purposes of §§ 23.1-1110, 23.1-1115, and 23.1-1116.

1994, c. 621, § 23-77.3; 2003, c. 701; 2014, c. 320; 2016, c. 588.

§ 23.1-2213. Medical center management; capital projects; leases of property; procurement.

A. The economic viability of the Medical Center, 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 § 23.1-2212, depend upon the ability of the management of the Medical Center to make and promptly implement decisions necessary to conduct the affairs of the Medical Center in an efficient, competitive manner. It is critical to and in the best interests of the Commonwealth that the University continues to fulfill its mission of providing quality medical and health sciences education and related research and, through the presence of its Medical Center, 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 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 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 may implement the following modifications to the management and operation of the affairs of the Medical Center in order to enhance its economic viability:

1. 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 delegated to the University, subject to the following stipulations and conditions: (i) the board shall develop and implement an appropriate system of policies, procedures, reviews, and approvals for Medical Center capital projects to which this subsection applies; (ii) the system so adopted shall provide for the review and approval of any Medical Center capital project to which this subsection applies to ensure that, except as provided in clause (iii), the cost of any such capital project does not exceed the sum appropriated for the project and 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 may, during any fiscal year, approve a transfer of up to 15 percent of the total non-general fund appropriation for the Medical Center to supplement funds appropriated for a capital project of the Medical Center, provided that the board finds that the transfer is necessary to effectuate the original intention of the General Assembly in making the appropriation for the capital project 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 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 provisions of this subsection, the terms and structure of any financing of any capital project to which this subsection applies shall be approved pursuant to § 2.2-2416.

b. No capital project to which this 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 shall be made during construction unless the conditions in clause (i) or (ii) have been satisfied.

2. a. The University is exempt from the provisions of § 2.2-1149 and any rules, regulations, and guidelines of the Division of Engineering and Buildings 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, may enter into such leases subject to the following conditions: (i) the lease 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; (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 that direct that (a) competition be sought to the maximum practical degree, (b) all costs of occupancy be considered, and (c) the use of the space to be leased is necessary and 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 provides copies of all lease documents and any attachments to such lease documents to the Department of General Services.

b. Notwithstanding the provisions of § 2.2-1155 and subdivision B 1 of § 23.1-1301, but subject to policies and procedures adopted by the 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 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. a. Contracts awarded by the University on behalf of the Medical Center for the procurement of goods, services, including professional services, construction, or information technology and telecommunications in compliance with this subdivision are exempt from (i) the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except as provided 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.

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 in each instance seek competition to the maximum practical degree. The guidelines shall (i) implement a system of competitive negotiation for professional services; (ii) prohibit discrimination against the bidder or offeror in the solicitation or award of contracts on the basis of the race, religion, color, sex, sexual orientation, gender identity, 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 the dollar amount of the intended procurement, the term of the anticipated contract, and the likely extent of competition; (b) implement a prequalification procedure for contractors or products; (c) include provisions for cooperative procurement arrangements with private health or educational institutions or public agencies or institutions of the states or territories of the United States or the District of Columbia; and (d) implement provisions of law.

c. Sections 2.2-4311, 2.2-4315, 2.2-4342 (which 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.

B. Subject to conditions that are prescribed in the budget bill pursuant to § 2.2-1509, the State Comptroller shall credit, on a monthly basis, to the nongeneral fund operating cash balances of the Medical

Center the imputed interest earned by the investment of such nongeneral fund operating cash balances, including those balances derived from patient care revenues, on deposit with the State Treasurer.

1996, cc. 933, 995, § 23-77.4; 2002, cc. 574, 602; 2004, c. 145; 2010, cc. 136, 145; 2016, c. 588; 2020, c. 1137.

Article 4 - DONATIONS

§ 23.1-2214. Gifts, bequests, and devises.

Any person may (i) deposit in the state treasury; (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, 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 board and appropriated by the board for general purposes unless some particular appropriation has been designated by the donor or testator. The State Treasurer shall notify the board of any such deposit in the state treasury.

Code 1919, § 822, § 23-81; 1956, c. 184; 2016, c. 588.

§ 23.1-2215. Donations for special purposes or objects.

If any particular purpose or object connected with the University is specified by 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. If the donor or testator so 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 § 23.1-2214 and for such period as such writing or will prescribes, not exceeding 30 years. At the expiration of the time so prescribed or 30 years, whichever occurs first, the fund, with its accumulations, and the interest, income, and profits accruing upon the aggregate fund shall be paid to the board as they accrue and as directed by such writing or will and shall be appropriated and employed according to the provisions of such writing or will and not otherwise. The board shall render to the General Assembly, at each regular session, an account of the disbursement of any funds so derived.

Code 1919, § 823, § 23-82; 2016, c. 588.

§ 23.1-2216. Disposition of donations.

Donations made pursuant to § 23.1-2214 are irrevocable by the donor or his representatives, but if the board gives notice in writing to the State Treasurer within one year of being notified of the donation by the Treasurer that it declines to receive the benefit of such deposit, the deposit and any interest and profits that may have accrued shall be held subject to the order of such donor or his legal representatives. If at any time the object of such donation or deposit fails by the legal destruction of the

University or by any other means so that the purpose of the gift, bequest, or devise is permanently frustrated, the whole fund, including unexpended principal and interest, shall revert to and be vested in the donor or his legal representatives.

Code 1919, § 824, § 23-83; 2016, c. 588.

§ 23.1-2217. Reservation of nomination by donor.

If a donor 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 (ii) do any other act connected with such nomination and he or such other person fails to make such nomination in writing or do such other act within six months, the board may proceed to make such appointment or do such act.

Code 1919, § 825, § 23-84; 2016, c. 588.

§ 23.1-2218. Commonwealth to be trustee of donations; liability of State Treasurer.

The Commonwealth is the trustee for the safekeeping and due application of all funds that may be deposited in the state treasury pursuant to § 23.1-2214. The State Treasurer and the sureties in his official bond are liable for the money or other funds deposited, and the accounting officers of the Commonwealth shall keep separate accounts of each such deposit in the same manner as other public funds.

Code 1919, § 826, § 23-85; 2016, c. 588.

Article 5 - Virginia Foundation for the Humanities: Identification of the History of Formerly Enslaved African Americans in Virginia

§ 23.1-2219. Virginia Foundation for the Humanities; identification of the history of formerly enslaved African Americans in Virginia.

A. With such funds as are appropriated by the General Assembly and with the agreement of the Virginia Foundation for the Humanities (the Foundation), the Foundation shall identify the history of formerly enslaved African Americans in Virginia and determine ways to preserve that history for educational and cultural purposes.

B. The Foundation shall:

1. Promote the identification, preservation, and conservation of historic sites significant to the history, presence, and contributions of formerly enslaved African Americans in Virginia;

2. Assess the extent to which students and the public are knowledgeable concerning African American history, the African slave trade, slavery in Virginia and America, and the vestiges of slavery in the Commonwealth and the nation;

3. Identify the contributions of African Americans to Virginia, the nation, and the world;

4. Inventory relevant African American historical sites, memorials, exhibits, and resources in the Commonwealth and assess the potential economic impact of tourism and economic development promotion relative to such sites;

5. Develop a register of historical sites significant to African American history in Virginia that should be preserved and recommend options for preservation and ways to increase tourism revenues; and

6. Develop and maintain a roster of volunteer historians, educators, businesses, organizations, and speakers to act as resource persons for classroom teachers on African American history, the African slave trade, American slavery, the impact of slavery on modern society, and the contributions of African Americans to Virginia and the nation.

C. To assist the Foundation in its work, a task force is hereby created consisting of 17 members as follows: three 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; seven nonlegislative citizen members to be appointed by the Governor, at least one of whom shall be a recognized historian with scholarship in American history and slavery and at least one of whom shall be the president of a historically black college or university located in the Commonwealth. The Director of the Department of Historic Resources or his designee, the Director of the Black History Museum and Cultural Center of Virginia or his designee, the executive director of the Virginia Tourism Authority or his designee, the chairman of the board of trustees of the Virginia Outdoors Foundation or his designee, and the President of the Foundation shall serve ex officio.

Legislative members shall serve terms coincident with their terms of office. Gubernatorial appointments shall be for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Nonlegislative citizen members may be reappointed. Vacancies shall be filled in the same manner as the original appointments.

The task force shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

2017, c. 647; 2019, c. 230.

§ 23.1-2220. Quorum and meetings.

A majority of the members of the task force shall constitute a quorum. The task force shall meet no more than four times each year. The meetings of the task force shall be held at the call of the chairman or whenever the majority of the members so request.

2017, c. 647.

§ 23.1-2221. Compensation; expenses.

Legislative members shall receive such compensation as provided in the general appropriation act, and the Foundation shall submit such attendance reports as necessary to the Clerk of the House of Delegates and the Clerk of the Senate to facilitate the payment of such compensation. From the

appropriation to the Foundation, the Foundation shall pay nonlegislative citizen members such compensation for the performance of their duties as provided in § 2.2-2813 and shall reimburse all members for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

2017, c. 647.

Chapter 23 - VIRGINIA COMMONWEALTH UNIVERSITY

§ 23.1-2300. Corporate name; name of the University.

A. The board of visitors of 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).

1968, c. 93, §§ 23-50.4, 23-50.8; 2016, c. 588.

§ 23.1-2301. Purpose of board.

The 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 courses of study for the professions and such other courses of study as may be appropriate, and in connection with this purpose, the board may maintain and conduct hospitals, infirmaries, dispensaries, laboratories, research centers, power plants, and such other facilities as it deems proper.

1968, c. 93, § 23-50.7; 2016, c. 588.

§ 23.1-2302. Property and liabilities of Medical College of Virginia and Richmond Professional Institute.

All real estate and personal property in the name of the corporate bodies designated "Medical College of Virginia" and "Richmond Professional Institute" transferred to, known and taken as standing in the name of, and under the control of the University is the property of the Commonwealth. The University is vested with all rights, duties, contracts, and agreements and is responsible and liable for all the liabilities and obligations of its predecessor institutions.

1968, c. 93, § 23-50.5; 2016, c. 588.

§ 23.1-2303. Membership.

A. The board shall consist of 16 members appointed by the Governor.

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.

1968, c. 93, § 23-50.6; 1972, c. 51; 1981, c. 225; 2016, c. 588.

§ 23.1-2304. Principal office; meetings; officers; committees.

A. The principal office of the board shall be located, and all meetings of the board held, as far as practicable, in the City of Richmond.

B. The board shall meet at least once a year and at such other times as it determines. Notice of all meetings shall be provided to each member.

C. A majority of the members shall constitute a quorum.

D. The board shall appoint from its membership a rector, a vice-rector, a secretary, and any other officers as determined by the board. The board shall prescribe their duties and term of office and fix their compensation, if any.

E. The board shall determine the number of members of and appoint an executive committee and determine the number of members of the executive committee that shall constitute a quorum. The executive committee shall perform duties prescribed by the board.

F. Reasonable expenses incurred by members shall be paid out of the funds of the University.

1968, c. 93, § 23-50.9; 2016, c. 588.

§ 23.1-2305. Powers and duties.

A. The board shall appoint all teachers, staff members, and agents, fix their salaries, and prescribe their duties.

B. The board shall generally direct the affairs and business of the University.

C. The board may confer degrees, including honorary degrees.

D. The board may take, hold, receive, and enjoy any gift, grant, devise, or bequest to the University or its predecessors for the uses and purposes designated by the donor, or if not so designated, for the general purposes of the corporation, whether given directly or indirectly, and accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

1968, c. 93, §§ 23-50.8, 23-50.10; 23-50.12; 2016, c. 588.

§ 23.1-2306. Investment of endowment funds, endowment income, 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 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.).

C. No member of the board is personally liable for losses suffered by any endowment fund, endowment income, gift, other nongeneral fund reserve and balance, or local funds of or held by the University arising from investments made pursuant to the provisions of subsection B.

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 is not subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

E. In addition to the investment practices authorized by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board may 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.

F. The authority provided in this section 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.

2009, cc. 737, 767, § 23-50.10:01; 2016, c. 588.

§ 23.1-2307. Process or notice.

Process against or notice to the board shall be served only in the City of Richmond upon the rector, vice-rector, or secretary of the board or the president of the University.

1968, c. 93, § 23-50.14; 2016, c. 588.

§ 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 Medical College of Virginia, Health Sciences Schools of the University.

1968, c. 93, § 23-50.7; 2016, c. 588; 2017, c. 314.

§ 23.1-2309. Operations of Medical Center.

A. The University may provide medical and health sciences education and related research through teaching hospitals and related health care and health maintenance facilities, collectively referred to in this section as the Medical Center. The Medical Center may participate in cooperative arrangements reflective of changes in health care delivery.

B. The University may create, own in whole or in part, or otherwise control corporations, partnerships, insurers, or other entities whose activities promote the operations of the Medical Center and its mission; cooperate or enter into joint ventures with such entities; and enter into contracts in connection with such joint ventures. Without limiting the power of the University to issue bonds, notes, guarantees, or other evidence of indebtedness 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 agency of the Commonwealth for the operations or obligations of any entity or in any way make the University, the Commonwealth, or any agency 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 11 (§ 23.1-1100 et seq.), 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 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. No revenues of the University are pledged to the payment of such debt except those revenues derived from the operation of the Medical Center and related health care and educational activities, and 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 $25 million.

6. The Treasury Board 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.

8. All such indebtedness is reflected on the financial statements of the Medical Center.

D. Subject to meeting the conditions set forth in subsection C, such debt may be in such form and have such terms as the board may provide and shall be in all respects debt of the University for the purposes of §§ 23.1-1110, 23.1-1115, and 23.1-1116.

1994, c. 621, § 23-50.16; 2016, c. 588.

§ 23.1-2310. Authority to create Virginia Commonwealth University School of Medicine-Northern Virginia Division.

A. The board may establish the Virginia Commonwealth University School of Medicine-Northern Virginia Division (the Division). If established, the board shall operate the Division in the areas of program and service emphasis that the Council approves pursuant to subdivision 7 of § 23.1-203.

B. The board has the same powers with respect to the operation of the Division as are vested in the board regarding the University.

2002, c. 694, § 23-50.16:01; 2016, c. 588.

§ 23.1-2311. Virginia Center on Aging.

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.

2016, c. 588.

§ 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 may establish, operate, and govern a branch campus of the University in the State of Qatar. The board has the same powers with respect to operation and governance of its branch campus in Qatar as are vested in the board by law with respect to the University. In operating such branch campus, the board 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 the University.

C. In its operation of any branch campus established in the State of Qatar, the board and its employees shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, or gender identity and shall not abridge the constitutional rights of freedom of speech and religion. Any agreement that the board 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, sex, sexual orientation, or gender identity and without abridging the constitutional rights of freedom of speech and religion.

2002, c. 801, § 23-50.16:36; 2016, c. 588; 2020, c. 1137.

Chapter 24 - VIRGINIA COMMONWEALTH UNIVERSITY HEALTH SYSTEM AUTHORITY

§ 23.1-2400. Definitions.

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

"Authority" means the Virginia Commonwealth University Health System Authority.

"Board" means the 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; (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 (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; (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, 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.

"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 all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities owned,

leased, operated, or used, in whole or in part, by Virginia Commonwealth University as part of, or in connection with, 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 MCV Hospitals as a medical treatment facility or 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 owned by the Authority, including hospitals; nursing homes; continuing care facilities; self-care facilities; wellness and health maintenance centers; medical office facilities; clinics; 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 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 courses of study as may be appropriate, together with research, training, and teaching facilities; all necessary or desirable related and supporting facilities and equipment or equipment alone, including (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 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.

1996, cc. 905, 1046, § 23-50.16:4; 2000, c. 720; 2016, c. 588.

§ 23.1-2401. Authority established; powers, purposes, and duties.

A. The Virginia Commonwealth University Health System Authority is established as a public body corporate, public instrumentality, and political subdivision of the Commonwealth with such public and corporate powers as are set forth in this chapter.

B. The purpose of the Authority is to exercise public and essential governmental functions to provide for the health, welfare, convenience, knowledge, benefit, and prosperity of the residents of the Commonwealth and such other individuals who might be served by the Authority by delivering and supporting the delivery of medical care and related services to such residents and individuals, providing educational opportunities in the medical field and related disciplines, conducting and facilitating research in the medical field and related disciplines, and 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.

C. The Authority shall operate, maintain, and expand, as appropriate, teaching hospitals and related facilities for the benefit of the Commonwealth and its citizens and such other individuals who might be served by the Authority.

1996, cc. 905, 1046, §§ 23-50.16:2, 23-50.16:3; 2000, c. 720; 2016, c. 588.

§ 23.1-2402. Board of directors; membership; meetings; officers; employees.

A. The Authority shall be governed by a board of directors with a total of 21 members 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, of whom two shall be physician-faculty members; five members to be appointed by the Speaker of the House of Delegates, of whom two shall be physician-faculty members; three members to be appointed by the Senate Committee on

Rules, of whom one shall be a physician-faculty member; and five nonlegislative citizen members of the board of visitors of the University to be appointed by the rector of the board of visitors of the University, all of whom shall be members of the board of visitors of the University at all times while serving on the board. The President of the University and the Vice-President for Health Sciences of the University, or the individual who holds such other title as subsequently may be established by the board of visitors of the University for the chief academic and administrative officer for the Health Sciences Schools of the University, shall serve ex officio with voting 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 the University with hospital privileges at MCV Hospitals at all times while serving on the board.

C. The Governor, the Speaker of the House of Delegates, and the Senate Committee on Rules shall appoint physician-faculty members after consideration of names from lists submitted by the faculty physicians of the School of Medicine of the University through the Vice-President for Health Sciences of the University. The list shall contain at least two names for each vacancy.

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.

E. Neither the board members appointed from the board of visitors of the University nor the ex officio members shall vote on matters that require them to breach their fiduciary duties to the University or to the Authority.

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.

G. The president of the University shall serve as the chairman of the board. The board shall elect annually a vice-chairman from among its membership. The board shall also elect a secretary and treasurer and such assistant secretaries and assistant treasurers as the board may authorize for terms determined by the board, each of whom may or may not be a member of the board. The same individual may serve as both secretary and treasurer.

H. The board may 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 under this chapter as the board may delegate.

I. The board may provide for the appointment, employment, term, compensation, and removal of officers, employees, and agents of the Authority, including engineers, consultants, lawyers, and accountants, as the board deems appropriate.

J. The board shall meet at least four times each year and may hold such special meetings as it deems appropriate.

K. The board may adopt, amend, and repeal such 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 shall constitute a quorum for meetings, and the board may act by a majority of those present at any meeting.

M. Legislative board members are entitled to such compensation as provided in § 30-19.12 and nonlegislative citizen board members are entitled to such compensation for the performance of their duties as provided in § 2.2-2813. All members 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.

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 and the employees of the Authority.

1996, cc. 905, 1046, § 23-50.16:5; 1998, c. 449; 2000, c. 720; 2004, c. 1000; 2014, cc. 3, 456; 2016, c. 588.

§ 23.1-2403. Chief executive officer of the Authority.

A. The Authority shall be under the immediate supervision and direction of a chief executive officer, subject to the policies and direction established by the board. The chief executive officer shall be the 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 of the University for the chief academic and administrative officer for the Health Sciences Schools of the University. Notwithstanding any other provision of law to the contrary, the selection and removal of the chief executive officer, and the conditions of appointment, including salary, shall be made jointly by the board and the board of visitors of the University at a joint meeting of the board and the 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 as provided in subsection

A, then each board shall appoint a committee of three members of its respective board to consider the matter 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, then the decision shall be reported to the board and the 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 within 30 days of the appointment of the committees by each board, then the president of the University shall decide upon the matter upon which the committees disagree. The president of the University shall report his decision to both boards, each of which shall be bound by the decision of the president.

C. The 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 shall supervise and administer the operation of the Authority in accordance with the provisions of this chapter.

1996, cc. 905, 1046, § 23-50.16:7; 2000, c. 720; 2014, cc. 3, 456; 2016, c. 588.

§ 23.1-2404. Powers of the Authority.

A. The Authority has all the powers necessary or convenient to carry out the purposes and provisions of this chapter, including the power to:

1. Sue and be sued in its own name;

2. Have and alter an official seal;

3. Have perpetual duration and succession in its name;

4. Locate and maintain offices at such places as it may designate;

5. Make and execute contracts, guarantees, or any other instruments and agreements necessary or convenient for the exercise of its powers and functions, including contracts with hospitals or health care businesses to operate and manage any or all of the hospital facilities or operations, and incur liabilities and secure the obligations of any entity or individual;

6. 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. 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 in which the power is confined to corporations created under such title, and (ii) not inconsistent with the purposes and intent of this chapter or the limitations included in this chapter;

8. Accept, hold, and enjoy any gift, devise, or bequest to the Authority or its predecessors 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 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. Borrow money and issue bonds as provided in this chapter and purchase such bonds;

10. 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 may 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. Seek financing from, incur or assume indebtedness to, and enter into contractual commitments with the Commonwealth as otherwise provided by law relating to the hospital facilities or any project;

12. Procure such insurance, participate in such insurance plans, 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 is not a waiver or relinquishment of any sovereign immunity to which the Authority or its officers, directors, employees, or agents are otherwise entitled;

13. Develop policies and procedures generally applicable to the procurement of goods, services, and construction based upon competitive principles;

14. Except as to those hospital facilities or any 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:

a. Own, hold, improve, use, and otherwise deal with real or personal property, tangible or intangible, or any right, easement, estate, or interest 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;

b. Sell, assign, lease, encumber, mortgage, or otherwise dispose of any project, any other real or personal property, tangible or intangible, any right, easement, estate, or interest in such property, or any deed of trust or mortgage lien interest that it owns, that is under its control or custody or in its possession;

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

d. Take any action pursuant to subdivision 14 by public or private sale or with or without public bidding, notwithstanding the provisions of any other law;

15. Accept loans, grants, contributions, or other assistance from the federal government, the Commonwealth, any political subdivision of the Commonwealth, or any other public or private source to

carry out any of the purposes of this chapter and enter into any agreement or contract regarding the acceptance, use, or repayment of any such loan, grant, contribution, or assistance in furtherance of the purposes of this chapter;

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, 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 (ii) the approval of the Governor. The Authority may acquire property already devoted to a public use, provided that no property belonging to any locality, religious corporation, unincorporated church, or charitable corporation may be acquired without its consent;

17. Fix, revise, 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 are not 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;

18. Consistent with § 23.1-2407, create, assist in the creation of, own in whole or in part, control, participate in or with any public or private 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 outside the Commonwealth and (ii) obligations of any person or corporation;

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;

20. Create a nonprofit entity for the purpose of soliciting, accepting, and administering grants, outright gifts and bequests, endowment gifts and bequests, and gifts and bequests in trust. Such entity shall not engage in trust business or duplicate such activities by the University or its related foundations;

21. Provide appropriate assistance, including making loans and providing time of employees, to corporations, partnerships, associations, joint ventures, or other entities whether such entities are owned or controlled in whole or in part or directly or indirectly by the Authority;

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.

1996, cc. 905, 1046, §§ 23-50.16:2, 23-50.16:6, 23-50.16:11, 23-50.16:12, 23-50.16:13, 23-50.16:14; 2003, c. 940; 2006, c. 673; 2016, c. 588; 2017, c. 314.

§ 23.1-2405. 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 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 (ii) any private benefit resulting to any such other private parties from any such project is merely incidental to the public benefit of the project.

B. In the operation of hospitals and other health care and related facilities, the Authority may make and enforce all 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 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 policies, procedures, and regulations do not discriminate on the basis of race, religion, color, sex, sexual orientation, gender identity, or national origin.

1996, cc. 905, 1046, § 23-50.16:9; 2016, c. 588; 2020, c. 1137.

§ 23.1-2406. Additional powers of the Authority; police.

A. The Authority may adopt and enforce reasonable 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 (ii) other matters affecting the safety and security of Authority property and individuals using or occupying Authority property. Such policies, procedures, and regulations have the force and effect of law (a) after publication one time in full in a newspaper of general circulation in the locality where the affected property is located and (b) when posted where the individuals using such property may conveniently see them.

B. The campus police department of the University, established in accordance with the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8, may enforce on Authority property the laws of the Commonwealth and policies and regulations adopted pursuant to subsection A. To the extent that such police services are not provided by the University, the Authority may establish a police department in

accordance with the provisions of Chapter 8, except that the employment of such personnel by the Authority is not subject to the Virginia Personnel Act (§ 2.2-2900 et seq.).

1996, cc. 905, 1046, § 23-50.16:10; 2016, c. 588.

§ 23.1-2407. Public purpose.

The exercise of the powers granted by this chapter is in all respects for the benefit of the inhabitants of the Commonwealth and 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 its purposes. No private individual is entitled to share in the distribution of any of the corporate assets upon dissolution of the Authority.

1996, cc. 905, 1046, § 23-50.16:15; 2016, c. 588.

§ 23.1-2408. Moneys of the Authority.

A. All moneys of the Authority derived from any source 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 may 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 as the Authority may authorize to execute such warrants or orders.

B. Notwithstanding any provision of law to the contrary, the Authority may invest its operating funds in any obligations or securities that are considered legal investments for public funds in accordance with the Investment of Public Funds Act (§ 2.2-4500 et seq.). The board shall adopt written investment guidelines and retain an independent investment advisory firm or consultant to review at least every five years the suitability of the Authority's investments and the consistency of such investments with the investment guidelines.

1996, cc. 905, 1046, § 23-50.16:14; 2016, c. 588; 2017, c. 314.

§ 23.1-2409. Grants and loans from localities.

Localities may lend or donate money or other property to the Authority for any of the Authority's purposes. The local governing body making the grant or loan may restrict the use of such grants or loans to a specific project within or outside that locality.

1996, cc. 905, 1046, § 23-50.16:11; 2016, c. 588; 2017, c. 314.

§ 23.1-2410. Audit.

A. The Authority shall select through a process of competitive negotiation either (i) the Auditor of Public Accounts or his legally authorized representatives or (ii) a certified public accounting firm to annually audit the Authority's accounts.

B. The Authority shall distribute copies of the annual audit to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

C. The Auditor of Public Accounts and his legally authorized representatives may examine the accounts and books of the Authority; however, the Authority is not 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 is subject to periodic external review under the provisions of the Legislative Program Review and Evaluation Act (§ 30-65 et seq.).

1996, cc. 905, 1046, § 23-50.16:8; 2016, c. 588.

§ 23.1-2411. Exemption from taxation.

A. The Authority is not required to pay any taxes or assessments upon any (i) project, property, or operations of the Authority or the income from such projects, property, or operations or (ii) project, property, or local obligation acquired or used by the Authority under the provisions of this chapter or the income from such projects, property, or local obligations. Such exemptions shall not extend to persons conducting 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 of such bonds, and the income 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 bonds are exempt from taxation and assessment of every kind by the Commonwealth and by the local governing bodies and other political subdivisions of the Commonwealth.

1996, cc. 905, 1046, § 23-50.16:16; 2016, c. 588.

§ 23.1-2412. Transfer of existing hospital facilities.

A. The University may lease, convey, or otherwise transfer to the Authority any or all assets and liabilities appearing on the balance sheet of MCV Hospitals and any or all of the hospital facilities, except real estate that may be leased to the Authority for a term not to exceed 99 years, upon such terms as may be approved by the University.

B. Any transfer of hospital facilities pursuant to subsection A is conditioned upon the existence of a binding agreement between the University and the Authority:

1. That requires the Authority to assume, directly or indirectly, hospital obligations that are directly relating to the hospital facilities or any part of the hospital facilities that are transferred, including rentals as provided in subsection C or a combination of rentals and other obligations in the case of a lease of hospital facilities;

2. That provides that, effective on the transfer date, the Authority shall assume responsibility for, 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 MCV Hospitals, including property leases;

b. All claims 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;

d. All claims relating to the Authority's errors and omissions, including medical malpractice, directors' and officers' liability, workers' compensation, automobile liability, 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. 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 MCV Hospitals, including:

a. A requirement that the Authority continue to provide emergency and inpatient indigent care services on the MCV campus of the University in locations including downtown Richmond; and

b. A requirement that the Authority continue to act as the primary teaching facility for the Virginia Commonwealth University School of Medicine and the Health Sciences Schools of the University.

C. Any lease of hospital facilities 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 that are leased. For those hospital facilities for which rent is paid, the rent shall be at least equal to the greater of:

1. 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 on which 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 shall include a provision that requires the Authority to continue to support the education, research, patient care, and public service missions of MCV Hospitals, including:

1. A requirement that the Authority continue to provide emergency and inpatient indigent care services on the MCV campus of the University in locations including downtown Richmond; and

2. A requirement that the Authority continue to act as the primary teaching facility for the Health Sciences Schools of the University.

E. All other agencies and officers of the Commonwealth 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 the transfer of property of any type held in the name of the Com-

monwealth or an instrumentality or agency 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.

G. Funds held by or for the University or any of its predecessors or divisions, including funds held by the University Foundation or the MCV Foundation for the benefit of MCV Hospitals or any 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 furthers 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 is a distribution to the University for all purposes relating to the donative instrument, and the fiduciary has no liability for distributing any money or property to the Authority pursuant to such a direction. 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.

H. The Authority shall not operate any hospital pursuant to this section prior to execution of the lease and agreement required by 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.

I. The University may assign and the Authority may accept the rights and assume the obligations under any contract or other agreement of any type relating to financing or operating the hospital facilities. Upon evidence that such assignment and acceptance has been made, all agencies and instrumentalities of the Commonwealth shall consent to such assignment and accept the substitution of the Authority for the University as a party to such agreement to the extent that the University's obligations 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 agency or instrumentality of the Commonwealth to finance the hospital facilities may continue to remain outstanding after the transfer and assignment of such agreement by the University to the Authority.

J. The transfer of the hospital facilities from the University to the Authority 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, any agency of the Commonwealth, or any locality held by the University in connection with the ownership or operation of the hospital facilities are transferred without further action to the Authority to the extent that the Authority undertakes the activity permitted by such authorizations. All agencies and officers of the Commonwealth and all 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.

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 require the Authority to act as agent for the University in carrying out its obligations under such agreement or receiving the benefits under such agreement, or both.

1996, cc. 905, 1046, §§ 23-50.16:17, 23-50.16:20, 23-50.16:21, 23-50.16:22, 23-50.16:23; 2016, c. 588.

§ 23.1-2413. Capital projects.

A. All capital projects of the Authority shall be approved by the board. Within 30 days after approval of any capital project in excess of $5 million, the board shall notify the House Appropriations and Senate Finance Committees of the scope, cost, and construction schedule of the proposed capital project. The board may undertake the project unless either Committee raises objections within 30 days of the notification, in which case the Authority shall not undertake the project until such objections are resolved.

B. Before the Authority materially increases the size or materially changes the scope of any capital project for which construction has commenced, such project shall 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 provision of law to the contrary, the Authority is not subject to any further process or procedure that requires the submission, review, or approval of any capital project; however, the Authority shall ensure that Building Officials and Code Administrators (BOCA) Code or any successor code and fire safety inspections 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.

1996, cc. 905, 1046, § 23-50.16:18; 2016, c. 588; 2017, c. 314.

§ 23.1-2414. Leases of property.

Leases of real property that the Authority enters into are exempt from the provisions of § 2.2-1149 and from any policies, regulations, and guidelines of the Division of Engineering and Buildings.

1996, cc. 905, 1046, § 23-50.16:19; 2016, c. 588.

§ 23.1-2415. Employees of the Authority.

A. Employees of the Authority shall be employed on such terms and conditions as established by the Authority. The board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions are based upon the merit and fitness of applicants, and prohibit discrimination on the basis of race, religion, color, sex, sexual orientation, gender identity, or national origin.

B. The Authority shall issue a written notice to all individuals whose employment is transferred to the Authority. The date upon which such written notice is issued is referred to in this section as the "Option Date." Each individual whose employment 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 MCV Hospitals who (i) elects not to become employed by the Authority; (ii) is not reemployed by any department, institution, board, commission, or agency of the Commonwealth; (iii) is not offered alternative employment by the Authority; (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 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 has voluntarily separated from state employment and is not 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 University employee utilized in the operation of the hospital facilities and assume obligations under any employment agreement for such employee, and the University may assign any such contract to the Authority.

D. The Authority and the University may enter into agreements providing for the purchase of services of University employees utilized in the operation of the hospital facilities by paying agreed-upon amounts 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 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 of such plan.

F. Notwithstanding subsection A of § 2.2-2818, the costs of providing health insurance coverage to employees who elect to continue to be members of the state employees' health insurance plan shall be paid by the Authority.

G. Any employee of the Authority may elect to become a member of any health insurance plan established by the Authority. The Authority may (i) establish a health insurance plan for the benefit of its employees, residents, and interns and (ii) enter into 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 requires the Authority to pay the costs of providing health insurance coverage under such plan.

H. Notwithstanding any other provision of law to the contrary, any 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 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 such other authorized retirement plan under the same terms and conditions of such plan. 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 plan established by the Authority for the benefit of its employees pursuant to § 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 another authorized retirement plan, the Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or such other 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 plan 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 plan established by the Authority. For any such employee, employment with the Authority shall be treated as employment with any non-participating 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 plan 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 of such calculation, the basic benefit is the benefit accrued under the Virginia Retirement System or 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 authorized retirement plan so that the transfer of assets to the retirement plan established by the Authority has no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

1996, cc. 905, 1046, § 23-50.16:24; 1998, c. 449; 2000, cc. 66, 657; 2012, cc. 803, 835; 2016, c. 588; 2017, c. 314; 2020, c. 1137.

§ 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, participated in any plan established pursuant to § 51.1-126 or 51.1-126.1 or former § 51.1-126.2. The Authority 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.

B. 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, each eligible employee of the Authority shall participate in a plan established by the Authority pursuant to subsection A.

C. No employee of the Authority who is an active member of a plan established 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, shall be 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. 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, shall be determined by the board.

E. If the 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 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 pursuant to subsection A. A copy of such policies and procedures shall be filed with the Board of Trustees of the Virginia Retirement System.

1998, c. 449, § 23-50.16:24.1; 2016, c. 588.

§ 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 are not 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 that is not less than the equivalent of 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. 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 are not covered by the Virginia Retirement System's group insurance program under § 51.1-501.

1998, c. 449, § 23-50.16:24.2; 2016, c. 588.

§ 23.1-2418. Power to issue bonds.

A. The Authority may issue bonds 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 by or on behalf of the Authority, the University, or otherwise, including bonds or obligations not then subject to redemption. 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 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 (ii) any proceedings, 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 (a) whether the offering may constitute tax-supported debt of the Commonwealth and (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 bonds payable as to principal and interest from any 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 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 of the Commonwealth or from any federal agency or any unit, private corporation, partnership, association, or individual.

1996, cc. 905, 1046, § 23-50.16:25; 2016, c. 588.

§ 23.1-2419. Liability on bonds.

No member of the board; officer, employee, or agent of the Authority; or person executing bonds of the Authority is liable personally on the bonds by reason of issuing or executing such bonds. Bonds of the Authority are not a debt of the Commonwealth or any political subdivision of the Commonwealth other than the Authority and shall so state on their face. Neither the Commonwealth nor any political subdivision of the Commonwealth other than the Authority 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 of the Commonwealth other than those of the Authority, except as permitted by § 23.1-2418. Bonds of the Authority are issued for an essential public and governmental purpose.

1996, cc. 905, 1046, § 23-50.16:26; 2016, c. 588.

§ 23.1-2420. Form of bonds.

A. Bonds of the Authority shall (i) be authorized by resolution setting forth the maximum principal amount issuable, (ii) be dated, and (iii) mature not 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 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 rates and in such manner as the Authority or its agents may determine, including rates approved by officers of the Authority under authorization of the 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, manner of execution, and denominations of its bonds and the place of payment of principal and interest, which may be at any bank or trust company or securities depository within or 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 on the bonds.

D. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to hold such office before delivery of such bond, such signature or facsimile is nevertheless 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, regis-

tration, transfer, exchange, and payment of bonds or provide such services itself. The Authority may sell such bonds at public or private sale and for such price as it determines.

F. Notwithstanding any other provision of this chapter or any recitals in any bonds issued under the provisions of this chapter, all such bonds 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 are executed and available for delivery.

H. The Authority may provide for the replacement of any mutilated, destroyed, stolen, or lost bonds.

1996, cc. 905, 1046, § 23-50.16:27; 2016, c. 588.

§ 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 other property of the Authority, whether or not financed in whole or in part from the proceeds of such bonds; (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 outside the Commonwealth or another agent for bondholders; or (iii) any combination 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 contain reasonable, proper, and lawful provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants (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 upon default; (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 amount of fees, rents, and other charges to be charged; (c) providing for the collection of such fees, rents, and other charges and the custody, safeguarding, and application of all moneys of the Authority; (d) providing for the creation of sinking funds and the creation and maintenance of reserves; and (e) setting forth conditions or limitations with respect to incurring indebtedness or granting mortgages or other liens. Such trust indenture, trust, or other agreement or resolution may set forth the rights and remedies of the bondholders, trustee, or other agent for bondholders and restrict the individual right of action by bondholders.

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 are valid and binding from the time the pledge is made. The revenues pledged and received by the Authority are subject immediately to the lien of such pledge without any physical delivery of such pledge or further act. The lien of any such pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the Authority whether or not such parties have notice of the lien. The Authority may provide for the recording or filing

of any mortgage, deed of trust, security interest, other lien, financing statement, or other instrument necessary or desirable to create, perfect, or evidence any lien created pursuant to this chapter.

C. It is lawful for any bank or trust company within or outside the Commonwealth to (i) serve as depository of the proceeds of bonds or other revenues of the Authority, (ii) furnish indemnifying bonds, or (iii) pledge such securities as may be required by the Authority.

D. All expenses incurred in carrying out the provisions of such trust indenture, agreement, 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.

1996, cc. 905, 1046, § 23-50.16:28; 2016, c. 588.

§ 23.1-2422. Remedies of obligees of Authority.

Except to the extent that the rights 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 (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, such trust indenture, trust, or other agreement, or the resolution authorizing the issuance of such bonds and (b) enforce and compel the Authority or any agent or officer of the Authority to perform all duties required by this chapter or such trust indenture, trust, or other agreement or resolution, including the fixing, charging, and collecting of fees, rents, and other charges.

1996, cc. 905, 1046, § 23-50.16:29; 2016, c. 588.

§ 23.1-2423. Bonds to be legal investments.

Bonds issued by the Authority under the provisions of this chapter are securities (i) in which all public officers and public bodies of the Commonwealth and its political subdivisions, 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 and (ii) that may properly and legally be deposited with and received by any state officer or officer of a locality or agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is authorized by law.

1996, cc. 905, 1046, § 23-50.16:30; 2016, c. 588.

§ 23.1-2424. Existing bonds.

The Authority may assume or 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 refinance such payment obligations. If the Authority assumes all hospital obligations under any such bond resolution and operates substantially all of the hospital facilities financed or refinanced by such bond resolution, the University, State Treasurer, Virginia Public Building Authority, and 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 transfer to the Authority any funds payable to the University under the terms of such resolution.

1996, cc. 905, 1046, § 23-50.16:31; 2016, c. 588.

§ 23.1-2425. Confidential and public information.

A. The Authority is subject to the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.), including the exclusions set forth in subdivision 14 of § 2.2-3705.7 and subdivision A 23 of § 2.2-3711.

B. For purposes of the Freedom of Information Act (§ 2.2-3700 et seq.), meetings of the board are not considered meetings of the board of visitors of the University. Meetings of the board may be conducted through electronic communication means as provided in § 2.2-3708.2.

1996, cc. 905, 1046, § 23-50.16:32; 1998, c. 449; 1999, cc. 703, 726; 2004, c. 690; 2007, c. 945; 2016, c. 588; 2017, c. 778; 2018, c. 55.

§ 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 performance of acts authorized in the chapter and shall be liberally construed to effect the purposes of the chapter. Insofar as the provisions of this chapter are inconsistent with the provisions of any other general, specific, or local law, the provisions of this chapter control.

1996, cc. 905, 1046, § 23-50.16:33; 2016, c. 588.

§ 23.1-2427. Exemptions.

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.), the Workforce Transition Act (§ 2.2-3200 et seq.), the Administrative Process Act (§ 2.2-4000 et seq.), and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) do not apply to the Authority in its exercise of any power conferred to it under this chapter.

1996, cc. 905, 1046, § 23-50.16:34; 2016, c. 588.

§ 23.1-2428. 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.

1996, cc. 905, 1046, § 23-50.16:35; 2016, c. 588.

Chapter 25 - Virginia Military Institute

§ 23.1-2500. Corporate name; name of the Institute.

A. The board of visitors 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 at all times be under the control of the General Assembly.

B. The institution shall be known as Virginia Military Institute (the Institute).

C. The Institute shall be grounded in a strict code of honor and high academics, shall uphold a strict military structure, and shall remain solely an undergraduate degree-granting institution of higher education. All cadets shall participate in one of the Reserve Officers' Training Corps (ROTC) programs at all times while attending the Institute.

D. The Institute shall continue to demonstrate its commitment to contributing to the elimination of sexual violence in the military and shall develop reasonable policies and procedures to demonstrate such continued commitment.

E. There shall be paid out of the public treasury such sums as shall be appropriated by the General Assembly for the support of the school.

Code 1919, § 834, § 23-92; 1968, c. 719; 2016, c. 588; 2020, c. 1047.

§ 23.1-2501. Membership.

A. The board shall consist of 17 members, of whom 16 shall be appointed by the Governor and one shall be the Adjutant General, who shall serve as an ex officio nonvoting member. Of the 16 members appointed by the Governor, (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 be nonalumni residents of the Commonwealth.

B. 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.

Code 1919, § 835, §§ 23-93, 23-94; 1930, pp. 81, 82; 1936, p. 262; 1944, pp. 400, 401; 1945, pp. 49, 50; 1946, pp. 414, 415; 1960, c. 187; 1968, c. 719; 1975, c. 111; 1978, c. 453; 1979, c. 17; 1980, c. 648; 2016, c. 588; 2020, c. 1047.

§ 23.1-2502. Meetings; officers; committees.

A. The board shall meet at the Institute at least once a year and at any other times and places as determined by the board, the superintendent of the Institute, or the president of the board. Special meetings may be called at any time by the superintendent of the Institute or the president of the board. 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 membership a president and shall appoint a secretary to the board.

D. The board may appoint a president pro tempore or secretary pro tempore to preside in the absence of the president or secretary.

E. Vacancies in the offices of president and secretary may be filled by the board for the unexpired term.

F. The board may appoint an executive committee for the transaction of business during the recess of the board, consisting of at least three and not more than five members, one of whom shall be the president.

Code 1919, §§ 835, 836, 837, §§ 23-96, 23-98, 23-99; 1930, p. 82; 1936, p. 263; 1944, p. 401; 1945, p. 50; 1946, p. 415; 1954, c. 154; 1987, c. 143, § 23-95.1; 2014, c. 367; 2016, c. 588.

§ 23.1-2503. Power to receive gifts, grants, devises, and bequests.

The Institute, or the board on its behalf, may receive, take, hold, and enjoy any gift, grant, devise, or bequest made to the Institute or its board for charitable or educational purposes and use and administer any such gift, grant, devise, or bequest for the uses and purposes designated by the donor or for the general purposes of the Institute if no such designation is made.

1956, c. 254, § 23-100.1; 2016, c. 588; 2020, c. 1047.

§ 23.1-2504. Powers; removal of professors.

In addition to the authority provided elsewhere in this Code, a majority of the board may remove professors for good cause.

Code 1919, § 842, § 23-103; 2016, c. 588; 2020, c. 1047.

§ 23.1-2505. Enrollment.

The board shall prescribe the terms upon which cadets may be admitted, their number, the course of their instruction, and the nature and duration of their service.

Code 1919, § 844, § 23-104; 2016, c. 588; 2020, c. 1047.

§ 23.1-2506. State cadets.

A. The Institute may admit annually as state cadets upon evidence of fair moral character individuals selected from the Commonwealth at large who are at least 16 but not more than 25 years old.

B. The board shall provide financial assistance equal to a state cadet applicant's demonstrated need up to the Institute's prevailing charges for tuition, mandatory fees, and other necessary charges.

C. Each state cadet who remains enrolled in the Institute for two years or more shall (i) teach in a public elementary or secondary school in the Commonwealth for two years within the three years immediately after leaving the Institute and 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 has discharged fully such obligation to the Commonwealth, (ii) serve an enlistment in the National Guard of the Commonwealth, (iii) serve for two years as an engineer for the Commonwealth Transportation Board, (iv) serve for two years as an engineer with the State Department of Health, (v) serve on active duty for two years as a member of some component of the armed services of the United States, or (vi) with the approval of the board, serve two years in any capacity as an employee of the Commonwealth.

D. Any cadet who fails to fulfill his obligation pursuant to subsection C shall repay all funds received from the Commonwealth. The board may excuse such cadet from any or all of these obligations in such cases as it determines is appropriate.

Code 1919, §§ 845, 849, §§ 23-105, 23-107; 1924, pp. 170, 214; 1928, p. 1227; Michie Code 1942, § 845a, § 23-106; 1952, c. 482; 1958, c. 569; 1973, c. 83; 1997, c. 788; 2006, c. 810; 2016, c. 588; 2020, c. 1047.

§ 23.1-2507. Virginia National Guard scholarship cadets.

A. The Institute may admit annually as Virginia National Guard scholarship cadets individuals who are at least 16 but not more than 25 years old.

B. The board shall provide financial assistance to such Virginia National Guard scholarship cadets for tuition, mandatory fees, 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.

C. Each Virginia National Guard 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 obligation to serve shall repay all funds received in support of his cost of education. The board, in consultation with the Virginia National Guard, may excuse such cadet from any or all of these obligations in such cases as it determines is appropriate.

2006, c. 810, §§ 23-107.1, 23-107.2; 2016, c. 588; 2020, c. 1047.

§ 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 belong to the Institute, and the board shall guard and preserve the arsenal, all its grounds and buildings, and all arms and other property in its grounds and buildings.

Code 1919, §§ 838, 847, § 23-109; 2016, c. 588.

§ 23.1-2509. Conferring of degrees.

A. The Governor, the board, the superintendent, and the faculty of the Institute may confer a degree upon any qualified graduate.

B. As a board of a military institute, the board shall not confer honorary degrees.

Code 1919, § 848, § 23-110; 1926, p. 718; 1927, p. 201; 1952, c. 272; 2016, c. 588; 2020, c. 1047.

§ 23.1-2510. Musicians.

The superintendent may enlist musicians for service at the Institute to be paid out of the annual appropriation provided for in § 23.1-2500.

Code 1919, § 851, § 23-112; 2016, c. 588.

§ 23.1-2511. Supply of water.

The Institute may acquire pursuant to Title 25.1 such springs, lands, and rights-of-way as may be necessary to procure a supply of water.

Code 1919, § 852, § 23-113; 2016, c. 588.

Chapter 26 - VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

Article 1 - GENERAL PROVISIONS

§ 23.1-2600. Corporate name; name of the University.

A. The board of visitors of Virginia Polytechnic Institute and State University (the board) is a corporation under the name and style of "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 laws relating to Virginia Polytechnic Institute, its predecessors, its board of visitors, or the board of visitors of each of its predecessors shall be construed as relating to the University.

Code 1919, § 860, § 23-114; 1944, p. 341; 1970, c. 98; 2016, c. 588.

§ 23.1-2601. Membership.

A. The board shall consist of 14 members, of whom 13 shall be appointed by the Governor and one shall be the president of the Board of Agriculture and Consumer Services, who shall serve ex officio. Of the 13 members appointed by the Governor, at least 10 members shall be residents of the Commonwealth and at least six members shall be alumni of the University. All appointments 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.

Code 1919, § 859, §§ 23-115, 23-116; 1930, p. 739; 1944, p. 344; 1945, p. 55; 1964, c. 48; 1970, c. 98; 1980, c. 559; 2016, c. 588.

§ 23.1-2602. 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 shall appoint from its membership a rector to preside at its meetings and a president pro tempore to preside at its meetings in the absence of the rector.

D. The board shall appoint a secretary.

E. The board shall also appoint from its membership an executive committee of at least three but not more than six members that are empowered during the interim between board meetings to exercise such powers of the board as the board may prescribe by resolution.

F. The board may appoint special committees and prescribe their duties and powers.

G. Each committee shall report its actions to the board at the board's annual meeting and at such other times as the board may require.

Code 1919, §§ 861, 863, §§ 23-118, 23-119, 23-121; 1945, pp. 74, 75; 1970, c. 98; 2016, c. 588.

§ 23.1-2603. Powers and duties.

A. The board is charged with the care, preservation, and improvement of the property belonging to the University and with the protection and safety of students and other persons residing on such property. Pursuant to such duties, the board may change roads or driveways on the property belonging to the University or entrances to such property, close temporarily or permanently the roads and driveways on such property and entrances to such property, prohibit undesirable and disorderly persons from entering such property, eject such persons from such property, and prosecute under state law trespassers and persons committing offenses on such property.

B. The board shall regulate the government and discipline of the students.

Code 1919, § 864, § 23-122; 1924, p. 143; 1970, c. 98; 2016, c. 588.

§ 23.1-2604. Investment of endowment funds, endowment income, 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 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.).

C. No member of the board is personally liable for losses suffered by any endowment fund, endowment income, gift, other nongeneral fund reserve and balance, or local funds of or held by the University arising from investments made pursuant to the provisions of subsection B.

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 are not subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

E. In addition to the investment practices authorized by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board may 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.

F. The authority provided in this section 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.

2009, cc. 737, 767, § 23-122.1; 2016, c. 588.

§ 23.1-2605. Employees.

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, 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.

Code 1919, §§ 864, 866, §§ 23-124, 23-125, 23-126, 23-127; 1924, p. 144; 1970, c. 98; 2016, c. 588.

§ 23.1-2606. Courses of study.

The curriculum of the University shall embrace such courses of study as relate to agriculture and the mechanic arts without excluding other scientific and classical studies and military tactics.

Code 1919, § 856, § 23-130; 1970, c. 98; 2016, c. 588.

§ 23.1-2607. Purchase of electric power and energy.

A. For purposes of this section:

"Other party" means any other entity, including any (i) municipality, public institution of higher education, or political subdivision, public authority, agency, or instrumentality of the Commonwealth, another state, or the United States or (ii) partnership, limited liability company, nonprofit corporation, electric cooperative, or investor-owned utility, whether created, incorporated, or otherwise organized and existing under the laws of the Commonwealth, another state, or the United States.

"Project" means any (i) system or facilities for the generation, transmission, transformation, or supply of electrical power and energy by any means whatsoever, including fuel, fuel transportation, and fuel supply resources; (ii) electric generating unit situated at a particular site in the continental United States; (iii) interest in such system, facilities, or unit, whether an undivided interest as a tenant in common or otherwise; or (iv) right to the output, capacity, or services of such system, facilities, or unit.

B. The University may contract with any other party to buy power and energy to meet its present or future requirements. Any such contract may provide that (i) the source of such power and energy is limited to a specified project; (ii) replacement power and energy shall be provided; or (iii) the University shall be obligated to make payments required by the contract whether 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; (iv) payments required by the contract (a) are not subject to any reduction, whether by offset or otherwise, (b) are not conditioned upon the performance or nonperformance of any other party, (c) shall be made solely from 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 lien upon the electric system of the University, and (e) shall constitute an operating expense of 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 shall not be pledged for the payment of any obligation under any such contract.

F. The University shall 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 issued for purposes relating to its electric system. Any pledge made by the University pursuant to this subsection is governed by the laws of the Commonwealth.

2007, cc. 612, 670, § 23-155.05; 2016, c. 588; 2017, c. 314.

Article 2 - VIRGINIA COOPERATIVE EXTENSION SERVICE AND AGRICULTURAL EXPERIMENT STATION DIVISION; HAMPTON ROADS AND EASTERN SHORE AGRICULTURAL RESEARCH AND EXTENSION CENTERS

§ 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 established within the University a division to be known as the Virginia Cooperative Extension Service and Agricultural Experiment Station Division (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.

C. The Cooperative Extension Service Program within Virginia State University (the Program) is recognized. The Program shall be operated cooperatively by the University and Virginia State University,

with 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.

1994, c. 433, §§ 23-132.1, 23-132.7; 2016, c. 588.

§ 23.1-2609. Administration of the Division.

The board shall provide for the administration of the Division through the regular administrative and fiscal officers of the University and shall make appointments to the administrative and research staff on recommendation of the president of the University.

1994, c. 433, § 23-132.2; 2016, c. 588.

§ 23.1-2610. Duties of the Service, the Program, and the Station.

A. The Service shall provide the people of the Commonwealth with useful and practical information and knowledge on agriculture, including horticulture and silviculture, agribusiness, home economics, community resource development, 4-H Clubs, and related subjects through instruction and the dissemination of useful and practical information through demonstrations, conferences, courses, workshops, publications, meetings, mass media, and other educational programs. The necessary printing and distribution of information in connection with work of the Service shall be performed in such manner as may be mutually agreed upon by the University, Virginia State University, the Governor or his designee, the U.S. Secretary of Agriculture, the U.S. Secretary of Commerce, and other participating bodies.

B. The Program shall also conduct educational programs and disseminate useful and practical information to the people of the Commonwealth.

C. Personnel of the 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 P.L. 93-288, 42 U.S.C. § 5141.

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

E. The 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.

1994, c. 433, § 23-132.3; 2016, c. 588.

§ 23.1-2611. Personnel; local units.

A. The University and Virginia State University, in cooperation with the departments and agencies of the federal government, shall exercise great care in the selection of personnel to carry out and supervise the work of the Service. The work shall be conducted under such regulations as may be adopted by the 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.

B. The Division and the Program may work with both adults and youth through local units to be known as "departments of extension and continuing education."

1994, c. 433, § 23-132.4; 2016, c. 588.

§ 23.1-2612. Division; funding sources.

The Division may receive moneys from the Commonwealth, the federal government, and private sources. All receipts of the Division shall be deposited to the credit of the general fund of the state treasury and appropriated to the University to be used exclusively for the purposes of the Division.

1994, c. 433, § 23-132.5; 2016, c. 588.

§ 23.1-2613. The Division and the Program; appropriations by the General Assembly.

A. The General Assembly may appropriate such funds to the Division and the Program as it deems necessary. Any general funds and funds received from any agency or department of the federal government for the purposes of carrying out this article shall be expended by the University through the Division and by Virginia State University through the 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.

1994, c. 433, §§ 23-132.6, 23-132.7; 2016, c. 588.

§ 23.1-2614. The Division; appropriations by local governing bodies.

Any local governing body of the Commonwealth may appropriate funds, 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 in such manner as may be agreed upon by the University and the local governing body.

1994, c. 433, § 23-132.8; 2016, c. 588.

§ 23.1-2615. Station; soil survey.

For the purpose of continuing a survey of the soils of the Commonwealth that was begun by the U.S. Department of Agriculture, 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 to promote the utilization of the lands of the Commonwealth in the most practical and economical way. It is contemplated that the Station will make such soil survey in cooperation with the U.S. Department of Agriculture.

1994, c. 433, § 23-132.9; 2016, c. 588.

§ 23.1-2616. Station; agricultural survey.

The Station may direct and supervise a thorough and comprehensive agricultural survey of the Commonwealth according to the most approved methods in practice to gather facts and information on existing agricultural conditions in 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. 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 that may suitably be produced; (iv) farm layout and selection; (v) arrangement of fields for the use of labor-saving machinery; (vi) economy and convenience in cultivation and farm operations; (vii) methods of cultivation, production, and handling of crops; (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 affecting production of fruit, cotton, and other crops; and (xvii) any other information or studies that may seem advisable in determining methods for the betterment of agricultural conditions and the development of the agricultural resources of the Commonwealth.

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.

1994, c. 433, § 23-132.10; 2016, c. 588.

§ 23.1-2617. Hampton Roads and Eastern Shore Agricultural Research and Extension Centers established.

The Hampton Roads and Eastern Shore Agricultural Research and Extension Centers (Centers) are established as a component of the Station and shall be retained as active research and extension centers.

1985, c. 505, § 23-155.01; 2016, c. 588.

§ 23.1-2618. Centers; function.

The Centers shall conduct basic and applied research in the fields that may bear directly on the interests of commercial growers of vegetable and ornamental crops in the Commonwealth. The Centers shall coordinate their research with related work of the Station to avoid unnecessary duplication of effort. The Centers shall disseminate the results of their research conducted pursuant to this section.

1985, c. 505, § 23-155.02; 2016, c. 588.

§ 23.1-2619. Centers; Advisory board of directors.

A. A board of directors (board) shall serve as an advisory body to the Centers that represents local agricultural interests. The board shall consist of five members appointed by the Dean of the College of Agriculture and Life Sciences. Each appointed member shall represent an industry that is relevant to the missions of the Centers.

B. Members of the board shall serve for terms of four years.

C. The members of the board shall name one of its members chairman.

D. Three members of the board shall constitute a quorum for the transaction of business.

E. The board shall hold at least one meeting annually at either the Hampton Roads center or the Eastern Shore center and such other meetings as may be necessary at such times and places as the chairman or any three members may designate.

1985, c. 505, § 23-155.03; 2016, c. 588.

§ 23.1-2620. Centers; executive director.

An executive director shall be appointed to administer the Centers and carry out the research programs at the Centers. The 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.

1985, c. 505, § 23-155.04; 2016, c. 588.

§ 23.1-2621. The Division and the Program; reports.

A. The University shall file such reports on the activities of the Division as may be required by law or requested by the Governor.

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.

1994, c. 433, § 23-132.11; 2016, c. 588.

§ 23.1-2622. Construction of acts relating to the Service and the Station.

All acts relating to the Service and the Station shall be construed as relating to the Division as established by this article and no such act shall be construed as limiting the provisions of this article.

1994, c. 433, § 23-132.12; 2016, c. 588.

Article 3 - VIRGINIA CENTER FOR COAL AND ENERGY RESEARCH

§ 23.1-2623. Virginia Center for Coal and Energy Research established.

The Virginia Center for Coal and Energy Research (the Center) is established as an interdisciplinary study, research, information, and resource facility for the Commonwealth 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.

1977, c. 543, §§ 23-135.7:1, 23-135.7:2; 2016, c. 588.

§ 23.1-2624. Control and supervision.

The Center is subject to the control and supervision of the board.

1977, c. 543, § 23-135.7:3; 2016, c. 588.

§ 23.1-2625. Executive director.

The board shall appoint an executive director for the Center who, subject to the approval of the board, shall:

1. Exercise all powers and perform all duties imposed upon him by law;

2. Carry out the specific 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 article.

1977, c. 543, §§ 23-135.7:4, 23-135.7:5; 2016, c. 588.

§ 23.1-2626. Powers and duties of the Center.

The Center, under the direction of the executive director, shall:

1. Develop a degree program in energy production and conservation research at the master's level in conjunction with the Council;

2. Develop and provide programs of continuing education and in-service training for persons who work in the fields of coal or other energy research, development, or production;

3. Collaborate with other departments of the University, including the Department of Mining and Minerals Engineering;

4. Conduct research in the fields of coal, coal utilization, migrating natural gases such as methane and propane, and other energy-related work;

5. Collect and maintain data on energy production, development, and utilization;

6. Foster the utilization of research information, discoveries, and data;

7. Coordinate the functions of the Center with each of the Center's energy research facilities to prevent duplication of effort;

8. Apply for and accept grants from the federal government, state government, and any other source to carry out the purposes of this article. The Center may comply with such conditions and execute such agreements as may be necessary to accept such grants;

9. Accept gifts, bequests, and any other thing of value to carry out the purposes of this article;

10. Receive, administer, and expend all funds and other assistance made available to the Center to carry out the purposes of this article;

11. 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. Do all things necessary or convenient for the proper administration of this article.

1977, c. 543, § 23-135.7:6; 2006, c. 939; 2016, c. 588.

§ 23.1-2627. Virginia Coal Research and Development Advisory Board.

The Virginia Coal Research and Development Advisory Board (the Advisory Board) shall serve in an advisory capacity to the executive director of the Center. Representatives to the Advisory Board shall be appointed by the board. The board shall appoint such other individuals as it deems necessary to the work of the Advisory Board.

Members shall include representatives from the Department of Conservation and 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, and each public institution of higher education, excluding the University.

1977, c. 543, § 23-135.7:7; 1984, c. 590; 1985, c. 448; 1996, cc. 589, 599; 2013, c. 482; 2016, c. 588.

Article 4 - VIRGINIA WATER RESOURCES RESEARCH CENTER

§ 23.1-2628. Virginia Water Resources Research Center established.

The Virginia Water Resources Research Center (the Water Center) is established to develop, implement, and coordinate water and related land research programs in the Commonwealth and transfer the results of research and new technology to potential users. The Water Center shall be located at the University.

1982, c. 379, § 23-135.7:8; 2016, c. 588.

§ 23.1-2629. Control and supervision.

The Water Center is a unit of the University under the supervision and control of the board.

1982, c. 379, § 23-135.7:10; 2016, c. 588.

§ 23.1-2630. Functions, powers, and duties.

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 public institutions of higher education and private institutions of higher education to conduct research projects; (iii) disseminate new information and facilitate the transfer and application of new technology; (iv) be a liaison between the Commonwealth and the federal research funding agencies and advocate for the Commonwealth's water research needs; and (v) encourage the development of academic programs in water resources management in conjunction with the Council.

B. 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.

1982, c. 379, § 23-135.7:9; 1984, c. 734; 2016, c. 588.

§ 23.1-2631. Executive director.

A. The principal administrative officer of the Water Center shall be an executive director who shall be appointed by the president of the University, subject to the approval of the board. The executive director shall be under the supervision of the president of the University.

B. The executive director shall exercise all powers imposed upon him by law, carry out the specific duties imposed upon him by the president of 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. The executive director 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.

1982, c. 379, §§ 23-135.7:11, 23-135.7:12; 2016, c. 588; 2017, c. 314.

§ 23.1-2632. Virginia Water Resources Research Center Statewide Advisory Board.

The Virginia Water Resources Research Center Statewide Advisory Board (the Statewide Advisory Board) shall serve in an advisory capacity to the 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, (ii) evaluate the programs of the Water Center, and (iii) advise the executive director of the Water Center and make recommendations to assist him in carrying out the purposes of this article.

1982, c. 379, § 23-135.7:13; 1984, c. 734; 1985, c. 448; 2016, c. 588.

Article 5 - VIRGINIA CENTER FOR HOUSING RESEARCH

§ 23.1-2633. Virginia Center for Housing Research established.

The Virginia Center for Housing Research (the Housing Center) is established and shall be located at the University.

1989, c. 700, § 23-135.7:14; 2016, c. 588.

§ 23.1-2634. Functions, powers, and duties.

The Housing Center shall serve as an interdisciplinary study, research, and information resource on housing for the Commonwealth. 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 public institutions of higher education and private institutions of higher education to carry out research projects; (iii) disseminate new information and research results; (iv) facilitate the application and transfer of new technologies to housing; and (v) stimulate and perform research that deals with housing policy issues facing the General Assembly and aids the Commonwealth's housing and housing finance agencies.

1989, c. 700, § 23-135.7:15; 2016, c. 588.

§ 23.1-2635. Control and supervision.

The Housing Center is a unit of the University under the supervision and control of the board.

1989, c. 700, § 23-135.7:16; 2016, c. 588.

§ 23.1-2636. Director.

A. The president of the University, with the approval of the board, shall appoint a director to serve as the principal administrative officer of the Housing Center. The director shall be under the supervision of the president of the University or his designee.

B. The director shall exercise all powers imposed upon him by law, carry out the specific duties imposed on him by the president of the University, and develop appropriate policies and procedures, with the advice of the 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 relating to housing and housing problems within the Commonwealth. The 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.

1989, c. 700, §§ 23-135.7:17, 23-135.7:18; 2016, c. 588.

§ 23.1-2637. Advisory board.

The Board of Housing and Community Development shall advise the director of the Housing Center and may advise the director on all matters set forth in § 23.1-2634.

1992, c. 754, § 23-135.7:20; 2016, c. 588.

Article 6 - GOVERNMENTAL AID AND INDIVIDUAL DONATIONS

§ 23.1-2638. Institutions receiving interest accruing on proceeds of land scrip.

The annual accruing interest from 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 be paid one-third to Virginia State University and two-thirds to the University.

Code 1919, § 853, § 23-136; 1920, p. 492; 1979, c. 147; 2016, c. 588.

§ 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 such sums of money as are allotted to the Commonwealth under and in accordance with the act of Congress approved August 30, 1890, and shall pay one-third to the treasurer of Virginia State University and two-thirds to the treasurer of the University, who shall receive and disburse the sums as required by section two of such act of Congress.

Code 1919, § 853, § 23-137; 1920, p. 493; 1979, c. 147; 2016, c. 588.

§ 23.1-2640. Experimental farms.
A. A portion of the fund, not exceeding 10 percent of each sum assigned to Virginia State University and the University, may be expended, in the discretion of the board of visitors of each institution, in the purchase of lands for experimental farms.

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

Code 1919, § 868, §§ 23-138, 23-139; 1979, c. 147; 2016, c. 588.

§ 23.1-2641. Reversion of property on withdrawal of annuity.
If at any time such annuity should be withdrawn from the University, the property, real and personal, conveyed and appropriated to its use and benefit by the trustees of the Preston and Olin Institute and the County of Montgomery under the provisions of Chapter 234 of the Acts of Assembly of 1871-1872 shall revert to the trustees and the county, respectively, from which it was conveyed and appropriated.

Code 1919, § 855, § 23-140; 2016, c. 588.

§ 23.1-2642. County subscriptions and individual donations.
The board may accept (i) the subscription of any county made under the act to authorize subscriptions in aid of the University approved March 21, 1872 and (ii) individual donations in aid of the purposes and objects of the University. Such donations and subscriptions shall be held by the board in trust for the benefit of the University and shall revert to the donors and subscribers if the Commonwealth withdraws from the use of the University the interest accruing on the proceeds of the land scrip as provided in § 23.1-2638.

Code 1919, § 867, § 23-141; 2016, c. 588.

Chapter 27 - VIRGINIA STATE UNIVERSITY

§ 23.1-2700. Corporate name; name of the University.
A. 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" 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 con-

fined 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 the University or the board, respectively.

Code 1919, §§ 948, 969, §§ 23-165.1, 23-165.2, 23-166, 23-174; 1930, pp. 768, 769; 1946, p. 74; 1964, c. 70; 1979, c. 147; 2016, c. 588.

§ 23.1-2701. Membership.

A. The board shall consist of 15 members appointed by the Governor, of whom at least three shall be alumni of the University and at least 10 shall be residents of the Commonwealth.

B. 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.

1964, c. 70, § 23-165.4; 1979, c. 147; 1993, c. 697; 1999, c. 752; 2008, cc. 465, 477; 2016, c. 588.

§ 23.1-2702. Powers and duties.

A. The board shall appoint all professors, teachers, and agents and fix their salaries and generally direct the affairs of the University.

B. The board may confer degrees.

1964, c. 70, §§ 23-165.6, 23-165.8; 1979, c. 147; 2016, c. 588; 2017, c. 314.

§ 23.1-2703. Courses of study.

The curriculum of the University shall include agriculture, business, education, engineering, the liberal arts and sciences, and military science.

1964, c. 70, § 23-165.9; 1979, c. 147; 2016, c. 588.

§ 23.1-2704. Cooperative Extension Service.

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 2 (§ 23.1-2608 et seq.) of Chapter 26 and subject to the federally required plan, the Cooperative Extension Service Program within the University, (the Program) is recognized. The University may accept grants, gifts, or donations for the Program from the local governing bodies of the Commonwealth, other public or private agencies, and individual donors. The Service shall be

operated cooperatively by Virginia Polytechnic Institute and State University and the University, with 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 University shall file such reports on the activities of the 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.

1994, c. 433, § 23-165.11; 2016, c. 588.

§ 23.1-2705. Gifts, grants, devises, and bequests; governmental aid.

A. The board may take, hold, receive, and enjoy any gift, grant, devise, or bequest to the 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, or if no purposes are so designated, for the general purposes of the board.

B. The University shall receive the governmental aid designated in §§ 23.1-2638 and 23.1-2639.

Code 1919, § 957, § 23-170; 1930, p. 769; 1964, c. 70; 1979, c. 147; 2016, c. 588.

Chapter 28 - THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA; RICHARD BLAND COLLEGE

§ 23.1-2800. Corporate name; name of the University.

A. The board of visitors of The College of William and Mary in Virginia (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).

Code 1919, § 936; 1960, c. 180, § 23-39; 1962, c. 69; 2016, c. 588.

§ 23.1-2801. Membership.

A. The board shall consist of 17 members appointed by the Governor, 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.

Code 1919, § 935, §§ 23-41, 23-42; 1938, p. 443; 1944, pp. 401, 402; 1945, p. 51; 1960, c. 180; 1962, c. 69; 1966, c. 14; 1974, c. 29; 1975, c. 484; 1992, c. 53; 2004, c. 2016, c. 588.

§ 23.1-2802. Powers and duties.

A. The board shall generally direct the affairs of the university and Richard Bland College.

B. The board may confer degrees.

Code 1919, §§ 935, 936, §§ 23-44, 23-46; 1938, p. 444; 1944, p. 402; 1945, p. 52; 1960, c. 180; 2016, c. 588.

§ 23.1-2803. Investment of endowment funds, endowment income, 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 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.).

C. No member of the board is personally liable for losses suffered by any endowment fund, endowment income, gift, other nongeneral fund reserve and balance, or local funds of or held by the university arising from investments made pursuant to the provisions of subsection B.

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 are not subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

E. In addition to the investment practices authorized by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.), the board may 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.

F. The authority provided in this section 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.

2009, cc. 737, 767, § 23-44.1; 2016, c. 588.

§ 23.1-2804. Program of instruction to educate and train teachers.

The university shall 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.

Code 1919, § 934, § 23-47; 1960, c. 180; 1962, c. 69; 1972, c. 35; 2016, c. 588.

§ 23.1-2805. Duties; student admissions; degrees.

The university shall admit properly prepared individuals and upon completion of the requirements shall grant them degrees.

1918, p. 424; Michie Code 1942, § 938b; 1960, c. 180, § 23-49; 1962, c. 69; 1972, c. 35; 2016, c. 588.

§ 23.1-2806. Richard Bland College.

A. 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 Richard Bland College are vested in the board.

D. The board shall designate a chief executive officer of Richard Bland College.

E. The board shall care for and preserve all property belonging to Richard Bland College.

F. The board shall (i) fix tuition, mandatory fees, and other necessary charges; (ii) appoint, remove, and define the responsibilities of the chief executive officer; and (iii) make such rules and regulations as it deems appropriate for Richard Bland College.

1958, c. 15; 1960, cc. 56, 180, § 23-49.1; 1962, cc. 69, 610; 1966, cc. 14, 707; 1976, c. 21; 1992, c. 103; 2016, c. 588.

§ 23.1-2807. Virginia Institute of Marine Science.

The Virginia Institute of Marine Science (the Institute) is subject to the supervision, management, and control of the board. The university shall provide for the administration of the Institute and appoint and remove its administrative and professional staff.

1979, c. 294, § 23-49.1:1; 2016, c. 588.

§ 23.1-2808. Approval for transfer of College Woods.

A. The property known as College Woods that includes Lake Matoaka and is possessed and controlled by 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 by a two-thirds vote of all 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 redesignate such to the university so that the university has confirmed encumbrances. This vacation shall create not less than a 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 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. 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. 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.

1995, c. 774, § 23-4.01; 2001, c. 360; 2004, c. 339; 2016, c. 588.

Chapter 29 - STATE BOARD FOR COMMUNITY COLLEGES AND VIRGINIA COMMUNITY COLLEGE SYSTEM

§ 23.1-2900. Definitions.

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

"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 the Virginia Community College System.

1966, c. 679, § 23-214; 1977, c. 413; 1998, cc. 111, 396; 2001, c. 483; 2016, c. 588.

§ 23.1-2901. State Board for Community Colleges established; purpose; Virginia Community College System.

The State Board for Community Colleges is a corporation under the style of "the State Board for Community Colleges" 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.

1966, c. 679, § 23-215; 1977, c. 413; 1998, cc. 111, 396; 2001, c. 483; 2002, cc. 586, 625; 2004, c. 146; 2016, c. 588.

§ 23.1-2902. State Board; membership.

A. The State Board shall consist of 15 nonlegislative citizen members appointed by the Governor subject to confirmation by the General Assembly.

B. Each member shall be a resident of the Commonwealth. 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 and no member of the Board of Education is eligible for appointment to the State Board. All members of the State Board are members at large charged with the responsibility of serving the best interests of the whole Commonwealth, and no member shall act as the representative of any particular region or institution of higher education.

1966, c. 679, § 23-216; 1972, c. 136; 1983, c. 148; 2016, c. 588.

§ 23.1-2903. State Board; officers, meetings, and regulations.

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

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

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

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

E. The State Board may adopt necessary regulations for carrying out the purposes of this chapter.

1966, c. 679, § 23-217; 1980, c. 728; 2014, c. 652; 2016, c. 588; 2017, c. 314.

§ 23.1-2904. State Board; duties.

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 shall:

1. Be the state agency with primary responsibility for coordinating workforce training at the post-secondary 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 is to provide and maintain a system of comprehensive community colleges, as that term is defined in § 23.1-100 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 establish and maintain standards appropriate to the various purposes the respective programs are designed to serve;

4. Establish policies providing for the creation of a local community college board for each comprehensive community college established under this chapter and the procedures and regulations under which such local boards shall operate. 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;

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 §§ 23.1-802 and 23.1-805. 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;

7. Develop and implement, in coordination with the Council, the Department of Education, and the Virginia Association of School Superintendents, (i) a plan to achieve and maintain the same standards regarding quality, consistency, and level of evaluation and review for dual enrollment courses offered by local school divisions pursuant to § 23.1-907 as are required for all courses taught in the System and (ii) a process and criteria for determining whether any dual enrollment course offered in the Commonwealth that meets or exceeds such standards is transferable to a public institution of higher education as (a) a uniform certificate of general studies program or passport program course credit, (b) a general elective course credit, or (c) a course credit meeting other academic requirements of a public institution of higher education;

8. Prepare and administer a plan to standardize the courses offered, and the quality and content of such courses, offered across all comprehensive community colleges, as well as to standardize the application and registration process at all comprehensive community colleges. Such plan shall allow for a comprehensive community college to provide additional courses, beyond the standard class content offered across the System, that meet specific regional interests and needs. Regional courses shall be subject to the standards of quality applied to all courses offered in the System; and

9. Develop and implement accountability measures to periodically, but in no case less than every three years, review the performance of each comprehensive community college to ensure that all standards established by the Board are being met, with a goal of ensuring a consistent quality of education and opportunity across the System. If it is found that such standards are not being met at a par-

ticular institution, the Board shall develop a plan for corrective action specific to the issues presented at that institution.

1966, c. 679, §§ 23-215, 23-218, 23-220, 23-221; 1977, c. 413; 1996, cc. 134, 486; 1998, cc. 111, 396; 2001, c. 483; 2002, cc. 586, 625; 2004, c. 146; 2006, c. 337; 2013, cc. 49, 606, § 23-219.1; 2015, cc. 63, 86; 2016, c. 588; 2018, cc. 787, 832, 845.

§ 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

5. Confer diplomas, certificates, and associate degrees.

1966, c. 679, §§ 23-218, 23-219; 1996, cc. 134, 486; 2006, c. 337; 2015, cc. 63, 86; 2016, c. 588.

§ 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.

1966, c. 679, § 23-215; 1977, c. 413; 1998, cc. 111, 396; 2001, c. 483; 2002, cc. 586, 625; 2004, c. 146; 2016, c. 588.

§ 23.1-2906.1. Dual enrollment; high school equivalency; workforce training.

Each comprehensive community college shall enter into agreements with the local school divisions it serves to facilitate dual enrollment of eligible students into a Career Pathways program preparing students to pass a high school equivalency examination offered by the local school division and a post-secondary credential, certification, or license attainment program offered by the comprehensive community college.

2016, c. 645.

§ 23.1-2906.2. Certain comprehensive community colleges; veterans advisors and veterans resource centers.

A. Each of the seven comprehensive community colleges with the highest number of enrolled students who are veterans shall employ at least one full-time veterans advisor to provide comprehensive and intensive enrollment and advising services to current and prospective students who are veterans.

B. Each of the seven comprehensive community colleges with the highest number of enrolled students who are veterans shall establish a veterans resource center on campus to:

1. Provide access to federal and state veterans resources;

2. Serve as a quiet place for veterans to study;

3. Enable veterans to connect to other veterans, helping them renew the bonds of military service; and

4. Be the central hub for all activities on campus related to veterans.

2016, c. 503.

§ 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 of the United States; or

3. Otherwise documented in writing by any of the 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.

2015, cc. 384, 581, § 23-220.5; 2016, c. 588.

§ 23.1-2907.1. Policy for award of academic credit for apprenticeship credentials.

The State Board shall require each comprehensive community college to develop policies and procedures for the award of academic credit to any student enrolled in a comprehensive community college who has successfully completed a state-approved registered apprenticeship credential in a field

that is aligned with a credit-bearing program of study at the comprehensive community college in which the student is enrolled. Such policies shall ensure that academic credit is awarded only to students who have achieved the same outcomes and with the same academic rigor as in the equivalent courses offered by the institution.

2017, cc. 21, 130.

§ 23.1-2907.2. Registered apprenticeships; uniform instruction.

The System, in consultation with the Department of Labor and Industry, shall develop and deliver uniform, related instruction for registered apprenticeships in high-demand programs, as determined by the Virginia Board of Workforce Development and the Virginia Employment Commission, and for which coursework is not otherwise available. Such instruction shall be available statewide and shall be delivered in a face-to-face, online, or blended format.

2019, c. 580.

§ 23.1-2908. Chancellor of the Virginia Community College System.

A. The State Board shall appoint a Chancellor of the Virginia Community College System to be the chief executive officer of the System and secretary to the State Board, fix his salary, and prescribe his duties in addition to those duties set forth in subsection B.

B. The Chancellor shall:

1. Formulate such policies and regulations and provide for such assistance in his office as are necessary for the proper performance of the duties prescribed by the provisions of this chapter;

2. Designate an employee of the State Board to serve as its liaison to the Board of Education;

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 the Virginia Personnel Act (§ 2.2-2900 et seq.);

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;

5. Prescribe the forms of applications, reports, affidavits, and such other forms as may be required in the administration of this chapter;

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; and

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.

C. The Chancellor may receive, for and on behalf of the Commonwealth and its subdivisions, from the United States and agencies of the United States and any other source grants-in-aid and gifts made for the purpose of providing or 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.

1966, c. 679, §§ 23-223, 23-224, 23-225, 23-227, 23-228, 23-229, 23-230, 23-231; 1970, c. 728; 1977, c. 413; 1984, c. 734; 1985, c. 146; 2001, c. 483; 2004, c. 650; 2015, c. 140; 2016, c. 588.

§ 23.1-2908.1. Repealed.

Repealed by Acts 2020, c. 490, cl. 2.

§ 23.1-2909. Bonds of agents and System employees.

Proper bonds shall be required of all agents and employees who handle any funds 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.

1966, c. 679, § 23-226; 1977, c. 413; 2016, c. 588.

§ 23.1-2910. Extension programs; similar courses of study.

In any area served by a comprehensive community college, no public institution of higher education that conducts extension programs shall offer courses of study similar to those offered by a comprehensive community college, except as authorized by the Council. Whenever practicable, the State Board shall provide facilities to such public institutions of higher education for conducting extension programs not in conflict with the provisions of this chapter.

1966, c. 679, § 23-221; 2016, c. 588.

§ 23.1-2911. Community College Week.

The fourth week in January of every year is declared "Community College Week" and the State Board may approve such activities in observance of this week as it deems appropriate.

1985, c. 161, § 23-231.1; 2016, c. 588.

§ 23.1-2911.1. Northern Virginia Community College; computer science training and professional development activities for public school teachers.

A. Northern Virginia Community College, in consultation with the Department of Education, shall contract with a partner organization to develop, market, and implement high-quality and effective

computer science training and professional development activities for public school teachers throughout the Commonwealth for the purpose of improving the computer science literacy of all public school students in the Commonwealth.

B. Northern Virginia Community College shall also establish an advisory committee for the purpose of advising the college and its partner organization on the development, marketing, and implementation of training and professional development activities pursuant to subsection A. The Secretary of Commerce and Trade, the Secretary of Education, and the Secretary of Administration shall each submit to the college a list of names of qualified individuals, and the college shall appoint members to such advisory committee from such lists.

2017, cc. 779, 823; 2020, c. 738.

§ 23.1-2912. 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 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 the college.

D. Subject to the Council's authority to approve or disapprove all new academic programs as provided in subdivision 5 of § 23.1-203, the college may offer an applied sciences program and coordinate such program with an apprenticeship program offered to shipyard workers by their employers.

E. Beginning in the calendar year that the Council approves an applied sciences program and for calendar years thereafter, shipyard workers who are Virginia students enrolled full-time or part-time in the applied sciences program are eligible for scholarships for such program. Renewal of the scholarships of such shipyard workers is contingent upon maintaining (i) enrollment in the applied sciences program, (ii) 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 (iii) 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.

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 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.

H. The Council shall adopt regulations for the implementation of the provisions of this section.

2001, c. 656, § 23-220.01; 2013, c. 566, § 23-231.1:1; 2014, c. 484; 2016, c. 588.

§ 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:

"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 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 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 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 Council, 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 Council, 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 are exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

2016, c. 588.

Chapter 3 - THE VIRGINIA HIGHER EDUCATION OPPORTUNITY ACT OF 2011

§ 23.1-300. Definitions.

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

"College degree" means an undergraduate degree from an accredited associate-degree-granting or 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.

"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, or operation and maintenance of physical plant, with adjustments based on particular state policies relating to specific institutional conditions. "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, athletics programs, 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.

"Peer institutions" means those institutions determined by the Council, in consultation with 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 such public institution of higher education and provide a fair comparison in determining appropriate and competitive faculty salaries for such public institution 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.

2011, cc. 828, 869, § 23-38.87:11; 2016, c. 588.

§ 23.1-301. Short title; 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 (ii) ensure that these educational and economic opportunities are accessible and affordable for all capable and committed Virginia students.

C. In furtherance of 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 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 the Commonwealth;

3. To (i) place 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 undergraduate degrees in the Commonwealth over the same period and (ii) achieve this purpose by expanding enrollment of Virginians at public institutions of higher education and private institutions of higher education, improving undergraduate graduation and retention rates in the 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 require access to non-traditional 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 STEM and health care fields and (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 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 the Commonwealth, and in other ways helps place the Commonwealth on the cutting edge of the knowledge-driven economy;

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

7. To preserve and enhance the 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 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;

8. To realize the potential for enhanced benefits from the Restructured Higher Education Financial and Administrative Operations Act (§ 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 institutions of higher education and nonprofit private 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 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, afford these unique missions and contributions appropriate safeguards, and allow these attributes to inform the development and implementation of funding policies, performance criteria, economic opportunity metrics, and recommendations in the furtherance of the objective of this chapter set forth in subsection B.

2011, cc. 828, 869, § 23-38.87:10; 2016, c. 588; 2017, c. 314.

§ 23.1-302. Public institutions of higher education; funding.

Each public institution of higher education shall receive funds from the state general fund or sources other than the state general fund, or both, for each fiscal year of each biennium for:

1. Basic operations and instruction, as provided in § 23.1-303;

2. Each Virginia undergraduate student actually enrolled at the institution, as provided in § 23.1-304;

3. Need-based financial aid, as provided in § 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 § 23.1-305.

2011, cc. 828, 869, § 23-38.87:12; 2016, c. 588.

§ 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 § 23.1-309, the Council shall calculate 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 make such calculation available to the Governor, the General Assembly, and all public institutions of higher education. 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 during the preparation of his proposed biennial budget bill for the next biennium, and the General Assembly shall take such items into account in enacting the general appropriation act for the next biennium. Between such biennial recalculations, the General Assembly may increase or decrease the appropriation of basic operations and instruction funding 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 § 23.1-304, or the institution's meeting or not meeting targeted financial incentives listed in § 23.1-305, or for any other purpose deemed appropriate by the General Assembly.

B. The basic operations and instruction funding need of each public institution of higher education for each fiscal year of the biennium shall consist of the sum of (i) the institution's cost of education for the total enrollment 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 and (b) adjustments 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.

2011, cc. 828, 869, § 23-38.87:13; 2016, c. 588.

§ 23.1-304. Per student enrollment-based funding at public institutions of higher education.

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

B. The Governor shall consider and may recommend and the General Assembly shall consider and may provide additional general fund appropriations to address the unfunded enrollment growth that occurred between the 2005-2006 fiscal year and July 1, 2011.

C. 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 institutions of higher education pursuant to the Tuition Assistance Grant Act (§ 23.1-628 et seq.), each nonprofit private 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 such private institutions and their specific programs shall remain the sole responsibility of the governing boards of such individual institutions.

2011, cc. 828, 869, § 23-38.87:14; 2016, c. 588.

§ 23.1-305. 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 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 § 23.1-304;

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 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.

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

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

2011, cc. 828, 869, § 23-38.87:16; 2016, c. 588.

§ 23.1-306. Public institutions of higher education; six-year plans; institutional partnership performance agreements.

A. The governing board of each public institution of higher education shall (i) develop and adopt biennially in odd-numbered years and amend or affirm biennially in even-numbered years a six-year plan for the institution; (ii) submit a preliminary version of such plan to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than July 1 of each odd-numbered year; and (iii) submit preliminary amendments to or a preliminary affirmation of each such plan to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than July 1 of each even-numbered year. Each such preliminary plan and preliminary amendment to or preliminary affirmation of such plan shall include a report of the institution's active contributions to efforts to stimulate the economic development of the Commonwealth, the area in which the institution is located, and, for those institutions subject to a management agreement set forth in Article 4 (§ 23.1-1004 et seq.) of Chapter 10, the areas that lag behind the Commonwealth in terms of income, employment, and other factors. Each such preliminary plan and preliminary amendment to or preliminary affirmation of such plan 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. No such preliminary plan, amendments, or affirmation shall be posted on the General Assembly's website.

B. The Secretary of Finance, the Secretary of Education, the Director of the Department of Planning and Budget, 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 preliminary plan, amendments, or affirmation and provide comments to the institution on such plan, amendments, or affirmation by September 1 of the relevant year. Each institution shall respond to any such comments by October 1 of that year and submit a finalized version of such plan,

amendments, or affirmation to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than December 1 of that year. Each such finalized version 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.

C. Each plan shall be structured in accordance with, and be consistent with, the objective and purposes of this chapter set forth in § 23.1-301 and the criteria developed pursuant to § 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, 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, including the number of Virginia and 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 (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 institution's anticipated annual tuition and educational and general fee charges required by (i) degree level and (ii) domiciliary status, as provided in § 23.1-307;

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 subdivision 9, including the projected mix of grants and loans;

4. Degree conferral targets for undergraduate Virginia students;

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

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

7. Plans with regard to any other incentives set forth in § 23.1-305 or any other matters the institution deems appropriate;

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 § 23.1-307; 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 consider potential future impacts of tuition increases on the Virginia College Savings Plan and ABLE Savings Trust Accounts (§ 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.

F. 1. In conjunction with the plans included in the six-year plan as set forth in subsection D, each public institution of higher education, Richard Bland College, and the Virginia Community College System may submit one innovative proposal with clearly defined performance measures, including any request for necessary authority or support from the Commonwealth, for a performance pilot. If the General Assembly approves the proposed performance pilot, it shall include approval language in the general appropriation act. A performance pilot shall advance the objectives of this chapter by addressing innovative requests related to college access, affordability, cost predictability, enrollment management subject to specified commitments regarding undergraduate in-state student enrollment, alternative tuition and fee structures and affordable pathways to degree attainment, internships and work study, employment pathways for undergraduate Virginia students, strategic talent development, state or regional economic development, pathways to increase timely degree completion, or other priorities set out in the general appropriation act.

2. A performance pilot may include or constitute an institutional partnership performance agreement, which shall be set forth in a memorandum of understanding that includes mutually dependent commitments by the institution, the Commonwealth, and identified partners, if any, related to one or more of the priorities set forth in subdivision 1 or set forth in a general appropriation act. No such institutional partnership performance agreement shall create a legally enforceable obligation of the Commonwealth.

3. No more than six performance pilots shall be approved in a single session of the General Assembly.

4. Development and approval of any performance pilot proposal shall proceed in tandem with consideration of the institution's six-year plan, as follows:

a. An institution that intends to propose a performance pilot shall communicate that intention as early as practicable, but not later than April 1 of the year in which the performance pilot will be proposed, to the reviewers listed in subsection B, the co-chairmen of the Joint Subcommittee on the Future Competitiveness of Virginia Higher Education, and the Governor. In developing a proposed performance pilot, the institution shall consider the Commonwealth's educational and economic policies and

priorities, including those reflected in the Virginia Plan for Higher Education issued by the Council, the economic development policy developed pursuant to § 2.2-205, the strategic plan developed pursuant to § 2.2-2237.1, relevant regional economic growth and diversification plans prepared by regional councils pursuant to the Virginia Growth and Opportunity Act (§ 2.2-2484 et seq.), and any additional guidance provided by the Joint Subcommittee on the Future Competitiveness of Virginia Higher Education and the Governor.

b. An institution that submits a performance pilot shall include the one innovative proposal with clearly defined performance measures, and any corresponding authority and support requested from the Commonwealth, with its submission of the preliminary version of its six-year plan pursuant to clause (ii) of subsection A or with its preliminary amendment or affirmation submission pursuant to clause (iii) of subsection A.

c. The reviewers listed in subsection B, or their designees, shall review and comment on any proposed performance pilot in accordance with the six-year plan review and comment process established in subsection B and may expedite such review and comment process to facilitate the executive and legislative budget process or for other reasons. No later than October 15 of the relevant year, the reviewers shall communicate to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance their recommendations regarding each performance pilot proposal. Such recommendations shall include the reviewers' comments regarding how the proposed performance pilots, individually and collectively, support the strategic educational and economic policies of the Commonwealth.

d. Each performance pilot proposal shall include evidence of its approval by the institution's governing board and, if accepted, shall be referenced in the general appropriation act.

2011, cc. 828, 869, §§ 23-38.87:15, 23-38.87:17; 2016, cc. 149, 588; 2018, c. 487; 2019, cc. 794, 795.

§ 23.1-307. Public institutions of higher education; tuition and fees.

A. The governing board of each public institution of higher education shall continue to fix, revise, 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 any fiscal year for Virginia students exceeds the difference for such fiscal year between (i) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303 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 § 23.1-303, and its per student funding provided pursuant to § 23.1-304, the institution shall 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, an institution's share of state-mandated salary or fringe benefit increases, increases 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 § 23.1-303, the institution's progress towards achieving any financial incentive pursuant to § 23.1-305, unavoidable cost increases such as operation and maintenance for new facilities and utility rate increases, or 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 § 23.1-306 (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 any fiscal year for Virginia students to exceed the difference for such fiscal year between (a) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303, 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 § 23.1-303, and its per student funding provided pursuant to § 23.1-304.

D. No governing board of any public institution of higher education shall approve an increase in undergraduate tuition or mandatory fees without providing students and the public a projected range of the planned increase, an explanation of the need for the increase, and notice of (i) the date, time, and location of the meeting at which public comment is permitted pursuant to subsection E on the institution's website and through any other standard means of communication utilized by the institution with students at least 10 days prior to such meeting and (ii) the date and location of any vote on such increase at least 30 days prior to such vote.

E. Prior to any vote referenced in subsection D, the governing board of each public institution of higher education shall permit public comment on the proposed increase at a meeting, as that term is defined in § 2.2-3701, of the governing board. Each such governing board shall establish policies for such public comment, which may include reasonable time limitations.

F. At any meeting at which the governing board of a public institution of higher education approves an increase in undergraduate tuition and mandatory fees, the governing board shall provide an explanation of any deviation from the projected range provided pursuant to subsection D.

G. No later than August 1 of each year, the Council shall provide to the Governor and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance a report on any increase in undergraduate tuition and mandatory fees at a public institution of higher education, the public comment relating to such increase in undergraduate tuition and mandatory fees, and any deviation in the

increase in undergraduate tuition and mandatory fees from the increase projected in the institutional six-year plan provided pursuant to § 23.1-306.

2011, cc. 828, 869, § 23-38.87:18; 2016, c. 588; 2017, c. 523; 2019, cc. 583, 584, 588; 2020, c. 435.

§ 23.1-308. STEM public-private partnership established; duties.

A. To (i) increase the number of students completing degrees in the high-demand, high-impact STEM fields and other high-demand, anticipated-shortage fields such as the health care-related professions and (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 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 such other individuals as they deem appropriate.

B. 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 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 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 institutions of higher education; (vii) providing assistance to public institutions of higher education and private institutions of higher education in the acquisition and improvement of STEM-related facilities and equipment; (viii) providing STEM incentives in early pathway programs at institutions of higher education and in the Two-Year 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 degrees in STEM and other high-demand fields at institutions of higher education.

2011, cc. 828, 869, § 23-38.87:19; 2016, c. 588; 2017, c. 314.

§ 23.1-309. Higher Education Advisory Committee established; duties.

A. The Secretary of Education, in consultation with the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance, the Secretary of Finance, and each public institution of higher education, 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 at least 11 members as follows: one representative of the Office of the Secretary of Education appointed by the Secretary of Education who shall serve as chair of the Advisory Committee; one representative of the Office of the Secretary of Finance appointed by the Secretary of Finance; one representative of the Council 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, which shall include two doctoral institutions, two comprehensive institutions, and one comprehensive community college, appointed by the presidents of the public institutions of higher education, and a representative from a nonprofit private institution of higher education 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 individuals to serve on the Advisory Committee, including representatives of academic and instructional faculty or fiscal officers of public institutions of higher education.

B. Consistent with the objective and purposes of this chapter identified in § 23.1-301, the Advisory Committee shall develop and subsequently review at least once every five years, in consultation with the staff of the Council and the respective 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, 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 § 23.1-304 for determining how a significant increment of state funding shall follow the student to the associate-degree-granting or baccalaureate public institution of higher education in which the student enrolls, how the amount of such per student funding for 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 (§ 23.1-628 et seq.) for students attending nonprofit private institutions of higher education, how and as of what date 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 pursuant to § 23.1-303 shall be reflected in the institution's appropriation pursuant to subsection A of § 23.1-304, and the standards and process for determining whether an increase or decrease in Virginia undergraduate student enrollment qualifies for funding pursuant to § 23.1-304;

2. Criteria for determining which families qualify as "low-income" and "middle-income" for purposes of § 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 § 23.1-305 and the benefits of meeting or consequences of not meeting the incentives included in an institution's six-year plan pursuant to § 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 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 (§ 23.1-1000 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 of meeting or consequences of not meeting those goals and objectives, including those set forth in subsection C of § 23.1-1002; and

6. The role of private institutions of higher education in addressing the goals set forth in this chapter and 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 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 § 23.1-301, the Advisory Committee shall review at least every five years, in consultation with the staff of the Council, the respective 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, 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 § 23.1-306, 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 (§ 23.1-1000 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 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 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 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.

2011, cc. 828, 869, § 23-38.87:20; 2016, c. 588.

§ 23.1-310. Assessment and certification of institutions by the Council.

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 § 23.1-309 and 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 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 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.

2011, cc. 828, 869, § 23-38.87:21; 2016, c. 588.

Subtitle V - Other Educational and Cultural Institutions

Chapter 30 - Eastern Virginia Medical School

§ 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.

2016, c. 588.

§ 23.1-3001. Eastern Virginia Medical School established.

Eastern Virginia Medical School is established as a public instrumentality, public body politic and corporate, and political subdivision of the Commonwealth. The primary offices and facilities of the Medical School shall be located in the Hampton Roads area of the Commonwealth.

2016, c. 588.

§ 23.1-3002. Board; membership; officers; meetings; committees.

A. The Medical School shall be governed by a board of visitors composed of 17 members as follows: two nonlegislative citizen members appointed by the Governor; two nonlegislative citizen members appointed by the Senate Committee on Rules; three nonlegislative citizen members appointed by the Speaker of the House of Delegates; six nonlegislative citizen members appointed by the Eastern Virginia Medical School Foundation; and four nonlegislative citizen members 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: the City of Chesapeake, the City of Hampton, the City of Portsmouth, the City of Suffolk, and the City of Newport News.

B. Members shall serve for terms of three years, commencing on July 1 of the appointment year. Vacancies occurring other than by expiration of a term shall be filled by the original appointing authority for the unexpired term. No member shall serve for more than two consecutive three-year terms; however, (i) a member appointed to 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 qualified.

C. Members shall receive no salaries but are entitled to reimbursement for necessary traveling and other expenses incurred while engaged in the performance of their duties.

D. Each appointing authority has the right to remove any member it appointed for malfeasance, misfeasance, incompetence, or gross neglect of duty.

E. The board shall annually elect a rector, vice-rector, treasurer, and secretary from among its membership and may elect assistant secretaries and treasurers who are not required to be members of the board. The same member may serve as both secretary and treasurer.

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.

G. The board may appoint an executive committee composed of at least three but no more than five members for the transaction of business in the recess of the board.

2016, c. 588; 2018, c. 202.

§ 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.

2016, c. 588.

§ 23.1-3004. Medical School; powers.

A. The Medical School 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 and such other persons as may be served by the Medical School;

2. Adopt regulations for the government and management of the Medical School 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 plan, develop, and implement programs to meet such needs on both an immediate and long-range basis;

7. Plan, design, construct, possess, own, remove, renovate, enlarge, equip, maintain, and operate projects to provide medical and health care, education, research, and related, supporting, and other appropriate services;

8. Lease, sell, or otherwise convey any or all of its projects to others who agree to operate the projects if the Medical School determines that such lease, sale, or other conveyance will assist, promote, or further the purposes of this chapter;

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 eminent domain, on such terms and conditions and in such a manner as it may deem proper and sell, lease, and dispose of such property or any portion of or interest in such property. The Medical School shall exercise the power of eminent domain in accordance with Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 and only (i) within the corporate limits of the City of Norfolk and (ii) to acquire property to be used for operating projects. The Medical School shall not condemn, pursuant to this chapter, the property of any corporation that has the power of eminent domain;

10. Fix, revise, charge, and collect revenues, fees, rents, and other charges for the services and facilities furnished by the Medical School and establish and revise regulations regarding the use, occupancy, or operation of all or part of any such facility or service rendered;

11. Accept loans, grants, contributions, or assistance from the federal government, the Commonwealth, any locality of the Commonwealth, or any other public or private source and enter into any

agreement or contract regarding the acceptance, use, or repayment of any such loan, grant, contribution, or assistance;

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, causes, and cures of diseases, conditions, syndromes, or disorders; (ii) health care services; or (iii) the delivery of health care;

13. Foster the utilization of information, discoveries, data, and material produced through medical, biomedical, and health care research; obtain patents, copyrights, and trademarks for such intellectual property; administer and manage such intellectual property or contract for such administration and management by entities organized for such purpose; and market, transfer, and convey, in whole or in part, any interest in such information, discoveries, data, materials, patents, copyrights, trademarks, or other intellectual 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;

14. Promote, develop, improve, and increase the health, welfare, convenience, commerce, and prosperity of the Commonwealth;

15. Assist in or provide for the creation of domestic or foreign stock and nonstock corporations and 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, (ii) direct or indirect obligations of the United States, any other government, state, territory, governmental district, or locality, or (iii) any other obligations of any association, partnership, or individual or any other domestic or foreign corporation organized for any purpose;

16. Provide appropriate assistance in carrying out any activities authorized by this chapter to any domestic or foreign corporation, partnership, association, joint venture, or other entity owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the Medical School, including making loans and providing employees;

17. Make loans and provide other assistance to corporations, partnerships, associations, joint ventures, or other entities;

18. Make contracts or guarantees, incur liabilities, borrow money, or secure any obligations of others;

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 outside the Commonwealth or the United States and control, directly or through domestic or foreign stock or nonstock corporations or other entities, facilities that assist or aid the Medical School in carrying out the purposes of this chapter, including the power to own or operate, directly or indirectly, medical edu-

cational and research institutions, medical, research, and paramedical facilities, and related and supporting facilities and projects within or outside the Commonwealth or the United States;

20. Participate in joint ventures, within or outside the Commonwealth 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;

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 outside the Commonwealth or the United States 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;

22. Exercise all the corporate powers granted to corporations by the provisions of Title 13.1, except in those cases in which, by the express terms of the provisions of such title, such powers are confined to corporations created under such title; and

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.

2016, c. 588.

§ 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.

2016, c. 588.

§ 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.

2016, c. 588.

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

A. The Medical School may issue bonds to pay all or part of the cost of any project within the Commonwealth, finance and refinance any of its programs or its general operations, or refund any

outstanding bonds or other obligations of the Medical School whether or not the bonds or obligations to be refunded have matured or are subject to redemption.

B. The Medical School may 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 of such bonds or obligations to maturity or earlier date of redemption; (ii) the purchase price of any such bonds or obligations to be retired upon such purchase; 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 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 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, whether or not 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.

D. Bonds of the Medical School may be (i) issued in one or more series and (ii) made redeemable or subject to tender before maturity at such price 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 from 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, including any interest coupons to be attached to the bonds, the manner of execution, the denomination, and the place of payment of the principal of and interest on the bonds, which may be at any bank, trust company, or securities depository within or outside the Commonwealth.

F. If any officer whose signature or a facsimile of whose signature appears on any bond or coupon ceases to be such officer before delivery of such bond or coupon, such signature or facsimile is valid and sufficient for all purposes as if such officer had remained in office until such delivery.

G. Notwithstanding any other provision of this chapter or any recitals in any bonds issued under the provisions of this chapter, all bonds of the Medical School are negotiable instruments under the laws of the Commonwealth.

H. The Medical School may (i) issue bonds in coupon or registered form or both; (ii) provide for (a) the registration of any coupon bonds as to principal alone and as to both principal and interest and (b) the

reconversion of any bonds registered as to both principal and interest into coupon bonds; and (iii) issue bonds issued in registered form under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payments of principal of, premium, if any, and interest on such bonds.

I. The Medical School may contract for the services of 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 perform such actions itself.

J. The Medical School may determine a price for its bonds and sell such bonds at public or private sale and for such price as it determines to be in the best interest 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 are executed and available for delivery.

L. The Medical School may provide for the replacement of any bonds that are mutilated, destroyed, stolen, or lost.

M. The Medical School may issue bonds under the provisions of this chapter without obtaining the consent of any commission, board, bureau, or agency of the Commonwealth or any political subdivision and is not subject to any proceedings or conditions in the issuance of such bonds other than those set forth in this chapter.

N. The Medical School may issue or secure any bonds under the provisions of this chapter pursuant to (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; (ii) a trust or other agreement between the Medical School and either (a) any trust company or bank having the powers of a trust company within or outside the Commonwealth acting as corporate trustee or another agent for bondholders or a purchaser of any bonds or (b) a purchaser of any bond; or (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, 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 (a) 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 upon any default under the lease or sale of such project and (b) setting forth (1) 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, (2) the amounts of revenues, fees, rents, and other charges to be charged, (3) the collection of such revenues, fees, rents, and other charges, (4) the cus-

tody, safeguarding, and application of all moneys of the Medical School, and (5) conditions or limitations with respect to the issuance of additional bonds.

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 acts as depository of the proceeds of bonds or other revenues of the Medical School may furnish indemnifying bonds or pledge such securities as may be required by the Medical School.

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 any trustee or other agent for the bondholders, restrict the individual right of action by bondholders, and contain such other provisions as the Medical School deems reasonable and proper for the security of the bondholders, including provisions for the assignment 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, trust, or other agreement, or the resolution 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.

R. Bonds issued by the Medical School under the provisions of this chapter are securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, 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 securities that may properly and legally be deposited with and received by any state 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 authorized by law.

S. Any (i) holder of bonds issued under the provisions of this chapter or any coupons appertaining to such bonds and (ii) trustee or other agent for bondholders under any trust indenture, trust, or other agreement, or the resolution providing for the issuance of such bonds, except to the extent that the rights given in this subsection may be restricted by such trust indenture, 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, granted by this chapter, or under such trust indenture, trust, or other agreement, or the resolution providing for the issuance of such bonds, and enforce and compel the performance of all duties required by this chapter or such trust indenture, trust, or other agreement, or the resolution providing for the issuance of such bonds, to be performed by the Medical School or any officer or agent 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 by reason of the issuance of 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.

2016, c. 588.

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

A. The Medical School 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 fixed and adjusted 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 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 are not 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 set aside in such order and manner as may be provided in such 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 such principal and interest become due and the redemption price or purchase price of such bonds retired by call or purchase as 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 are valid and binding from the time when the pledge is made.

D. The revenues, fees, rents, and charges pledged and received by the Medical School are immediately subject to the lien of such pledge without any physical delivery or further act and the lien of any such pledge 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 of the lien.

E. No trust indenture, trust, or other agreement, or resolution authorizing the issuance of such bonds, by which a pledge is created 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 are subject to the provisions of such trust indenture, trust, or other agreement, or the resolution providing for the issuance of such bonds. Except as otherwise provided in such trust indenture, trust, or other agreement, or the resolution providing for the issuance of such bonds, such sinking fund is a fund for all such bonds without distinction or priority of one over another.

2016, c. 588.

§ 23.1-3009. Cooperation of localities.

In addition to the powers granted by general law or by its charter, any locality in the Commonwealth may cooperate with the Medical School to:

1. Make such appropriations and provide such funds by outright donation, loan, or agreement with the Medical School for operating and carrying out the purposes of the Medical School as the local governing body may deem proper;

2. Dedicate, sell, convey, or lease any of its interest in property or grant liens, easements, licenses, or any other privileges in or on the property to or for the benefit of the Medical School;

3. Cause parks, playgrounds, or recreational, community, educational, water, sewer, or drainage facilities or any other works that it may undertake to be furnished adjacent to or in connection with any property, facility, or project of the Medical School;

4. Furnish, dedicate, close, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;

5. Plan, replan, zone, or rezone any part of the locality in connection with the use of any property of the Medical School or property adjacent to the property of the Medical School or its facilities or projects;

6. Furnish services to the Medical School;

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 the locality and exercise all the rights of any holder of such bonds;

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

9. Enter into agreements with the Medical School regarding action to be taken by the locality pursuant to any of the powers set forth in this section.

2016, c. 588.

§ 23.1-3010. Proceeds; trust funds.

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

2016, c. 588.

§ 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, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, marital status, or disability.

2016, c. 588; 2020, c. 1137.

§ 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.) do not apply to the Medical School in its exercise of any power conferred under this chapter.

2016, c. 588.

§ 23.1-3013. Taxation.

A. The Medical School is not required to pay any taxes or assessments upon any project acquired and constructed by the Medical School under the provisions of this chapter.

B. The bonds issued under the provisions of this chapter, their transfer, the income from such bonds, and the income from the transfer of such bonds, including any profit made on the sale of such bonds, are exempt from taxation by the Commonwealth and any political subdivision of the Commonwealth.

2016, c. 588.

§ 23.1-3014. Scope of chapter.

This chapter shall constitute full and complete authority for the Medical School, without regard to the provisions of any other law, and shall be liberally construed to effect its purposes.

2016, c. 588.

Chapter 31 - EDUCATIONAL AUTHORITIES, CENTERS, COMMITTEES, FUNDS, INSTITUTES, AND PARTNERSHIPS

Article 1 - GENERAL PROVISIONS

§ 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.

2016, c. 588.

Article 2 - A.L. Philpott Manufacturing Extension Partnership

§ 23.1-3101. A.L. Philpott Manufacturing Extension Partnership established; purpose and duties.

A. The A.L. Philpott Manufacturing Extension Partnership (the Extension Partnership), doing business as Genedge Alliance, is established as a political subdivision of the Commonwealth 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 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 manufacturing modernization outreach;

5. Be available as a federal demonstration center for the training of displaced workers in 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 fulfilling the duties enumerated in this subsection.

B. The Extension Partnership 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.).

1992, cc. 217, 668, § 23-231.8; 1994, cc. 31, 383; 1996, c. 336; 1997, c. 324; 2016, c. 588; 2020, c. 398.

§ 23.1-3102. Board of trustees.

A. The Extension Partnership shall be governed by a 24-member board of trustees (the board) consisting of (i) three presidents of comprehensive community colleges; two presidents of baccalaureate public institutions of higher education; one president of a baccalaureate private institution of higher education; and 15 nonlegislative citizen members representing manufacturing industries, to be appointed by the Governor and (ii) the director of the Center for Innovative Technology and two Secretaries as defined in § 2.2-200 to be appointed by the Governor, to serve ex officio with voting privileges.

B. Appointments shall be for terms of four years. 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. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. No member shall serve more than two consecutive four-year

terms; however, 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 membership. The board shall elect a secretary and a treasurer who need not be members of the board. The board may elect other subordinate officers who need not be members of the board.

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.

1992, cc. 217, 668, § 23-231.9; 1994, cc. 31, 383; 1997, c. 324; 2004, c. 989; 2016, c. 588; 2020, c. 738.

§ 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.

1992, cc. 217, 668, § 23-231.9; 1994, cc. 31, 383; 1997, c. 324; 2004, c. 989; 2016, c. 588.

§ 23.1-3104. Executive director.

A. The board shall appoint an executive director who shall (i) supervise and manage the Extension Partnership, (ii) perform such functions as may be directed by the board, and (iii) prepare and submit, upon the direction and approval of the board, all requests for appropriations. The executive director may employ such staff as necessary to enable the Extension Partnership to perform its duties as set forth in this article. The board may determine staff duties and fix salaries and compensation from such funds as may be appropriated or received. Staff of the Extension Partnership shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees. In addition, the board 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 Weldon Cooper Center for Public Service at the University of Virginia, public institutions of higher education, small business development centers, and private businesses.

1992, cc. 217, 668, § 23-231.10; 1994, cc. 31, 383; 1997, c. 324; 2016, c. 588; 2020, c. 398.

§ 23.1-3105. Powers of the board.

In order to carry out the purposes of the Extension Partnership, the board 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 purposes;

2. Fix, alter, charge, and collect rates, fees, and other charges for the sale of the products of and services rendered by the Extension Partnership at rates determined by the board to pay the expenses of the Extension Partnership;

3. Make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of powers granted by this 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 consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary and 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 the Commonwealth;

6. Develop and provide programs or projects 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 the Commonwealth; and

7. Do all acts and things necessary or convenient to carry out the powers granted to it by this article or any other act.

1992, cc. 217, 668, § 23-231.11; 1997, c. 324; 2016, c. 588.

§ 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.

1992, cc. 217, 668, § 23-231.12; 1997, c. 324; 2016, c. 588.

Article 3 - INSTITUTE FOR ADVANCED LEARNING AND RESEARCH

§ 23.1-3107. Institute for Advanced Learning and Research established; duties.

A. The Institute for Advanced Learning and Research (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 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 Commonwealth;

2. Serve as a catalyst for economic and community transformation by leveraging and brokering resources that support the economic diversity 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 public institutions of higher education and private institutions of higher education, the City of Danville, Pittsylvania County, and the public schools and the public and private sectors in the region;

5. Serve as a resource and hub for network-related initiatives 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 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.

2002, cc. 581, 620, § 23-231.19; 2016, c. 588.

§ 23.1-3108. Board of trustees.

A. The Institute shall be governed by a 15-member board of trustees (the board) that shall consist of 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 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. Nonlegislative citizen members of the board shall be nonelected citizens of the Commonwealth.

B. Ex officio members of the board shall serve terms coincident with their terms of office. Appointments shall be for terms of three years. 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 shall serve 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 immediately succeeding such unexpired term.

C. The board shall elect a chairman and vice-chairman from among its membership and may establish bylaws as necessary.

D. Members of the board are not 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.

2002, cc. 581, 620, § 23-231.20; 2004, cc. 856, 889, 1000; 2015, c. 141; 2016, c. 588.

§ 23.1-3109. Powers of the board.

A. The 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 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 may enter into and administer agreements with public institutions of higher education and private institutions of higher education to provide continuing education and instructional programs at the Institute through both traditional and electronic modes of delivery.

C. The 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 article.

D. The board may request and accept the cooperation of agencies of (i) the Commonwealth or (ii) the local governing bodies in Southside Virginia in the performance of its duties.

2002, cc. 581, 620, §§ 23-231.21, 23-231.23; 2016, c. 588.

§ 23.1-3110. President or president and executive director.

The board may appoint a (i) president or (ii) president and executive director of the Institute who may be an employee of Averett University, Danville Community College, or Virginia Polytechnic Institute and State University. The president or president and executive director shall supervise and manage the Institute and shall prepare and submit, upon the direction and approval of the board, all budgets and requests for appropriations.

2002, cc. 581, 620, § 23-231.22; 2016, c. 588; 2019, c. 122.

Article 4 - NEW COLLEGE INSTITUTE

§ 23.1-3111. New College Institute established; duties.

A. New College Institute (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 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 and the needs of industry. 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.

2006, cc. 808, 842, § 23-231.30; 2016, c. 588.

§ 23.1-3112. Board of directors.

A. New College shall be governed by a 15-member board of directors (the board) that shall consist of five legislative members and 10 nonlegislative citizen members. Members 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 10 nonlegislative citizen members, three of whom shall be representatives of business and industry from the Commonwealth, to be appointed by the Governor, subject to confirmation by the General Assembly. At least 13 members shall be residents of the Commonwealth.

Legislative members shall serve terms coincident with their terms of office.

B. Nonlegislative citizen members shall be appointed for terms of four years. 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 is eligible to serve more than two consecutive four-year terms; however, 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 vice-chairman from among its 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.

D. Nonlegislative citizen members are not entitled to compensation for their services. Legislative members of the board shall be compensated as provided in § 30-19.12. All members 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.

2006, cc. 808, 842, § 23-231.31; 2016, c. 588; 2020, c. 878.

§ 23.1-3113. Powers and duties of the board.

A. The 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 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 shall oversee the educational programs of New College and may enter into and administer agreements with institutions of higher education for such institutions to provide continuing education, instructional programs, and degree programs at New College. The board shall seek opportunities to collaborate with local comprehensive community colleges to meet specialized noncredit workforce training needs identified by industry. However, if local comprehensive community colleges are unable to meet identified industry needs, then the board may seek to collaborate with other education providers or other public and private organizations to provide specialized noncredit workforce training independent of local comprehensive community colleges.

C. The board, with the prior approval of the Governor, may lease, sell, and convey any and all real estate to which New College has acquired title by gift, devise, or purchase. 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. 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 to such purposes as it may deem best for New College.

D. The 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 article.

E. The board may request and accept the cooperation of agencies of the Commonwealth or the local governing bodies in Southside Virginia, or the agencies of the Commonwealth or such local governing bodies in the performance of its duties.

F. The board shall direct the development and focus of New College's curriculum to include appropriate degree and nondegree programs offered by other educational institutions.

2006, cc. 808, 842, §§ 23-231.32, 23-231.33, 23-231.34, 23-231.36; 2016, c. 588; 2018, c. 754.

§ 23.1-3114. Executive director.

The board shall appoint an executive director of New College who shall supervise and manage New College. The executive director may, with the oversight of the board, employ such staff and faculty as are necessary to enable New College to perform its duties as set forth in this article and the bylaws established by the board.

2006, cc. 808, 842, § 23-231.35; 2016, c. 588.

Article 5 - ROANOKE HIGHER EDUCATION AUTHORITY

§ 23.1-3115. Roanoke Higher Education Authority established.

The Roanoke Higher Education Authority (the Authority) is established as a political subdivision of the Commonwealth.

1997, c. 813, § 23-231.13; 2016, c. 588.

§ 23.1-3116. 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 Council, 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 that may be provided in the name of the Roanoke Higher Education Center (the Center) or the Authority.

1997, c. 813, § 23-231.14; 1998, c. 360; 2016, c. 588.

§ 23.1-3117. Board of trustees.

A. The Authority shall be governed by a 20-member board of trustees (the board) 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 Council or his designee; the Chancellor of the Virginia Community College System or his designee; the presidents of Averett University, James Madison University, Mary Baldwin College, Old Dominion University, Radford University, the University of Virginia, Virginia Commonwealth University, 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; 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 shall be citizens of the Commonwealth and residents of the Roanoke region.

B. The legislative members, the Director of the Council, the Chancellor of the Virginia Community College System, the Director of TAP This Valley Works, and the presidents of the named institutions of higher education or their designees shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for terms of four years. 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 shall serve more than two consecutive four-year terms; 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 are not entitled to compensation for their services. Legislative members of the board shall receive such compensation as provided in § 30-19.12. All members 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 shall elect a chairman and a vice-chairman from among its membership and may establish bylaws as necessary.

1997, c. 813, § 23-231.15; 1998, cc. 45, 55; 1999, c. 469; 2004, cc. 667, 1000; 2008, c. 236; 2009, c. 598; 2010, c. 39; 2012, c. 80; 2016, c. 588; 2017, cc. 307, 324; 2018, c. 140.

§ 23.1-3118. Powers of the board.

A. The 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 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 any of its political subdivisions other than the Authority.

C. The board may accept, execute, and administer any trust in which it may have an interest under the terms of any instrument creating the trust.

D. The board may lease property or hold any property for which it may acquire the title and dispose of such property in a manner that will benefit the Authority.

E. The board may 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 education, and graduate-level instructional programs. The 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.

F. The board may establish, with such funds as are appropriated for this purpose or made available to it, the Center.

G. Notwithstanding any provision of law to the contrary, any real estate and tangible personal property held or acquired by the board is exempt from any prohibition of the use of noncash assistance as matching funds.

H. The 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 article. Any locality may make gifts and donations of real property, personal property, or money to the Authority.

1997, c. 813, §§ 23-231.16, 23-231.18; 1998, cc. 45, 55, 360; 2001, c. 132; 2016, c. 588.

§ 23.1-3119. Executive director; staff.

A. From funds available for this purpose, the board may appoint an executive director for the Center who shall supervise and manage the Center and prepare and submit, upon the direction and approval of the board, all requests for appropriations. The executive director of the Center may employ such staff as necessary to enable the Center to perform its duties as set forth in the bylaws of the board and this article. The 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.

1997, c. 813, § 23-231.17; 1998, cc. 45, 55; 2016, c. 588.

Article 6 - SOUTHERN VIRGINIA HIGHER EDUCATION CENTER

§ 23.1-3120. Southern Virginia Higher Education Center established; duties.

The Southern Virginia Higher Education Center (the Center) is established as an educational institution in the Commonwealth. 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. Encourage the development and delivery of continuing education programs and workforce training in collaboration with the educational institutions serving the region, with a focus on critical shortage areas and the needs of industry;

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 Council, specific goals for higher education in Southside Virginia.

2005, cc. 774, 799, § 23-231.24; 2016, c. 588; 2017, cc. 236, 305.

§ 23.1-3121. Board of trustees.

A. The Center shall be governed by a 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 Council or his designee; the Chancellor of the Virginia Community College System or his designee; the presidents of Longwood University, Danville Community College, and Southside Virginia Community College or their designees; and seven nonlegislative citizen members to be appointed by the Governor, including two members of the Southern Virginia Higher Education Foundation, one superintendent of a local school division located in the Southside region, and four representatives of business and industry. The Speaker of the House of Delegates may appoint an alternate for one delegate appointed to the board. The alternate shall serve a term coincident with the term of the delegate and has the power to act in his absence. The Senate Committee on Rules may appoint an alternate for the senator appointed to the board. The alternate shall serve a term coincident with the term of the senator and may act in his absence.

Nonlegislative citizen members of the board shall be chosen from among residents of the Southside region of the Commonwealth and shall be citizens of the Commonwealth. However, an individual who does not reside in the Southside region may serve as a representative of business and industry if he either (i) owns a business headquartered or otherwise operating in the Southside region or (ii) serves as a member of the board of directors or senior management of a business headquartered or otherwise operating in the Southside region.

B. Legislative members and the representatives of the Council, the System, and the named institutions of higher education shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for terms of four years. 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 is eligible to serve more than two consecutive four-year terms; 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 are not entitled to compensation for their services. Legislative members of the board shall be compensated as provided in § 30-19.12. 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 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 shall elect a chairman and a vice-chairman from among its membership.

2005, cc. 774, 799, § 23-231.25; 2006, c. 160; 2016, c. 588; 2017, cc. 236, 305.

§ 23.1-3122. Powers of the board.

A. The 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 may accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

C. The 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. The board shall seek opportunities to collaborate with local comprehensive community colleges to meet specialized noncredit workforce training needs identified by industry. However, if local community colleges are unable to meet identified industry needs, then the board may seek to collaborate with other education providers or may provide Center-delivered specialized noncredit workforce training independent of local comprehensive community colleges.

D. The board, on behalf of the Center, may apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its purposes.

2005, cc. 774, 799, §§ 23-231.26, 23-231.28; 2016, c. 588; 2017, cc. 236, 305.

§ 23.1-3123. Executive director; staff.

A. The 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 of the board, all requests for appropriations. The executive director may employ such staff as necessary to enable the Center to perform its duties as set forth in this article. The board may determine the duties of such 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 Longwood University, Danville Community College, and Southside Virginia Community College.

2005, cc. 774, 799, § 23-231.27; 2016, c. 588.

§ 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.

2005, cc. 774, 799, § 23-231.29; 2016, c. 588.

Article 7 - SOUTHWEST VIRGINIA HIGHER EDUCATION CENTER

§ 23.1-3125. Southwest Virginia Higher Education Center established; duties.

The Southwest Virginia Higher Education Center (the Center) is established as an educational institution in the Commonwealth. The Center shall:

1. Encourage the expansion of higher education degrees, adult and continuing education, workforce training, and professional development through partnerships with public institutions of higher education and private institutions of higher education;

2. Facilitate the delivery of teacher training programs leading to licensure and undergraduate and graduate degrees;

3. Serve as a resource and referral center by maintaining and disseminating information on existing educational programs and resources; and

4. Develop, in coordination with the Council, specific goals for higher education in Southwest Virginia.

1991, c. 627, § 23-231.2; 1992, c. 132; 1999, cc. 424, 437; 2004, c. 1000; 2016, c. 588.

§ 23.1-3126. Board of trustees.

A. The Center shall be governed by a 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 Council or his designee; the Chancellor of the Virginia Community College System or his designee; the 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 Commonwealth University, and Virginia Highlands Community College or their designees; and seven nonlegislative citizen members to be appointed by the Governor who represent Southwest Virginia public education and area business and industry, including one division superintendent, one public school teacher, two business and industry leaders, one representative of the technology industry, one representative of the tourism industry, and one representative of the health care industry.

Nonlegislative citizen members of the 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 Council, the System, and the named institutions of higher education shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for terms of four years. 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 is eligible to serve more than two consecutive four-year terms; 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 are not entitled to compensation for their services. Legislative members of the board shall be compensated as provided in § 30-19.12. 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 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 shall elect a chairman and a vice-chairman from among its membership.

1991, c. 627, § 23-231.3; 1992, c. 420; 1996, cc. 135, 763; 1998, c. 78; 1999, cc. 424, 437; 2000, c. 89; 2002, c. 292; 2004, c. 1000; 2005, c. 550; 2016, c. 588.

§ 23.1-3127. Powers of the board.

A. The 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 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 may establish and administer agreements with (i) public institutions of higher education and private institutions of higher education 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. The board shall seek opportunities to collaborate with local comprehensive community colleges to meet specialized noncredit workforce training needs identified by industry. However, if local community colleges are unable to meet identified industry needs, then the board may seek to collaborate with other education providers or may provide Center-delivered specialized noncredit workforce training independent of local comprehensive community colleges.

C. The board may, on behalf of the Center, apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives.

1991, c. 627, §§ 23-231.4, 23-231.6; 1998, c. 78; 1999, cc. 424, 437; 2016, c. 588; 2019, c. 766.

§ 23.1-3128. Executive director.

A. The 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 of the board, all requests for appropriations. The executive director may employ such staff as necessary to enable the Center to perform its duties as set forth in this article. The board may determine the duties of such 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 any public institution of higher education that offers courses or instructional programs at the Center.

1991, c. 627, § 23-231.5; 1999, cc. 424, 437; 2016, c. 588.

§ 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.

1991, c. 627, § 23-231.7; 2016, c. 588.

§ 23.1-3129.1. Virginia Rural Information Technology Apprenticeship Grant Fund and Program.

A. As used in this section:

"Apprenticeship program" means an 18-month apprenticeship program for information technology workers hosted by a small, rural information technology business that combines mentorship and on-the-job training and that is established for the purpose of enhancing the experience and skills of such information technology workers.

"Information technology" means communications, telecommunications, automated data processing, applications, databases, data networks, the Internet, management information systems, and related information, equipment, goods, and services.

"Information technology worker" means any employee of a small, rural information technology business who is employed full-time on a salaried or wage basis and whose position is neither temporary nor provisional in nature.

"Qualified locality" means the Counties of Alleghany, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Giles, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe and the Cities of Bristol, Danville, Galax, Martinsville, and Norton.

"Small, rural information technology business" means any corporation, partnership, sole proprietorship, firm, or enterprise that (i) provides information technology services to its clients, (ii) is headquartered and operated in a qualified locality, and (iii) employs fewer than 100 employees.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Rural Information Technology Apprenticeship Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf 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. Moneys in the Fund shall be used solely for the purposes of (i) awarding grants on a competitive basis through the Virginia Rural Information Technology Apprenticeship Grant Program established pursuant to subsection C or (ii) implementing and administering the Virginia Rural Information Technology Apprenticeship Grant 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 executive director of the Center.

C. The Virginia Rural Information Technology Apprenticeship Grant Program (the Program) is hereby established for the purpose of awarding grants on a competitive basis from such funds as may be available from the Fund to small, rural information technology businesses to establish apprenticeship programs. The Program shall be administered by the Center. In administering the Program, the Center shall establish and publish guidelines and criteria for grant awards, including guidelines and criteria governing agreements between the Center and grant recipients relating to the employment of information technology workers who participate in apprenticeship programs. Such guidelines and criteria are subject to the approval of Chief Workforce Development Officer. The Center, in collaboration with the Chief Workforce Development Officer, shall oversee each grant awarded through the Program and ensure thorough annual reporting on each such grant.

D. Each small, rural information technology business that receives a grant pursuant to the Program is eligible to receive grant funding for no more than five years or until the business employs 100 individuals, whichever occurs first. The amount of each grant shall not exceed the entry-level salary to employ information technology workers pursuant to the apprenticeship program established by the business for a period of 18 months, in accordance with salary guidelines established and annually adjusted, as necessary, by the Center.

2019, cc. 646, 647.

Article 8 - Virginia Research Investment Committee

§§ 23.1-3130, 23.1-3131. Repealed.

Repealed by Acts 2020, cc. 1164 and 1169, cl. 2.

§ 23.1-3132. (Repealed effective January 1, 2021) Virginia Research Investment Committee; report.

A. There is hereby established the Virginia Research Investment Committee to (i) promote research and development excellence in the Commonwealth; (ii) provide guidance, and coordination as deemed necessary, to existent efforts to support research in the Commonwealth with commercial potential; (iii) approve the Roadmap; and (iv) evaluate and award grants and loans from the Fund pursuant to the provisions of this article.

B. The Committee shall consist of the Director of the Council, the Secretary of Commerce and Trade, the Secretary of Finance, and the staff directors of the House Committee on Appropriations and the Senate Committee on Finance, all of whom shall serve ex officio with voting privileges, and four nonlegislative citizen members of the Board to be appointed as follows: one appointed by the Speaker of the House of Delegates, one appointed by the Senate Committee on Rules, and two appointed by the Governor.

C. Ex officio members shall serve terms coincident with their terms of office. Board members shall serve terms coincident with their terms on the Board. Vacancies shall be filled in the same manner as the original appointments.

D. The Director of the Council shall serve as the chairman of the Committee.

E. The Committee shall report to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance no later than November 1 of each year. The report shall include details about awards made from the Fund in the immediately preceding fiscal year and updates on the research, development, and commercialization efforts resulting from such awards.

2016, c. 775, § 23-306; 2017, cc. 796, 816; 2018, c. 332.

§§ 23.1-3133, 23.1-3134. Repealed.
Repealed by Acts 2020, cc. 1164 and 1169, cl. 2.

Article 9 - ONLINE VIRGINIA NETWORK AUTHORITY

§ 23.1-3135. Online Virginia Network Authority established.
The Online Virginia Network Authority (the Authority) is established as a political subdivision of the Commonwealth for the purpose of providing a means for individuals to earn degrees and post-secondary education credentials by improving the quality of and expanding access to online degree and credential programs that are beneficial to citizens, public institutions of higher education, and employers in the Commonwealth.

2017, c. 686.

§ 23.1-3136. Board of Trustees.
A. The Authority shall be governed by a Board of Trustees (the Board) that has a total membership of 19 members that shall consist of 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; three members of the Senate to be appointed by the Senate Committee on Rules; three nonlegislative citizen members to be appointed by the Governor; one nonlegislative citizen member to be appointed by the board of visitors of George Mason University; one nonlegislative citizen member to be appointed by the board of visitors of Old Dominion University; one nonlegislative citizen member to be appointed by the State Board; one nonlegislative citizen member to be appointed by the board of visitors of James Madison University, and five members who shall serve ex officio with voting privileges, consisting of the President of George Mason

University or his designee, the President of Old Dominion University or his designee, the President of James Madison University or his designee, the Chancellor of the Virginia Community College System or his designee, and the Director of the Council. Nonlegislative citizen members of the Authority shall be citizens of the Commonwealth.

B. Legislative and ex officio members of the Board shall serve terms coincident with their terms of office.

C. 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.

D. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.

E. No House member shall serve more than four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no nonlegislative citizen member shall serve more than two consecutive four-year 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.

F. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the 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.

G. Legislative members of the Board shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. 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 costs of compensation and expenses of the members shall be provided by the Authority.

H. George Mason University, Old Dominion University, and the System shall provide staff support to the Authority and the Board. All agencies of the Commonwealth shall provide assistance to the Board, upon request.

2017, c. 686; 2018, cc. 199, 200, 832, 845; 2020, cc. 174, 340.

§ 23.1-3137. Duties of the Authority.

The Authority shall:

1. Expand access to affordable higher education in the Commonwealth by establishing the Online Virginia Network (the Network) for the purpose of coordinating the online delivery of courses that facilitate the completion of degrees at George Mason University, Old Dominion University, James Madison University, and comprehensive community colleges;

2. Encourage each public institution of higher education and each consortium of public institutions of higher education that offers online courses, online degree programs, or online credential programs to offer any such course, degree program, or credential program through the Network;

3. Oversee a process of approval for public institutions of higher education and consortia of such institutions to participate in the Network, with such funds as are appropriated for such purpose and made available to it;

4. Serve as a resource for residents of the Commonwealth and disseminate information regarding the opportunities for online learning offered by institutions and consortia that participate in the Network;

5. Coordinate the maintenance of an online portal through which potential students may examine and enroll seamlessly in Network offerings;

6. Collaborate with institutions and consortia that participate in the Network to ensure that the needs of enrolled students are met before, during, and after enrollment through online student support systems;

7. To the extent practicable, ensure that courses and degree programs offered through the Network (i) are accredited by an accrediting agency recognized by the U.S. Department of Education or authorized by the Council, as applicable; (ii) expand access to underserved populations based on income, race, geography, and age; (iii) are responsive to the employment demands of the Commonwealth; (iv) employ learning and delivery technologies, which may include competency-based and experiential learning, in an efficient and cost-effective manner to promote flexibility for each student to pursue online courses and programs at his own pace and in his own location throughout the year; (v) minimize student expenses and reduce time-to-degree or time-to-credential; and (vi) are offered in collaboration with existing public and private providers of online courses;

8. Promote the refinement and implementation of articulation agreements to ensure that credits earned through the Network are transferable to each other public institution of higher education and contribute to on-time degree completion at each such institution;

9. Assist in developing processes to help institutions and consortia that participate in the Network to expand their online offerings;

10. Ensure that the Passport Program and the Uniform Certificate of General Studies Program, established pursuant to § 23.1-907, be made available through the Network;

11. Develop specific goals for meeting the demand in the Commonwealth for affordable and accessible higher education through online learning;

12. Review and report annually to the Governor and the General Assembly on the cost structure of funds allocated to the establishment, maintenance, and expansion of the Network. In addition, the Authority shall examine ways to reduce the cost of online education and develop a budget that incorporates estimated expected tuition revenue from online students and its use in supporting the Network and assumes that any financial aid will come from existing financial aid programs; and

13. Accept, administer, and account for any state, federal, or private moneys that it may receive. Any moneys, including interest thereon, that have not been expended by the Authority by the end of each fiscal year shall not revert to the general fund but shall remain in the accounts of the Authority.

2017, c. 686; 2018, cc. 199, 200, 832, 845; 2020, cc. 174, 340.

§ 23.1-3138. Procurement and information technology.

A. The Authority shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for § 2.2-4342, which shall not be construed to require compliance with the pre-qualification application procedures of subsection B of § 2.2-4317, if it adopts and complies with policies for the procurement of goods and services, including professional services, that (i) are based upon competitive principles; (ii) in each instance seek competition to the maximum practical degree; (iii) implement a system of competitive negotiation for professional services pursuant to §§ 2.2-4303.1 and 2.2-4302.2; (iv) prohibit discrimination in the solicitation and award of contracts based on the bidder's or offeror's race, religion, color, sex, sexual orientation, gender identity, national origin, age, or disability or on any other basis prohibited by state or federal law; (v) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354; (vi) consider the impact on correctional enterprises under § 53.1-47; (vii) provide that whenever solicitations are made seeking competitive procurement of goods or services, it shall be a priority of the Authority to provide for fair and reasonable consideration of small, women-owned, and minority-owned businesses and to promote and encourage a diversity of suppliers; and (viii) identify the public, educational, and operational interests served by any procurement rule that deviates from procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

B. The Authority shall be exempt from the provisions governing the Virginia Information Technologies Agency in Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 and the provisions governing the Information Technology Advisory Council in Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2, if it adopts and complies with policies and professional best practices regarding strategic planning for information technology, project management, security, budgeting, infrastructure, and ongoing operations.

2017, c. 686; 2020, c. 1137.

Chapter 32 - Museums and Other Cultural Institutions

Article 1 - GENERAL PROVISIONS

§ 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.

2016, c. 588.

Article 2 - FRONTIER CULTURE MUSEUM OF VIRGINIA

§ 23.1-3201. Frontier Culture Museum of Virginia established.

The Frontier Culture Museum of Virginia (the Museum) is established as a state agency and educational institution. The purpose of the Museum is to construct, operate, and maintain, in the Augusta County, Staunton, and Waynesboro area of the Commonwealth, an outdoor museum to commemorate on an international scale the contributions of the pioneers and colonial frontiersmen and frontierswomen of the eighteenth and nineteenth centuries to the creation and development of the United States. The Museum is responsible for administering such historical and interpretive programs as may be established by the board of trustees of the Museum.

2000, c. 541, § 23-296; 2016, c. 588.

§ 23.1-3202. Board of trustees.

A. The Museum shall be administered by a 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 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 by the Senate Committee on Rules, and nine nonlegislative citizen members by the Governor. The Governor may appoint, upon recommendation of the board, up to eight additional nonlegislative citizen members who may be nonresidents of the Commonwealth.

B. Legislative members shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for terms of four years. 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.

C. The board shall elect a chairman, vice-chairman, and such other officers as it deems necessary. 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.

D. Nonlegislative citizen members shall receive no compensation for their services. Legislative members shall be compensated as provided in § 30-19.12. 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. Funding for the costs of compensation and expenses of the members shall be provided by the Museum.

2000, c. 541, § 23-297; 2005, c. 758; 2016, c. 588.

§ 23.1-3203. Duties of the board.

A. The board shall:

1. Establish, operate, and maintain the Museum to commemorate the contributions of the pioneers and colonial frontiersmen and frontierswomen 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 Museum;

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. 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. The title to such acquired land and property 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; and

10. Elect any past member of the 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 § 23.1-3202.

B. In addition to the powers granted by subsection A, the board may evaluate the significance and suitability of the furnishings, household items, and other objects acquired by purchase, gift, 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. The board may exchange or sell those furnishings, household items, and other objects that it determines to be of little or no significance or suitability for achieving the purpose or mission of the Museum as long as such disposition is not inconsistent with the terms of the acquisition of the relevant property. 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 Museum 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 for the purposes of § 23.1-101. The 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, except that any transfers of real property shall be made only with the consent of the Governor.

2000, c. 541, § 23-298; 2002, c. 129; 2003, c. 940; 2008, c. 242; 2016, c. 588.

Article 3 - GUNSTON HALL

§ 23.1-3204. Board of Regents of Gunston Hall and Board of Visitors for Gunston Hall established.
The Board of Regents of 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. The duties of the two boards are prescribed in Chapter 138 of the Acts of Assembly of 1932 and Chapter 175 of the Acts of Assembly of 1948.

2000, c. 541, § 23-295; 2016, c. 588.

§ 23.1-3205. Powers of the Board of Regents.
A. The Board of Regents may undertake to determine the significance or suitability of the furnishings, household items, and other objects acquired by purchase, gift, or donation for Gunston Hall, for the purpose of accurately presenting Gunston Hall according to the means and taste of George Mason. 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 exchanged or sold by the Board of Regents if not inconsistent with the terms of the acquisition of the items. Such sales may be conducted by auction houses recognized for their expertise in the sale of such items.

B. Any such furnishings, household goods, and other objects 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 for the purposes of § 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 form is not inconsistent with the terms of the instrument under which the property was acquired, and (ii) sell, grant, or convey any such property, except that any transfers of real property shall be made only with the consent of the Governor.

2001, c. 125, § 23-295.1; 2016, c. 588.

Article 4 - JAMESTOWN-YORKTOWN FOUNDATION

§ 23.1-3206. Jamestown-Yorktown Foundation established; board of trustees.

A. The Jamestown-Yorktown Foundation (the Foundation) is established as an 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 a board of trustees (the board). There shall be 12 non-legislative citizen members appointed by the Governor from the Commonwealth at large for four-year terms, subject to confirmation by the General Assembly; eight members of the House of Delegates 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; four members of the Senate appointed by the Senate Committee on Rules; five members annually elected by the board, some of whom may be nonresidents of the Commonwealth; and any chairman emeritus elected by the board pursuant to § 23.1-3207. 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, the Secretary of Education, and the president of the Jamestown-Yorktown Foundation, Inc., shall serve ex officio.

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 shall elect a chairman, vice-chairman, and such other officers as it deems necessary. The chairman shall appoint at least seven members to constitute an executive committee, 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.

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.

1998, cc. 589, 786, § 23-287; 2000, cc. 104, 125; 2003, c. 879; 2005, c. 758; 2013, c. 480; 2016, c. 588.

§ 23.1-3207. Duties.

The board shall:

1. Do all things necessary and proper to (i) foster through its living-history museums, Jamestown Settlement and American Revolution Museum at Yorktown, 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; (ii) commemorate Jamestown as the first permanent English-speaking settlement in the United States and its contributions to the building of the Commonwealth and the nation; (iii) commemorate the winning of American independence on the battlefield at Yorktown; and (iv) enhance our understanding of the making of the United States Constitution and Bill of Rights, including 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, including contracts for the use and rental of agency facilities, structures, spaces, and personal property under the control of the Foundation;

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. The title to such acquired land and property 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 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 to the honorary position of 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 § 23.1-3206;

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 which paintings, statuary, works of art, manuscripts, and artifacts shall be acquired by purchase, gift, or loan and exchange or sell 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 form is not inconsistent with the terms of the instrument under which the property was acquired, and sell, grant, or convey any such property, except that any transfers of real property shall be made only with the consent of the Governor.

1998, cc. 222, 589, 786, 791, § 23-288; 2000, c. 109; 2003, cc. 879, 940; 2011, cc. 345, 356; 2016, c. 588; 2017, cc. 230, 310; 2018, c. 137.

§ 23.1-3208. Regulations.

A. The board or its executive committee may adopt regulations concerning the use and visitation of properties under the control of the Jamestown-Yorktown Foundation to protect and secure such properties and the public enjoyment 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 to do so is guilty of trespass as provided in § 18.2-119.

1998, c. 786, § 23-289; 2016, c. 588; 2017, c. 314.

§ 23.1-3209. Authority to contract debts and obligations payable from revenues.

The Foundation, acting by and through the corporation authorized by § 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.

1998, c. 786, § 23-290; 2016, c. 588.

§ 23.1-3209.1. (Expires July 1, 2020) 400th anniversary of landmark events in Virginia's history; planning, coordination, and implementation.

A. All agencies and institutions of the Commonwealth shall, upon request, designate liaisons and provide assistance and advice to the Jamestown-Yorktown Foundation for the planning, coordination, and implementation of the 400th anniversary of landmark events in Virginia's history in 2019.

B. With the prior written approval of the Governor, the Jamestown-Yorktown Foundation may perform the following actions directly relating to the planning, coordination, and implementation of the 400th anniversary of landmark events in Virginia's history in 2019:

1. Solicit and accept donations of materials and services to defray expenses;

2. Retain all nongeneral funds from grants, donations, contributions, gifts, fees, sales, or other funds received, collected, or undertaken by the Jamestown-Yorktown Foundation for the 400th anniversary commemoration. Such nongeneral funds shall be retained and not reverted back to the general fund at the end of any fiscal year;

3. Procure, with the maximum delegated authority available to any executive branch agency or institution in the Commonwealth, any goods and services with which there are minimum procurement requirements associated;

4. Hire employees up to the Maximum Employment Level for the Foundation as provided in the general appropriations act, despite any potential suspension on hiring that may be mandated for the state agencies;

5. Receive assistance and advice from agencies and institutions of the Commonwealth without charge; and

6. Contact international, national, interstate, state, regional, and local elected and appointed officials.

2016, c. 150.

Article 5 - SCIENCE MUSEUM OF VIRGINIA

§ 23.1-3210. Science Museum of Virginia established.

The Science Museum of Virginia (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 article is the performance of an essential governmental function.

Code 1950, § 9-65.1, § 23-239; 1970, c. 466; 1977, c. 597; 2016, c. 588.

§ 23.1-3211. Board of trustees.

A. The Museum shall be governed by a board of trustees (the board) consisting of 15 members who shall be appointed by the Governor. At least one of the members shall be a member of the Virginia Academy of Science. All appointments are subject to confirmation by the General Assembly.

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.

D. The board shall elect a chairman and a secretary from its membership and may elect a vice-chairman from its membership.

E. The board shall meet at such times as it deems appropriate.

F. Seven members of the board shall constitute a quorum for all purposes.

Code 1950, §§ 9-65.4, 9-65.5, 9-65.6, 9-65.10, 9-65.11, §§ 23-243, 23-244, 23-245, 23-248, 23-249; 1970, c. 466; 1977, c. 597; 1980, c. 612; 2016, c. 588.

§ 23.1-3212. Duties of the board.

The board shall seek to:

1. Deepen our understanding of man and his environment;

2. Promote a knowledge of the scientific method and thus encourage objectivity in the everyday affairs of man;

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;

4. Use, subject to approval of the accredited educational affiliates concerned, Museum personnel in educational programs;

5. Motivate and stimulate young people to seek careers in science;

6. Encourage an understanding of the history of scientific endeavor;

7. Provide special facilities and collections for the study of the Commonwealth's natural resources; and

8. Foster a love of nature and concern for its preservation.

Code 1950, § 9-65.2, § 23-240; 1970, c. 466; 1977, c. 597; 2016, c. 588.

§ 23.1-3213. Powers of the board.

The board may:

1. Select sites for the Museum and its divisions and provide for the erection, care, and preservation of all property belonging to the Museum;

2. Appoint the director of the Museum (the director) and prescribe his duties and salary;

3. Establish policies for the operation of the Museum, including the kinds and types of instruction and exhibits, and the development of plans for expansion of the Museum;

4. Employ planning consultants and architects for any expansion of the Museum;

5. Acquire by purchase, gift, loan, or otherwise land necessary for exhibits, displays, and expansion of the Museum;

6. Enter into contracts for construction of physical facilities;

7. Adopt a seal;

8. Charge for admission to the Museum; and

9. On behalf of the Commonwealth and in furtherance of the purposes of the Museum, receive and administer gifts, bequests, and devises of property of any kind whatsoever and grants from agencies of the United States government and expend, or authorize the expenditure of, funds derived from such sources and funds appropriated by the General Assembly to the Museum.

Code 1950, §§ 9-65.12, 9-65.14, §§ 23-250, 23-252; 1970, c. 466; 1972, c. 524; 1974, c. 124; 1977, c. 597; 2016, c. 588.

§ 23.1-3214. Agents and employees.

The 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.

Code 1950, § 9-65.13, § 23-251; 1970, c. 466; 1977, c. 597; 2016, c. 588.

§ 23.1-3215. Annual report.

The 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.

1977, c. 597, § 23-253; 1984, c. 734; 1985, c. 146; 2004, c. 650; 2016, c. 588.

Article 6 - VIRGINIA MUSEUM OF FINE ARTS

§ 23.1-3216. Virginia Museum of Fine Arts established.

The Virginia Museum of Fine Arts (the Museum) is established as an educational institution in the Commonwealth and a public body and instrumentality for the dissemination of education.

1997, c. 367, § 23-253.4; 2016, c. 588; 2017, c. 314.

§ 23.1-3217. Board of trustees.

A. The management and control of the Virginia Museum of Fine Arts and its building, contents, furnishings, grounds, and other properties is vested in a board of trustees (the board) composed of (i) the Governor, the Speaker of the House of Delegates, and the mayor of the City of Richmond, who shall serve ex officio, and (ii) at least 25 but not more than 35 nonlegislative citizen members. Nonlegislative citizen members shall be appointed by the Governor after consideration of a list of nominees from the Museum submitted at least 60 days before the expiration of the member's term for which the nominations are being made.

B. Nonlegislative citizen members shall be appointed for terms of five years. No nonlegislative citizen 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. Nine members shall constitute a quorum at any meeting and a majority vote of those members present shall control in all matters.

D. The board shall adopt bylaws governing its organization and procedure and may alter and amend the bylaws.

E. The board shall elect one of its members president of the Museum.

F. The board may provide for an executive committee composed of at least three members that may exercise the powers vested in it and perform the duties imposed upon it by the board.

1997, c. 367, §§ 23-253.1, 23-253.2, 23-253.3; 2010, c. 101; 2011, cc. 691, 714; 2016, c. 588; 2017, c. 314.

§ 23.1-3218. Powers of the board.

A. The board may:

1. Manage, control, maintain, and operate the Museum, including its contents, furnishings, grounds funds, property, and endowments;

2. Charge for admission to the Museum;

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 Museum;

4. Consistent with subdivision 15 of § 2.2-2905, suspend and remove employees;

5. Determine which works of art shall be kept, housed, or exhibited in the Museum;

6. Acquire by purchase, gift, loan, or otherwise works of art and exchange or sell such works if not inconsistent with the terms of the purchase, gift, loan, or other acquisition;

7. Enter into agreements with organizations interested in art;

8. Adopt a seal;

9. Stimulate and assist in the formation of new organizations;

10. Do such other things as it deems proper to promote art education throughout the Commonwealth;

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 any special purpose designated by the donor;

12. Change the form of investment of any funds, securities, or other property, real or personal, provided that the form is not inconsistent with the terms of the instrument under which the property was acquired. The trustees may sell, grant, and convey any such property but, in the case of real property, only with the written consent of the Governor;

13. Confer the honorary degree of patron of arts on any person who has made an outstanding contribution to art, 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 of the powers conferred on the board by this article is the performance of an essential governmental function.

1997, c. 367, §§ 23-253.4, 23-253.5; 2016, c. 588.

§ 23.1-3219. Authority of Art and Architectural Review Board.

The Art and Architectural Review Board shall not control, manage, or supervise in any way the board in the exercise of its powers and duties, except that in the matter of additions, repairs, and alterations to the exterior of the Museum building the Art and Architectural Review Board shall continue to exercise the powers now conferred on it by law.

1997, c. 367, § 23-253.6; 2016, c. 588.

§ 23.1-3220. Expenditures for current expenses.

All moneys received by the board for current expenses in operating the Museum shall be paid into the state treasury, where they shall be set aside as a special fund for the operation of the Museum 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.

1997, c. 367, § 23-253.7; 2004, c. 650; 2016, c. 588.

§ 23.1-3221. Annual report.

The board shall submit an annual report to the Governor and General Assembly on or before November 1 of each year 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.

2016, c. 588.

Article 7 - VIRGINIA COMMISSION FOR THE ARTS AND VIRGINIA ARTS FOUNDATION

§ 23.1-3222. Virginia Commission for the Arts established; purpose; membership.

A. The Virginia Commission for the Arts (the Commission) is established as 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 Endowment for the Arts.

C. The Commission shall consist of 13 members appointed by the Governor subject to confirmation by the General Assembly. No employee of the Commonwealth or member of the General Assembly is eligible for appointment as a member of the Commission. At least one but no more than two members shall be appointed from each congressional district in the Commonwealth.

D. Members shall 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. Vacancies shall be filled 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 elect a chairman from among its membership.

F. A majority of the members of the Commission shall constitute a quorum.

G. The members of the Commission 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.

2016, c. 588.

§ 23.1-3223. Duties of the Commission.

A. The Commission shall:

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 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 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, arts administrators, and citizens to advise the Commission concerning fiscal matters;

10. Encourage arts organizations to dedicate to their endowments at least $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 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;

13. Provide incentives to local 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(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.

2016, c. 588.

§ 23.1-3224. Director of the Commission.

The Governor may appoint a director of the Commission, who shall serve at the pleasure of the Governor. The director may employ the personnel required to assist the Commission in the exercise and performance of its powers and duties. The 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.

2016, c. 588.

§ 23.1-3225. Virginia Arts Foundation established; board of trustees.

A. The Virginia Arts Foundation (the Foundation) is established to serve as a supervisory foundation within the meaning of § 2.2-2100, in the executive branch of state government and is a body politic and corporate to be organized and to have such powers as provided in § 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 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, acting as members of the Virginia Commission for the Arts, are entitled to reimbursement for all actual and necessary expenses as provided by § 23.1-3222.

E. The director of the Commission shall serve as the chairman and the staff of such Commission shall serve as staff for the Foundation.

2016, c. 588.

§ 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 § 23.1-3228 and (ii) nonprofit arts and cultural institutions and organizations 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 of the Foundation;

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.

2016, c. 588.

§ 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, referred to in this article as "the Fund." The Fund shall be established on the books of the Comptroller.

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 property of any other character.

C. All money, securities, or other property designated for 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 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. 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 is not subject to expenditure by the Foundation.

2016, c. 588.

§ 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 from such gifts and bequests, are gifts to the Commonwealth, and the Fund 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 nonprofit arts and cultural institutions and organizations in the Commonwealth to enhance the fiscal stability, financial management, and fundraising abilities of such organizations.

2016, c. 588.

Subtitle II - Students and Campus

Chapter 4 - General Provisions

§ 23.1-400. Student organizations; rights and recognition.

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

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 subsection A.

2013, cc. 696, 701, § 23-9.2:12; 2016, c. 588.

§ 23.1-401. Restrictions on student speech; limitations.

No public institution of higher education shall 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.

2014, c. 559, § 23-9.2:13; 2016, c. 588.

§ 23.1-401.1. Constitutionally protected speech; policies, materials, and reports; report.

A. Except as otherwise permitted by the First Amendment to the United States Constitution, no public institution of higher education shall abridge the constitutional freedom of any individual, including enrolled students, faculty and other employees, and invited guests, to speak on campus.

B. Each public institution of higher education shall establish and include in its student handbook, on its website, and in its student orientation programs policies regarding speech that is constitutionally protected under the First Amendment to the United States Constitution and the process to report incidents of disruption of such constitutionally protected speech.

C. Each public institution of higher education shall develop materials on the policies established pursuant to subsection B and notify any employee who is responsible for the discipline or education of enrolled students of such materials.

D. Each public institution of higher education shall develop, post on its website in a searchable, publicly accessible, and conspicuous manner, and submit to the Governor and the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than December 1 of each year a report on the institution's compliance with the provisions of this section that includes:

1. A copy of the institution's policies as described in subsection B and materials on such policies as described in subsection C;

2. Certification that the institution has complied with subsection C; and

3. A copy of any complaint filed in a court of law since December 1 of the preceding year to initiate a lawsuit against the institution or an employee of the institution in his official capacity for an alleged violation of the First Amendment to the United States Constitution.

E. Each public institution of higher education shall submit to the Governor and the Chairmen of the House Committee on Education and the Senate Committee on Education and Health a copy of any complaint filed in a court of law to initiate a lawsuit against the institution or an employee of the institution in his official capacity for an alleged violation of the First Amendment to the United States Constitution no later than 30 days after such complaint is served.

2018, c. 751.

§ 23.1-401.2. Student journalists; freedom of speech and the press.

A. As used in this section:

"Institution-sponsored student media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at a public institution of higher education under the direction of a student media adviser and distributed or generally made available to members of the

student body. "Institution-sponsored student media" does not include any media intended for distribution or transmission solely in the course in which the media is produced.

"Student journalist" means a student enrolled at a public institution of higher education who gathers, compiles, writes, edits, photographs, records, or prepares information for inclusion in institution-sponsored student media.

"Student media adviser" means an employee of a public institution of higher education who is appointed, designated, or employed to supervise or provide instruction relating to institution-sponsored student media.

B. Except as provided in subsection C, a student journalist has the right to exercise freedom of speech and the press in institution-sponsored student media, including determining the news and opinion content of institution-sponsored student media, regardless of whether the media is supported financially by the governing board of the institution, supported through the use of campus facilities, or produced in conjunction with a course in which the student is enrolled.

C. No student journalist has the right to exercise freedom of speech or the press in institution-sponsored student media when such media:

1. Is libelous or slanderous;

2. Constitutes an unwarranted invasion of privacy;

3. Violates federal or state law; or

4. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of institution policy, or the material and substantial disruption of the orderly operation of the institution.

D. No student media adviser shall be dismissed, suspended, disciplined, reassigned, or transferred for (i) taking reasonable and appropriate action to protect a student journalist who engages in conduct that is protected by subsection B or (ii) refusing to infringe on conduct by a student journalist that is protected by subsection B, the First Amendment to the United States Constitution, or the Constitution of Virginia.

2020, c. 947.

§ 23.1-402. Collection and dissemination of information concerning religious preferences and affiliations.

A. Notwithstanding any provision of law to the contrary, any public institution of higher education may collect and disseminate information concerning the religious preferences and affiliations of its students, provided that no such institution shall (i) require any student to indicate his religious preference or affiliation or (ii) disseminate such information without the student's consent.

B. No consent given pursuant to this section shall be construed to allow any public institution of higher education to disseminate to federal government authorities information concerning the religious

preferences and affiliations of its students for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity, unless such dissemination is specifically required by state or federal law.

1977, c. 506, § 23-2.1; 2016, c. 588; 2019, c. 774.

§ 23.1-403. Access to campus and student directory provided to certain persons and groups.
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 shall provide access on the same basis to official recruiting representatives of the Armed Forces of the United States and the Commonwealth.

1982, c. 258, § 23-2.1:1; 2016, c. 588.

§ 23.1-404. Retention of student birth certificates authorized.
Any public institution of higher education that requests that an applicant who has been accepted for admission present a certified copy of his birth certificate as a condition of enrollment may retain a copy of the birth certificate in the student's record.

2007, c. 49, § 23-2.1:2; 2016, c. 588.

§ 23.1-405. Student records and personal information; social media.
A. As used in this section:

"Social media account" means a personal account with an electronic medium or service through which users may create, share, or view user-generated content, including, without limitation, videos, photographs, blogs, podcasts, messages, emails, or website profiles or locations. "Social media account" does not include an account (i) opened by a student at the request of a public or private institution of higher education or (ii) provided to a student by a public or private institution of higher education such as the student's email account or other software program owned or operated exclusively by a public or private institution of higher education.

B. Each public institution of higher education and private institution of higher education may require any student who attends, or any applicant who has been accepted to and has committed to attend, 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. Such records shall be kept confidential as required by state and federal law, including the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g)(FERPA).

C. Student directory information, as defined by FERPA, and which may include a student's name, sex, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height as a member of an athletic team, dates of attendance, degrees and awards received, and other similar information, may be disclosed, provided that the institution has given notice to the student of (i) the types of information that the institution has designated

as directory information, (ii) the right of the student to refuse the designation of any or all of the types of information about the student as directory information, and (iii) the period of time within which the student must notify the institution in writing that he does not want any or all of the types of information about the student designated as directory information. However, no institution shall disclose the address, telephone number, or email address of a student pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) unless the student has affirmatively consented in writing to such disclosure. Additionally, except as required by state or federal law, no institution shall disclose the address, telephone number, or email address of a student pursuant to 34 C.F.R. § 99.31(a)(11) unless (a) the disclosure is to students enrolled in the institution for educational purposes or institution business and the student has not opted out of such disclosure in accordance with this subsection and institution policy or (b) the student has affirmatively consented in writing to such disclosure except as required by state or federal law. This subsection shall not apply to disclosures, other than disclosures pursuant to 34 C.F.R. § 99.31(a)(11), permitted under FERPA.

D. 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.

E. No public or private institution of higher education shall require a student to disclose the username or password to any of such student's personal social media accounts. Nothing in this subsection shall prevent a campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 from performing his official duties.

2008, c. 571, § 23-2.1:3; 2012, cc. 347, 382; 2014, c. 748; 2016, cc. 588, 597; 2018, c. 806; 2019, c. 229.

§ 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 institution of higher education and the governing board, president, or director of any flight school in the Commonwealth shall notify the Attorney General whenever (a) an applicant who has been accepted for admission to such institution pursuant to a student visa fails to enroll or (b) a student who has been attending such institution pursuant to a student visa withdraws from such institution or violates the terms of his visa. Such notification shall contain all available information from U.S. Citizenship and Immigration Services Form I-20 and shall be submitted no later than 30 days after discovery of the event for which notification is required.

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

C. This section is effective until superseded by federal action.

2002, c. 367, § 23-2.2; 2016, c. 588.

§ 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 institution of higher education shall electronically transmit the complete name, social security number or other identifying number, date of birth, and 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 Sex Offender Registry File. Such data shall be transmitted (a) before an accepted applicant becomes a student in attendance pursuant to 20 U.S.C. § 1232g(a)(6) or (b) in the case of institutions with a rolling or instantaneous admissions policy, in accordance with guidelines developed by the Department of State Police in consultation with the Council.

B. Whenever it appears from the records of the Department of State Police that an accepted applicant has failed to comply with the duty to register, reregister, or verify his registration information 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 institution of higher education is located.

2006, cc. 857, 914, § 23-2.2:1; 2016, c. 588; 2020, c. 829.

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

Each public institution of higher education shall publish annually a descriptive report detailing (i) the amount and distribution of student activity fees assessed each semester or during an academic year and (ii) the name of each organization that receives funding of $100 or more from student activity fees and the nature of such organization's activity. Each such institution shall post such annual descriptive report on its website to facilitate its access by and availability to enrolled students and their parents.

2005, c. 532, § 23-2.3; 2016, c. 588.

§ 23.1-409. Transparency in higher education information.

Each 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 § 23.1-408;

6. A link to the postsecondary education and employment data referenced in subsection D of § 23.1-204.1; 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 § 23.1-1303.

2015, cc. 325, 328, § 23-2.6; 2016, c. 588; 2018, c. 387.

§ 23.1-410. Student loan vendors.

A. No employee of a 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 institution and vendor regarding student loans.

2008, c. 624, § 23-4.3:2; 2014, c. 484; 2016, c. 588.

§ 23.1-411. Federal student loan information.

A. A public institution of higher education that receives federal education loan information for a student enrolled in the institution shall provide to the student, at least once during each academic year, the following up-to-date information: (i) an estimate of (a) the student's total amount of federal education loans, (b) the student's total potential loan repayment amount, including principal and interest, for the total amount of federal education loans, and (c) the student's monthly loan repayment amounts for the total amount of federal education loans and (ii) the percentage of the aggregate borrowing limit the student has reached, unless such information is unavailable.

B. No public institution of higher education shall incur liability for providing information to a student in accordance with this section.

2018, c. 589.

§ 23.1-412. Non-academic student codes of conduct.

A. Each public institution of higher education shall adopt non-academic student codes of conduct.

B. Students and student organizations that participate in the non-academic student codes of conduct process as a complainant or respondent shall have the responsibilities and rights afforded to them by the institution's codes of conduct and related policies and procedures. The codes of conduct shall describe and define the rights and responsibilities of all enrolled students and student organizations and shall outline each step in the institution's procedures for responding to and resolving allegations of violations.

C. For violations that may result in a student or student organization facing the sanctions of suspension or expulsion, the non-academic student codes of conduct shall include:

1. The requirement that the accused student or student organization receive reasonable notice of the alleged violation, a general summary of the complaint, contact information of an institution's employee to receive additional information, and the date by which such contact must occur;

2. The opportunity for the accused student or student organization to present their version of events giving rise to the allegations;

3. The opportunity for the accused student or student organization to review and respond to information presented to the decision maker;

4. The opportunity for the accused student or student organization to select an advisor of their choice;

5. The opportunity for the accused student or student organization to present information by relevant and noncumulative witnesses;

6. The right of the accused student or student organization to not participate in proceedings;

7. The requirement that the complainant and respondent receive notice of the outcome of the proceedings;

8. A decision maker free from actual bias; and

9. A description of any internal appeal process.

D. The provisions of this section shall not apply to any public institution of higher education established pursuant to Chapter 25 (§ 23.1-2500 et seq.).

2020, c. 473.

Chapter 5 - IN-STATE TUITION AND REDUCED RATE TUITION ELIGIBILITY

§ 23.1-500. Definitions.

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 program of study in which a student is enrolled.

"Dependent student" means 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, parent, or legal guardian. "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, is not affected by (i) mere transient or temporary physical presence outside the Commonwealth or (ii) the establishment and maintenance of a place of residence out-

side 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 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.

"Employed full time" means 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 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.

"Substantial financial support" means any amount 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 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, or as a result of a terrorist act, or in any armed conflict, was killed in action, became missing in action, or became a prisoner of war.

"Unemancipated minor" means a minor student 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 on active duty in the Armed Forces of the United States and who was discharged or released from such service under conditions other than dishonorable.

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

1984, c. 422, § 23-7.4; 1985, cc. 179, 572; 1988, c. 124; 1989, c. 371; 1990, c. 680; 1991, c. 590; 1996, cc. 931, 981; 1999, c. 439; 2006, cc. 783, 797, 806; 2007, cc. 108, 491; 2008, c. 723; 2011, cc. 38, 44, 782, 860; 2013, cc. 139, 166, 243; 2014, c. 341; 2016, c. 588.

§ 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.

1984, c. 422, § 23-7.4; 1985, cc. 179, 572; 1988, c. 124; 1989, c. 371; 1990, c. 680; 1991, c. 590; 1996, cc. 931, 981; 1999, c. 439; 2006, cc. 783, 797, 806; 2007, cc. 108, 491; 2008, c. 723; 2011, cc. 38, 44, 782, 860; 2013, cc. 139, 166, 243; 2014, c. 341; 2016, c. 588.

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

A. To 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 (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 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. If the individual through whom a dependent student establishes domicile and eligibility for in-state tuition charges abandons his domicile in the Commonwealth, such student is entitled to 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, institutions of higher education shall consider the totality of the circumstances, including the following applicable factors: continuous residence for at least one year prior to the date of the alleged entitlement, except in the event of the establishment and maintenance of a place of residence 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 within and outside the Commonwealth.

1984, c. 422, § 23-7.4; 1985, cc. 179, 572; 1988, c. 124; 1989, c. 371; 1990, c. 680; 1991, c. 590; 1996, cc. 931, 981; 1999, c. 439; 2006, cc. 783, 797, 806; 2007, cc. 108, 491; 2008, c. 723; 2011, cc. 38, 44, 782, 860; 2013, cc. 139, 166, 243; 2014, c. 341; 2016, c. 588.

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

A. Students shall not ordinarily establish domicile by the performance of acts that are auxiliary to fulfilling educational objectives or are required or routinely performed by temporary residents of the Commonwealth. Students shall not establish domicile by mere physical presence or residence primarily for educational purposes.

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

C. A nonmilitary student whose parent or spouse is a member of the 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 may establish domicile in the same manner as any other student. However, absent congressional intent to the contrary, any individual holding a student visa or another temporary visa does not have the capacity to intend to remain in the Commonwealth indefinitely and is therefore ineligible to establish domicile and 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, is not subject to minimum income tests or requirements.

F. The domicile of an unemancipated minor or a dependent student 18 years old or older may be 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 circumstances indicate that such guardianship was created primarily for the purpose of establishing domicile.

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.

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 tuition charges shall be charged out-of-state tuition for each term, semester, or quarter attended and may be subject to dismissal from the institution. All disputes relating to the veracity of information provided to establish domicile in the Commonwealth are appealable as set forth in § 23.1-510.

J. No student shall be deemed ineligible to establish domicile and receive in-state tuition charges solely on the basis of the immigration status of his parent.

1984, c. 422, § 23-7.4; 1985, cc. 179, 572; 1988, c. 124; 1989, c. 371; 1990, c. 680; 1991, c. 590; 1996, cc. 931, 981; 1999, c. 439; 2006, cc. 783, 797, 806; 2007, cc. 108, 491; 2008, c. 723; 2011, cc. 38, 44, 782, 860; 2013, cc. 139, 166, 243; 2014, c. 341; 2016, c. 588; 2020, c. 512.

§ 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.

1984, c. 422, § 23-7.4; 1985, cc. 179, 572; 1988, c. 124; 1989, c. 371; 1990, c. 680; 1991, c. 590; 1996, cc. 931, 981; 1999, c. 439; 2006, cc. 783, 797, 806; 2007, cc. 108, 491; 2008, c. 723; 2011, cc. 38, 44, 782, 860; 2013, cc. 139, 166, 243; 2014, c. 341; 2016, c. 588.

§ 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.

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 in the Commonwealth, the District of Columbia, or a state contiguous to the Commonwealth who reside in the Commonwealth; (ii) assigned unaccompanied orders and immediately prior to receiving such unaccompanied orders were assigned to a permanent duty station or workplace in the Commonwealth, the District of Columbia, or a state contiguous to the Commonwealth and resided in the Commonwealth; or (iii) assigned unaccompanied orders with the Commonwealth listed as the designated place move shall be deemed to be domiciled in the Commonwealth and are eligible to receive in-state tuition.

C. All such dependents shall be afforded the same educational benefits as any other individual who is eligible for in-state tuition pursuant to § 23.1-502. Such dependents are eligible for such benefits, including in-state tuition status, for as long as they are continuously enrolled in a public institution of higher education or private institution of higher education or have transferred between 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. Such continuous enrollment requirement shall be waived if the dependent verifies that a break of no longer than one year was required in order to support a spouse or parent on orders for a change of duty assignment or location.

1984, c. 422, § 23-7.4; 1985, cc. 179, 572; 1988, c. 124; 1989, c. 371; 1990, c. 680; 1991, c. 590; 1996, cc. 931, 981; 1999, c. 439; 2006, cc. 783, 797, 806; 2007, cc. 108, 491; 2008, c. 723; 2011, cc. 38, 44, 782, 860; 2013, cc. 139, 166, 243; 2014, c. 341; 2016, c. 588; 2020, c. 382.

§ 23.1-506. Eligibility for in-state tuition; exception; certain out-of-state and high school students.
A. 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 in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement 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. 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 a dependent for federal and Virginia income tax purposes if the nonresident parent claiming the student as a dependent has been employed full time 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 student shall continue to be eligible for in-state tuition charges for so long as his qualifying parent is employed full time in the Commonwealth, pays Virginia income taxes on all taxable income earned in the Commonwealth, and claims the student 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.

7. Any member of the foreign service office who resided in the Commonwealth for at least 90 days immediately prior to receiving a foreign service assignment and who continues to be assigned overseas, and any dependents of such member.

8. Any child of an active duty member or veteran who claims Virginia as his home state and filed Virginia tax returns for at least 10 years during active duty service.

9. Any individual who (i) was admitted to the United States as a refugee under 8 U.S.C. § 1157 within the previous two calendar years or (ii) received a Special Immigrant Visa that has been granted a status under P.L. 110-181 § 1244, P.L. 109-163 § 1059, or P.L. 111-8 § 602 within the previous two calendar years and, upon entering the United States, resided in the Commonwealth and continues to reside in the Commonwealth as a refugee or pursuant to such Special Immigrant Visa.

10. Any student who (i) attended high school for at least two years in the Commonwealth and either (a) graduated on or after July 1, 2008, from a public or private high school or program of home instruction in the Commonwealth or (b) passed on or after July 1, 2008, a high school equivalency examination approved by the Secretary of Education; (ii) has submitted evidence that he or, in the case of a dependent student, at least one parent, guardian, or person standing in loco parentis has filed, unless exempted by state law, Virginia income tax returns for at least two years prior to the date of registration or enrollment; and (iii) registers as an entering student or is enrolled in a public institution of higher education in the Commonwealth. Students who meet these criteria shall be eligible for in-state tuition regardless of their citizenship or immigration status, except that students with currently valid visas issued under 8 U.S.C. § 1101(a)(15)(F), 1101(a)(15)(H)(iii), 1101(a)(15)(J)(including only students or trainees), or 1101(a)(15)(M) are not eligible. Information obtained in the implementation of this subdivision shall only be used or disclosed to individuals other than the student for purposes of determining in-state tuition eligibility.

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

B. Notwithstanding the provisions of § 23.1-502 or any other provision of law to the contrary, the governing board of any public institution of higher education may charge in-state tuition to the following students regardless of domicile:

1. Any non-Virginia student enrolled in one of the institution's programs designated by the Council who (i) is entitled to reduced tuition charges at the institutions of higher education in any other state that is a party to the Southern Regional Education Compact and that has similar reciprocal provisions for 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 institution of higher education during the same period in which a Virginia student from such institution is attending 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 college credit pursuant to a dual enrollment agreement between the high school or magnet school and the comprehensive community college.

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

C. The State Board shall charge in-state tuition to any non-Virginia student enrolled at a comprehensive community college who resides in another state within a 30-mile radius of a public institution of higher education in the Commonwealth, is domiciled in such other state, and is entitled to in-state tuition charges at the institutions of higher education in any state that is contiguous to the Commonwealth and that has similar reciprocal provisions for Virginia students.

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

1996, cc. 931, 981, § 23-7.4:2; 1998, cc. 62, 79; 1999, cc. 424, 437; 2000, c. 196; 2001, c. 483; 2004, cc. 501, 520; 2006, cc. 783, 797; 2007, cc. 76, 102, 112; 2008, c. 723; 2009, c. 470; 2011, c. 376; 2013, cc. 166, 243, 302; 2014, cc. 341, 762; 2016, c. 588; 2019, c. 329; 2020, cc. 642, 680, 766, 767.

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

A. The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled at the University of Virginia's College at Wise who 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 at the institutions of higher education in Kentucky if Kentucky has similar reciprocal provisions for Virginia students.

B. The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled at the University of Virginia's College at Wise who 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 at the institutions of higher education in Tennessee if Tennessee has similar reciprocal provisions for Virginia students.

C. The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled at the University of Virginia's College at Wise who resides in the Appalachian Region as defined in 40 U.S.C. § 14102, is domiciled within the Appalachian Region, and is entitled to in-state tuition charges at a public institution of higher education in the Appalachian Region and such entitlement is based on circumstances that when applied to a student who resides in Virginia would result in entitlement to in-state tuition. Reduced rate tuition for students who reside in and are domiciled in the Appalachian Region shall not be set below the in-state tuition rate for Virginia students attending the University of Virginia's College at Wise.

D. The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled in programs offered jointly by its partners or associates and the University of Virginia's College at Wise at a regional off-campus center who 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 at the institutions of higher education in Tennessee if Tennessee has similar reciprocal provisions for Virginia students. Any such respective partners or associates shall establish separate tuition charges for their independent classes or programs at such regional off-campus centers.

E. Any non-Virginia student granted reduced rate tuition pursuant to this section shall be counted as a non-Virginia student for the purposes of determining admissions, enrollment, and tuition and fee revenue policies.

1996, cc. 931, 981, § 23-7.4:2; 1998, cc. 62, 79; 1999, cc. 424, 437; 2000, c. 196; 2001, c. 483; 2004, cc. 501, 520; 2006, cc. 783, 797; 2007, cc. 76, 102, 112; 2008, c. 723; 2009, c. 470; 2011, c. 376; 2013, cc. 166, 243, 302; 2014, cc. 341, 762; 2016, c. 588; 2019, cc. 225, 600.

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

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

B. Such special arrangement contracts 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 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 tuition charges agreed to by the public institutions shall be at least equal to in-state tuition and shall 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 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 charged reduced tuition rates.

E. Nothing in this section shall change the 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.

1996, cc. 931, 981, § 23-7.4:2; 1998, cc. 62, 79; 1999, cc. 424, 437; 2000, c. 196; 2001, c. 483; 2004, cc. 501, 520; 2006, cc. 783, 797; 2007, cc. 76, 102, 112; 2008, c. 723; 2009, c. 470; 2011, c. 376; 2013, cc. 166, 243, 302; 2014, cc. 341, 762; 2016, c. 588.

§ 23.1-508.1. State Board; reduced rate tuition and mandatory fee charges; certain students who are active duty members of Armed Forces of the United States.

A. The State Board may charge reduced rate tuition and mandatory fees to any student who is (i) an active duty member of the Armed Forces of the United States stationed outside the Commonwealth; (ii) enrolled in a degree program at a comprehensive community college, provided that any such comprehensive community college that offers online degree programs is a member of the National Council for State Authorization Reciprocity Agreements; and (iii) enrolled in training that leads to a Military Occupational Specialty in the Army or Marine Corps, an Air Force Specialty Code, or a Navy Enlisted Classification.

B. Any student granted reduced rate tuition pursuant to this section shall be counted as a non-Virginia student for the purposes of determining college admissions and enrollment policies.

2017, c. 782.

§ 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.

1984, c. 422, § 23-7.4; 1985, cc. 179, 572; 1988, c. 124; 1989, c. 371; 1990, c. 680; 1991, c. 590; 1996, cc. 931, 981; 1999, c. 439; 2006, cc. 783, 797, 806; 2007, cc. 108, 491; 2008, c. 723; 2011, cc. 38, 44, 782, 860; 2013, cc. 139, 166, 243; 2014, c. 341; 2016, c. 588.

§ 23.1-509.1. Alternative tuition or fee structures.

Any public institution of higher education may offer alternative tuition or fee structures to students that result in lower costs of attendance, including discounted tuition, flat tuition rates, discounted student

fees, or student fee and student services flexibility, to any first-time, incoming freshman undergraduate student who (i) has established domicile, as that term is defined in § 23.1-500, in the Commonwealth and (ii) enrolls full time with the intent to earn a degree in a program that leads to employment in a high-demand field in the region. Such an alternative tuition or fee structure may be renewed each year if the recipient maintains eligibility for the alternative tuition and fee structure. The State Council of Higher Education for Virginia shall offer guidance, upon request, to any public institution of higher education in establishing an alternative tuition or fee structure pursuant to this section.

2016, c. 523.

§ 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 rate tuition charges pursuant to this chapter. The Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to these administrative reviews.

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 individual who serves at one level of this appeals process is eligible to serve at any other level of this 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 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 30 days of receiving the written decision. In any such action, the institution shall forward the record to the court, whose function 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.

D. To ensure the application of uniform criteria in administering this section and determining eligibility for in-state tuition charges, the Council shall issue and revise domicile guidelines to be incorporated by all public institutions of higher education in their admissions applications. Such guidelines are not 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 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 of such guidelines.

1996, cc. 931, 981, § 23-7.4:3; 2016, c. 588.

Chapter 6 - Financial Assistance

Article 1 - GENERAL PROVISIONS

§ 23.1-600. Participation in 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 public institutions of higher education shall not be restricted on the basis of race or ethnic origin. Any individual who is a member of any federally recognized minority 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.

B. Individuals who have completed a program of home instruction in accordance with § 22.1-254.1 and 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 are specified as a condition of participating in a program, the Council shall develop empirical alternative equivalent measures that may be required for such programs.

1993, c. 843, § 23-7.1:02; 2009, c. 879; 2016, c. 588.

§ 23.1-601. Public institutions of higher education; grants for tuition and fees for certain individuals.
A. Each comprehensive community college shall and any other associate-degree-granting public institution of higher education or baccalaureate public institution of higher education may provide a grant for the payment of tuition and fees, except fees established for the purpose of paying for course materials such as laboratory fees, 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

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 or in a noncredit workforce credential program in a comprehensive community college;

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

4. Maintains the required grade point average established by the governing board of the institution at which he is enrolled;

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

6. Demonstrates financial need; and

7. Meets any additional financial need requirements established by the governing board of the institution at which he is enrolled for the purposes of such grant.

B. The State Board and the Council, in consultation with the Department of Social Services, shall establish regulations governing such grants. The regulations shall include provisions addressing renewals of grants, financial need, the calculation of grant amounts after consideration of any additional financial resources or aid the student 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.

2000, c. 968, § 23-7.4:5; 2009, cc. 430, 603; 2014, c. 84; 2016, c. 588; 2017, cc. 306, 318; 2019, c. 589.

§ 23.1-602. Payments to institutions of higher education for certain courses taken by law-enforcement officers.

A. The Department of Criminal Justice Services shall enter into contracts to make payments to public institutions of higher education and accredited private institutions of higher education whose primary campus is within the Commonwealth for tuition, books, and mandatory fees for any law-enforcement officer of the Commonwealth or its political subdivisions, departments, or authorities or any 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 that leads to a degree or certificate in an area relating to law enforcement or suitable for law-enforcement officers and (ii) enters into an agreement to continue to serve as a law-enforcement officer in 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, to repay the full amount of such payments on the terms and in the manner that the Department of Criminal Justice Services prescribes.

B. Any individual who receives the benefit of funds expended pursuant to this section shall reimburse such funds to the Department of Criminal Justice Services if he fails to satisfactorily complete the course for which the funds were expended.

The Department of Criminal Justice Services shall use such reimbursed funds in accordance with the purposes of this section.

1972, c. 697, § 23-9.2:4; 1974, c. 162; 1977, c. 162; 1982, c. 18; 1986, c. 236; 2016, c. 588.

§ 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, each such

institution's governing board may provide for financial assistance awards to students designated as state cadets on terms and conditions comparable to the provisions of § 23.1-2506.

1996, c. 203, § 23-31.1; 2016, c. 588.

§ 23.1-604. Investment of funds donated for scholarships.

A. When any person deposits moneys in, bequeaths moneys to be deposited in, or devises or bequeaths property to be sold and the proceeds to be deposited in the state treasury for the benefit of any institution of higher education in such an amount that the interest on such moneys is sufficient to cover the costs of tuition, mandatory fees, and other necessary expenses for a cadet or student enrolled in such institution, the 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 such institution.

B. Such donation is irrevocable, but the donor, his heirs, or the guardian of any heir who is under 21 years old may nominate and place in such institution any cadet or student.

C. If such donor, heirs, or guardian fails to nominate a cadet or student within one year of such donation, the governing board of the institution may appropriate such moneys to cover tuition, mandatory fees, and other necessary expenses for indigent Virginia students or cadets.

Code 1919, §§ 994, 995, 996; 1936, p. 536, §§ 23-32, 23-33, 23-34; 1956, c. 184; 2016, c. 588.

§ 23.1-605. Commissioned officers; waiver of tuition and mandatory fees.

Any commissioned officer of the Virginia National Guard or the Virginia Defense Force may become a student at any public institution of higher education for a period not exceeding 10 months and receive instruction in the departments of military science, emergency management, emergency services, public safety, and disaster management at such institution without being required to pay tuition and mandatory fees.

Code 1919, § 846, § 23-108; 1983, c. 385; 2014, c. 778; 2016, c. 588.

§ 23.1-606. Service in Armed Forces of the United States; discharge of scholarship service obligations.

Any length of service by any individual in the Armed Forces of the United States as an officer, private, or nurse or in any other capacity in time of war or other declared national emergency is a complete and final discharge of any obligation of such individual to serve the Commonwealth as a teacher in the public schools or in any other capacity, including any such obligation 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 individual and any public institution of higher education in consideration of any state scholarship awarded to or received by such individual as a student in such institution, provided that such service is terminated by an honorable or medical discharge and such individual entered such service within four years after leaving such institution.

1942, p. 504; Michie Code 1942, § 997c, § 23-38; 2016, c. 588.

§ 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 or private school teachers who agree to be cooperating teachers. Such compensation programs may provide for payment in the form of money or authorization to enroll without charge for a designated number of credit hours in the school, department, or other unit of the institution of higher education at which the student teacher being supervised is enrolled.

1994, c. 533, § 23-8.2:1; 2016, c. 588.

§ 23.1-607.1. Veterans; withdrawal; tuition refund.

A. As used in this section, "veteran" has the same meaning as provided in § 23.1-500.

B. Each public institution of higher education shall provide a refund of the tuition and mandatory fees paid by any veteran student for any course from which such veteran student is forced to withdraw, for the first time, due to a service-connected medical condition during a semester, as certified in writing to the institution by a physician licensed to practice medicine pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 who treated the veteran student for such medical condition. Such refund shall not be issued when three-quarters of a course has been completed at the time that the veteran student withdraws from the course. The time period that constitutes three-quarters of a course shall be determined by the institution.

C. Nothing in this section shall be construed to affect any such student's ability to reenroll at the institution.

2020, c. 434.

§ 23.1-608. Virginia Military Survivors and Dependents Education Program; 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.

"Program" means the Virginia Military Survivors and Dependents Education Program.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) 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 (ii) of a veteran who served in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard and, due to 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 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.

B. The Virginia Military Survivors and Dependents Education 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 who have been admitted to such institution and meet the requirements of subsection C, as certified by the Commissioner of Veterans Services.

C. Admitted qualified survivors and dependents are eligible for a waiver of tuition and mandatory fees pursuant to this section if the military service member who was killed, became missing in action, became a prisoner of war, or is disabled (i) established domicile (a) at the time of entering such active military service or called to active duty as a member of the Reserves of the Armed Forces of the United States or Virginia National Guard; (b) at least five years immediately prior to, or had a physical presence in 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 Eastern Virginia Medical School; or (c) on the date of his death and for at least five years immediately prior to his death or had a physical presence in the Commonwealth on the date of his death and had a physical presence in the Commonwealth for at least five years immediately prior to his death; (ii) in the case of a qualified child, is deceased and the surviving parent, at some time previous to marrying the deceased parent, established domicile for at least five years, or established domicile or had a physical presence in 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 child; or (iii) in the case of a qualified spouse, is deceased and the surviving spouse, at some time previous to marrying the deceased spouse, established domicile for at least five years or 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.

D. The Department of Veterans Services shall disseminate information about the Program to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Program and Fund.

E. 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.

1996, cc. 931, 981, § 23-7.4:1; 1998, c. 377; 2001, c. 330; 2003, cc. 657, 670; 2005, cc. 773, 783; 2006, c. 793; 2007, cc. 116, 161, 717; 2011, cc. 572, 586; 2012, c. 776; 2013, c. 719; 2014, cc. 184, 657; 2015, cc. 38, 730; 2016, c. 588; 2019, cc. 317, 491.

§ 23.1-608.1. Virginia Military Survivors and Dependents Education Fund; stipends.

A. As used in this section:

"Fund" means the Virginia Military Survivors and Dependents Education Fund.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) 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 (ii) 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 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.

B. From such funds as may be appropriated and from such gifts, bequests, and any gifts, grants, or donations from public or private sources, the Virginia Military Survivors and Dependents Education 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 general appropriation act, for room and board charges, books and supplies, and other expenses at any public institution of higher education or 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.

C. Each year, from the funds available in the Fund, the Council and each public institution of higher education and Eastern Virginia Medical School 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 Veterans Services for distribution.

D. The Council shall disburse to each public institution of higher education and Eastern Virginia Medical School the funds appropriated or otherwise made available by the Commonwealth to support the Fund and shall report to the Commissioner of Veterans Services the beneficiaries' completion rate.

E. The Department of Veterans Services shall disseminate information about the Fund to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the

Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Fund.

F. 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.

2019, cc. 317, 491.

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

A. The surviving spouse and any child between the ages of 16 and 25 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 Article 3 (§ 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 individual whose spouse was killed in the line of duty while employed or serving in any of such occupations, is entitled to a waiver of undergraduate tuition and mandatory fees at any public institution of higher education under the following conditions:

1. The chief executive officer of the deceased individual's employer certifies that such individual was so employed and was killed in the line of duty while serving or living in the Commonwealth; and

2. The surviving spouse or child 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.

B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional charges and mandatory educational and auxiliary fees, and books and supplies but shall not waive user fees such as room and board charges.

C. Each public institution of higher education shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

1996, cc. 931, 981, § 23-7.4:1; 1998, c. 377; 2001, c. 330; 2003, cc. 657, 670; 2005, cc. 773, 783; 2006, c. 793; 2007, cc. 116, 161, 717; 2011, cc. 572, 586; 2012, c. 776; 2013, c. 719; 2014, cc. 184, 657; 2015, cc. 38, 730; 2016, c. 588.

§ 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.

1996, cc. 931, 981, § 23-7.4:2; 1998, cc. 62, 79; 1999, cc. 424, 437; 2000, c. 196; 2001, c. 483; 2004, cc. 501, 520; 2006, cc. 783, 797; 2007, cc. 76, 102, 112; 2008, c. 723; 2009, c. 470; 2011, c. 376; 2013, cc. 166, 243, 302; 2014, cc. 341, 762; 2016, c. 588.

§ 23.1-610.1. Veteran Student Transition Grant Fund and Program.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Veteran Student Transition Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf 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. Moneys in the Fund shall be used solely for the purposes of providing grants through the Veteran Student Transition Grant Program established pursuant to subsection B. 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 Council shall establish the Veteran Student Transition Grant Program (the Program) for the purpose of providing grants through the Veteran Student Transition Grant Fund established in subsection A on a competitive basis to a public institution of higher education, private institution of higher education eligible to participate in the Tuition Assistance Grant Program pursuant to § 23.1-628, or group of such institutions that proposes a new and innovative program or research project relating to improving the transition of veteran students from military to higher education or from higher education to the civilian workforce.

C. The Council shall administer the Program and shall establish such guidelines and procedures as it deems necessary for the administration of the Program, including guidelines and procedures for grant applications, awards, and renewals.

2020, c. 636.

§ 23.1-611. Students from foreign countries; student exchange programs; tuition and fee waivers.
Tuition and 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 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 from a foreign country who are enrolled through such student exchange program and who pay full tuition and mandatory fees to the institution.

1996, cc. 931, 981, § 23-7.4:1; 1998, c. 377; 2001, c. 330; 2003, cc. 657, 670; 2005, cc. 773, 783; 2006, c. 793; 2007, cc. 116, 161, 717; 2011, cc. 572, 586; 2012, c. 776; 2013, c. 719; 2014, cc. 184, 657; 2015, cc. 38, 730; 2016, c. 588.

§ 23.1-611.1. Financial aid award notification.
Any comprehensive financial aid award notification provided to a student by a public institution of higher education or private institution of higher education shall meet the requirements and best practices established by the Council in its Financial Aid Award Letters Policies and Guidance.

2019, cc. 571, 572.

Article 2 - SCHOLARSHIPS

§ 23.1-612. Unfunded scholarships.
A. The 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 mandatory fees.

2. The 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 to undergraduate Virginia students shall not exceed the amount of the applicable sum of undergraduate tuition and mandatory fees multiplied by 20 percent of the enrollment of undergraduate Virginia students during the preceding academic year.

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

5. All such scholarships awarded to undergraduate students shall be awarded only to 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 Council.

6. The 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 the amount of the sum of graduate tuition and 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. All 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.

7. An unfunded scholarship shall entitle the holder to the following award, as appropriate:

a. An undergraduate Virginia student may receive an annual remission of an amount not to exceed the cost of tuition and mandatory fees;

b. 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; and

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

8. Notwithstanding the limitations on the awards of unfunded scholarships to undergraduate students pursuant to subdivision A 7, an institution may award unfunded scholarships to visiting foreign exchange students as long as the number of such awards in any fiscal year does not exceed one quarter of one percent of the total institutional headcount enrollment.

B. No public institution of higher education shall remit any tuition or mandatory fees to any student at such institution except as authorized in this section. Each such institution shall make a report to the Council, 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 state cadets at Virginia Military Institute or to affect the remission of tuition, 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 boards of the respective institutions over (i) any other scholarships, (ii) any gifts or donations made to such institutions for scholarships or other special purposes, (iii) any funds provided by the federal government or otherwise for the purpose of career and technical education or vocational rehabilitation in

the Commonwealth, or (iv) any funds derived from endowment or appropriations from the federal government for instruction in agriculture and mechanic arts at land-grant universities.

E. Nothing in this section shall be construed to prevent the governing board of any public institution of higher education from fixing a 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.

Code 1919, § 993; 1936, p. 447, § 23-31; 1952, c. 139; 1964, c. 440; 1966, c. 621; 1974, c. 317; 1975, c. 397; 1976, c. 189; 1977, cc. 296, 319; 1979, cc. 136, 145, 730; 1990, c. 447; 1992, c. 103; 1996, c. 103; 1999, cc. 424, 437; 2001, c. 483; 2002, cc. 158, 257; 2004, cc. 58, 176, 195, 739; 2014, c. 594; 2016, c. 588.

§ 23.1-613. Alumni scholarships.

The alumni association of any public institution of higher education may provide for and maintain a scholarship fund by annual contributions under such criteria as may be prescribed.

Code 1919, § 997, § 23-35; 2016, c. 588.

§ 23.1-614. Nursing scholarships.

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 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.

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.

D. Each nursing scholarship shall be made by an advisory committee appointed by the State Board of Health 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 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 advisory committee is eligible to serve more than two consecutive two-year terms immediately succeeding any unexpired term for which such member was appointed.

E. Awards shall be made upon such basis, competitive or otherwise, as determined by the 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 shall, to the extent that it is practicable, award an equal number of scholarships among the various congressional districts within the Commonwealth.

F. Before any such scholarship is awarded, the applicant shall agree in a signed written contract to complete a nursing program and, upon completion, to promptly begin and continuously engage in nursing work in the Commonwealth in a region with a critical shortage of nurses for one month for each $100 of scholarship awarded. The requirement for continuous engagement in nursing work may be waived by the advisory committee if the scholarship recipient requests leave to pursue an undergraduate or graduate degree in nursing or relating to nursing activities. The contract shall contain such other provisions as the State Board of Health determines to be necessary to accomplish the purposes of the scholarship.

G. Each scholarship shall be awarded for a single award year 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.

1950, pp. 1291, 1292, §§ 23-35.9, 23-35.10, 23-35.11, 23-35.12, 23-35.13; 1956, c. 644; 1962, c. 81; 1966, c. 162; 1968, c. 441; 1970, c. 653; 1973, c. 401; 1974, c. 654; 1989, c. 330; 2002, c. 290; 2016, c. 588.

§ 23.1-615. Soil scientist scholarships.

A. The Virginia Polytechnic Institute and State University Board of Visitors may establish up to 20 annual soil scientist scholarships for Virginia students in an amount equal to tuition and mandatory fees at Virginia Polytechnic Institute and State University.

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 (institution) that the applicant plans to attend, with due regard to the scholastic achievements, character, and adaptability of the applicant to the service contemplated under such award. No award shall be made unless the applicant possesses the requisite qualifications.

C. Each such scholarship shall be awarded for a single award year and may be renewed annually for up to three additional award years upon a showing of satisfactory progress.

D. Before any such scholarship is awarded, the applicant shall agree in a signed written contract to pursue soil science at the institution at which the scholarship is awarded until his graduation and, upon graduating, to promptly begin and engage continuously as a soil scientist as an employee of the Commonwealth for as many years as he was a beneficiary of such scholarship, unless no such suitable vacancy exists as an employee of the Commonwealth, in which case the obligation of such contract shall be discharged by being continuously engaged in the Commonwealth as a soil scientist as an employee of a local, state, or federal government agency for as many years as he was a beneficiary of such scholarship. The contract shall contain such other provisions as Virginia Polytechnic Institute and State University deems necessary to accomplish the purposes of the scholarship. In the event that the holder of any awarded soil scientist scholarship dies while receiving instruction under such a scholarship, any balance unpaid and agreed to be repaid by the holder of such scholarship shall be deemed paid, and no liability shall be attached to his estate.

E. Such contract shall contain a clause under which the 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 that he (i) fails to maintain a scholastic standard at least equal to the standard required of the general student body at such institution or (ii) becomes permanently disabled and is not able to engage in the profession of soil scientist, upon certification by a faculty committee. Any applicant so relieved shall arrange to reimburse the Commonwealth for the amount received on account of such scholarship plus interest on such amount computed at the prevailing rate charged on student loans at the institution attended by the applicant. Any applicant who 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 shall be reimbursed 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 subsection.

F. All funds repaid by any applicant 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 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 institution or by the employing state agency. The Attorney General shall take such action as he deems proper.

G. The funds making up each scholarship shall be paid to the recipient or applied toward the payment of his expenses at the relevant institution in such a manner and at such a time during the academic year as the president or other proper officer determines.

H. There is 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 this section.

1970, c. 620, §§ 23-38.3, 23-38.4, 23-38.5, 23-38.6, 23-38.7, 23-38.9, 23-38.10; 1972, c. 188; 2016, c. 588.

§ 23.1-616. Stephen J. Wright Scholars Program established.

The Graduate Student Recruitment Program and the Southern Regional Education Board Minority Doctoral Program established in the general appropriation act are renamed and established as the Stephen J. Wright Scholars Program for the purpose of fostering scholarship among the Commonwealth's graduate students and retaining the Commonwealth's outstanding and promising young adults through awards based on scholarship and achievement.

1997, cc. 713, 746, § 23-38.53:11; 2016, c. 588.

Article 3 - STUDENT LOAN FUNDS

§ 23.1-617. Definitions.

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

"Fund" means a student loan fund.

"Institution" means a public institution of higher education that has established a student loan fund from appropriations from the general fund of the state treasury for fellowships, scholarships, and loans.

"Student" means a medical student, dental student, intern, resident, or undergraduate student who is entitled to reduced rate tuition charges pursuant to Chapter 5 (§ 23.1-500 et seq.).

1978, c. 745, § 23-38.10:2; 2016, c. 588.

§ 23.1-618. Loans to students.

A. Any institution may make loans from its 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 shall receive a loan from the fund of an institution that would result in such student owing a net outstanding amount at the end of that year in excess of the tuition and mandatory fees charged by the institution.

C. The rate of interest charged on loans to students from a fund is three percent annually.

1978, c. 745, § 23-38.10:3; 1991, c. 590; 2016, c. 588.

§ 23.1-619. Collection of loans.

For each loan made from its fund, each institution shall:

1. Include in loan documents for each loan an individual plan for the repayment of principal and interest and the payment of any late fees and clear and detailed information about the collection process for such loan pursuant to the Virginia Debt Collection Act (§ 2.2-4800 et seq.), including information about the agency or entity that is responsible for collection;

2. Establish a process for notifying each student or, in the case of an undergraduate student and as appropriate, the student's parent of any loan payment that is past due no later than (i) 30 days after the payments become past due and (ii) if necessary, the end of the academic term during which such payment becomes past due; and

3. Make every effort to collect each loan and comply with the Virginia Debt Collection Act (§ 2.2-4800 et seq.) with regard to the collection of such loans, provided that, notwithstanding §§ 2.2-4805 and 2.2-4806, the institution may, with the consent of the borrower, modify the terms of any loan for which payments are past due to provide for repayment forbearance on such loan and repayment to commence on a mutually agreed-upon date in the future. Prior to entering into any such agreement, the institution shall provide the borrower with information regarding the effect of a forbearance on the loan amount, including (i) the amount of any additional accumulated principal and interest and (ii) the estimated total amount to be owed upon recommenced payments.

1978, c. 745, § 23-38.10:4; 1988, c. 544; 2016, c. 588; 2018, c. 786.

§ 23.1-620. Biennial audits.

The Auditor of Public Accounts shall at least biennially audit and exhibit the account of the fund of each institution.

1978, c. 745, § 23-38.10:6; 1991, c. 590; 2016, c. 588.

§ 23.1-621. Additional student loan funds.

A. Whenever an institution's fund is inadequate to carry out fully the purpose for which the fund was established, the governing board and chief executive officer of such institution, with the prior written consent and approval of the Governor, are authorized, for the purpose of providing an additional 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 provide for such extensions or renewals of such loans as may be necessary. Such additional fund shall be used only in making loans to students as provided in this article and for no other purpose.

B. The repayments and interest accretions to the additional fund shall be used insofar as may be necessary to repay the indebtedness of the institution created by the governing board and chief executive officer in establishing such additional fund.

C. Such additional amounts may be borrowed as may be deemed necessary by the governing board and chief executive officer of the institution, with the Governor's approval, but in no event shall the amount of the additional fund, including cash, notes receivable, and all amounts borrowed and not repaid exceed $50,000.

D. Accounts shall be kept and reports rendered for each such additional fund in all respects as required by this article for 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 fund at each institution.

1978, c. 745, § 23-38.10:7; 2016, c. 588.

Article 4 - TWO-YEAR COLLEGE TRANSFER GRANT PROGRAM

§ 23.1-622. Definitions.

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

"Eligible institution" means a baccalaureate public institution of higher education or baccalaureate 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 article whether disbursed by warrant directly to an eligible institution or directly to a Virginia student.

"Program" means the Two-Year College Transfer Grant Program.

2007, cc. 850, 899, § 23-38.10:8; 2016, c. 588.

§ 23.1-623. Two-Year College Transfer Grant Program; Council regulations.

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 an eligible institution. Funds may be paid to any eligible institution on behalf of students who have been awarded financial assistance pursuant to § 23.1-624.

B. The Council shall adopt regulations for the implementation of the provisions of this article and the disbursement of funds consistent with the provisions of this article that are appropriate to the administration of the Program.

2007, cc. 850, 899, § 23-38.10:9; 2016, c. 588.

§ 23.1-624. Eligibility criteria.

A. Grants shall be made under the Program to or on behalf of Virginia 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 an associate-degree-granting public institution of higher education, (iii) have enrolled in an eligible institution by the fall or spring following the award of such associate degree, (iv) have applied for financial aid, and (v) have demonstrated financial need, defined as an Expected Family Contribution (EFC) of no more than $12,000 as calculated by the federal government using the family's financial information reported on the Free Application for Federal Student Aid (FAFSA) form.

B. Eligibility for a grant under the Program is limited to three academic years. Grants under the Program shall be used only for undergraduate coursework in educational programs other than those providing religious training or theological education.

C. To remain eligible for a grant under the Program, a student shall continue to demonstrate financial need as defined in 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 toward a degree.

D. Individuals who have failed to meet the federal requirement to register for the Selective Service are not eligible to receive grants pursuant to this article. 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 individual 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.

2007, cc. 850, 899, § 23-38.10:10; 2014, c. 806; 2016, c. 588; 2017, cc. 102, 297.

§ 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 eligible students pursuing undergraduate coursework in engineering, mathematics, nursing, teaching, or science.

2007, cc. 850, 899, § 23-38.10:11; 2016, c. 588.

§ 23.1-626. Determination of domicile.

For the purposes of determining a student's eligibility for a grant, the enrolling institution shall determine domicile as provided in § 23.1-502 and the Council's domicile guidelines.

2007, cc. 850, 899, § 23-38.10:12; 2016, c. 588.

§ 23.1-627. State financial aid eligibility.

A. Eligible institutions shall reduce a student's state financial aid eligibility by the amount of the grant awarded pursuant to this article.

B. Grants shall not be reduced by virtue of an eligible student's receipt of any other financial aid from any other source except when 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.

2007, cc. 850, 899, § 23-38.10:13; 2016, c. 588.

Article 4.1 - NEW ECONOMY WORKFORCE CREDENTIAL GRANT PROGRAM

§ 23.1-627.1. Definitions.

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

"Board" means the Virginia Board of Workforce Development.

"Competency-based" means awarded on the basis of demonstrated knowledge and skills rather than completion of instructional hours or participation in an instructional course or program.

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

"Eligible institution" means a comprehensive community college, the Institute for Advanced Learning and Research, New College Institute, Richard Bland College, Roanoke Higher Education Center, Southern Virginia Higher Education Center, or Southwest Virginia Higher Education Center.

"Eligible student" means any Virginia student enrolled at an eligible institution who is domiciled in the Commonwealth as provided in § 23.1-500, as determined by the eligible institution.

"Fund" means the New Economy Workforce Credential Grant Fund.

"Grant" means a New Economy Workforce Credential Grant.

"High-demand field" means a discipline or field in which there is a shortage of skilled workers to fill current job vacancies or anticipated additional job openings.

"Industry-recognized" means demonstrating competency or proficiency in the technical and occupational skills identified as necessary for performing functions of an occupation based on standards developed or endorsed by employers and industry organizations.

"Noncredit workforce credential" means a competency-based, industry-recognized, portable, and third-party-validated certification or occupational license in a high-demand field.

"Noncredit workforce training program" means a program at an eligible institution that leads to an occupation or a cluster of occupations in a high-demand field, which program may include the attainment of a noncredit workforce credential. "Noncredit workforce training program" may include a program that receives funding pursuant to the Carl D. Perkins Career and Technical Education Improvement Act of 2006, P.L. 109-270. "Noncredit workforce training program" shall not include certificates of completion.

"Portable" means recognized by multiple employers or educational institutions and, where appropriate, across geographic areas.

"Program" means the New Economy Workforce Credential Grant Program.

"Third-party-validated" means having an external process in place for determining validity and relevance in the workplace and for continuous alignment of demonstrated knowledge and skills with industry workforce needs.

2016, cc. 326, 470.

§ 23.1-627.2. New Economy Workforce Credential Grant Program; purpose.

The New Economy Workforce Credential Grant Program is established for the purpose of (i) creating and sustaining a demand-driven supply of credentialed workers for high-demand occupations in the Commonwealth by addressing and closing the gap between the skills needed by workers in the Commonwealth and the skills of the available workforce in the Commonwealth; (ii) expanding the affordability of workforce training and credentialing; and (iii) increasing the interest of current and future Virginia workers in technician, technologist, and trade-level positions to fill the available and emerging

jobs in the Commonwealth that require less than a bachelor's degree but more than a high school diploma.

2016, cc. 326, 470.

§ 23.1-627.3. New Economy Workforce Credential Grant Fund and Program established; administration.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the New Economy Workforce Credential Grant Fund. The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly, and from any other sources, public or private, 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. Moneys in the Fund shall be used solely for the purposes of disbursing moneys to eligible institutions for the award of grants pursuant to the 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 director of the Council.

B. There is hereby established a New Economy Workforce Credential Grant Program for the purpose of disbursing moneys from the Fund to eligible institutions for the award of grants to benefit students pursuant to this article.

C. The Council shall administer the Program and shall carry out the goals and purposes of the Program set forth in this article. In administering the Program, the Council (i) shall require eligible institutions to provide student-specific data and make final decisions on any dispute between eligible institutions and grant recipients; (ii) shall undertake periodic assessments of the overall success of the Program and recommend modifications, interventions, and other actions based on such assessment; and (iii) may adopt such regulations for the administration of the Program as it deems necessary and appropriate.

D. The Council shall instruct the Comptroller to annually disburse moneys to eligible institutions on a first-come, first-served basis as eligible students enroll in noncredit workforce training programs, giving priority to noncredit workforce training programs in high-demand fields in which employer demand is currently unmet by the available workforce. No more than one-quarter of the moneys in the Fund shall be disbursed annually to any eligible institution. The Council shall set forth the procedure by which eligible institutions shall notify the Council when eligible students enroll in noncredit workforce training programs identified by the governing board of the eligible institution pursuant to subsection E.

E. The Board shall make recommendations to eligible institutions to help determine high-demand fields for which noncredit workforce training programs may be offered pursuant to the Program. The governing board of each eligible institution shall determine the noncredit workforce training programs offered pursuant to the Program.

2016, cc. 326, 470; 2019, c. 578.

§ 23.1-627.4. Student grants.

A. Subject to the availability of funds, any eligible student who enrolls in a noncredit workforce training program offered by an eligible institution pursuant to the Program may apply for and be awarded a grant to cover two-thirds of the cost of the noncredit workforce training program, provided that at the time of enrollment the eligible student pays one-third of the cost of the noncredit workforce training program and signs an agreement to complete the noncredit workforce training program or pay an additional one-third of the program cost in the event of noncompletion. Upon the presentation of satisfactory proof of completion of the noncredit workforce training program by the eligible student, the Council shall reimburse the institution in an amount equal to one-third of the cost of the program. Upon the presentation of satisfactory proof of the attainment of a noncredit workforce credential by the eligible student, the Council shall reimburse the institution in an amount equal to one-third of the cost of the program. However, the Council shall not reimburse any eligible institution more than $3,000 per completed noncredit workforce training program per eligible student pursuant to the Program.

B. Grants shall not be reduced by an eligible student's concurrent receipt of financial aid from any other source except in cases in which the grant and such other financial aid would result in total assistance in excess of tuition, fees, books, and other allowable costs of completing the noncredit workforce credential program.

2016, cc. 326, 470.

§ 23.1-627.5. Board of Workforce Development to keep a list of high-demand fields and related noncredit workforce training programs and credentials.

The Board shall maintain and update a list of high-demand fields and the related noncredit workforce training programs and noncredit workforce credentials on its website.

2016, cc. 326, 470.

§ 23.1-627.6. Eligible institutions; academic credit; noncredit workforce credentials.

Each eligible institution that participates in the Program shall adopt a policy for the award of academic credit to any eligible student who has earned a noncredit workforce credential that is applicable to the student's certificate or degree program requirements.

2016, cc. 326, 470.

§ 23.1-627.7. Eligible institutions and the Council; reporting.

A. No later than January 1 of each year, each eligible institution shall submit to the Council a report with data from the previous fiscal year on noncredit workforce training program completion and noncredit workforce credential attainment by eligible students participating in the Program that includes:

1. A list of the noncredit workforce credentials offered, by name and certification entity;

2. The number of eligible students who enrolled in noncredit workforce credentials programs;

3. The number of eligible students who completed noncredit workforce credentials programs;

4. The number of eligible students who attained noncredit workforce credentials after completing noncredit workforce training programs, by credential name and relevant industry sector; and

5. The average cost per noncredit workforce credential attained, by credential name and relevant industry sector.

B. The Council shall compile the data provided pursuant to subsection A and annually report such data, in the aggregate and by eligible institution, to the Board and the General Assembly. Such report shall also include information on the wages, including average wage and other relevant information, of students who have completed noncredit workforce training programs by credential name and relevant industry sector.

2016, cc. 326, 470; 2017, c. 329.

Article 5 - TUITION ASSISTANCE GRANT ACT

§ 23.1-628. Tuition Assistance Grant Program.

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

"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 Virginia students who attend eligible institutions.

C. Eligible institutions admitted to this program on or after January 1, 2011, shall (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.

1972, c. 18, § 23-38.12; 1973, c. 2; 1975, c. 400; 1980, c. 101; 1981, c. 257; 1985, c. 520; 1998, c. 483; 1999, c. 434; 2011, cc. 419, 421; 2016, c. 588.

§ 23.1-629. Council designated as administering agency.

The Council is designated as the administering agency for the Program and may adopt regulations consistent with this article and appropriate to the administration of the Program. The Council may define by regulation such terms used in this article as "full-time," "undergraduate," "graduate," "professional," and "financial aid."

1972, c. 18, § 23-38.13; 1973, c. 2; 1981, c. 257; 2016, c. 588.

§ 23.1-630. Maximum amount of tuition assistance per student.

The annual amount of tuition assistance in the form of a grant for a Virginia student attending an eligible institution shall not exceed 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 public institutions of higher education.

1972, c. 18, § 23-38.14; 1975, c. 400; 1980, c. 101; 2016, c. 588.

§ 23.1-631. Eligibility; duration.

A. Virginia students who are obligated to pay tuition as full-time undergraduate, graduate, or professional students at an eligible institution are eligible to receive a grant for the academic year for which they enroll.

B. Eligibility for grants under 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 other graduate students and professional school students. The academic years for which grants are awarded need not be in succession.

C. Grants under 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.

1972, c. 18, §§ 23-38.15, 23-38.16; 1973, c. 2; 1975, c. 400; 1980, c. 101; 1981, c. 257; 1987, c. 600; 2000, cc. 94, 660; 2016, c. 588.

§ 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 individual 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.

1972, c. 18, § 23-38.12; 1973, c. 2; 1975, c. 400; 1980, c. 101; 1981, c. 257; 1985, c. 520; 1998, c. 483; 1999, c. 434; 2011, cc. 419, 421; 2016, c. 588.

§ 23.1-633. Receipt of other financial aid by students.

Grants shall not be reduced by virtue of the student's receipt of any other financial aid from any other source except when 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.

1972, c. 18, § 23-38.17; 1973, c. 2; 1975, c. 400; 1980, c. 101; 2016, c. 588.

§ 23.1-634. Prompt crediting and expeditious refunding of funds.

Each eligible institution acting as an agent for students receiving grants under the Program shall promptly credit disbursed funds to student accounts following the institution's verification of student eligibility and expeditiously distribute any refunds due recipients.

1985, c. 359, § 23-38.17:1; 2000, cc. 94, 660; 2016, c. 588; 2017, c. 314.

§ 23.1-635. Determination of domicile; Council oversight and reports.

A. For the purposes of determining a student's eligibility for a grant, the enrolling institution shall determine domicile as provided in § 23.1-502 and the Council's domicile guidelines.

B. In order to ensure consistency and fairness, the Council shall (i) require all participating eligible institutions to file student-specific data, (ii) monitor the decisions of such institutions regarding domicile, and (iii) make final decisions on any disputes between such institutions and grant applicants.

C. The Council shall report to the Governor and the General Assembly, as the Council deems necessary, on issues relating to determinations of domicile for students applying for grants.

1972, c. 18, § 23-38.18; 1973, c. 2; 1985, c. 359; 1995, c. 663; 2016, c. 588.

Article 6 - VIRGINIA GUARANTEED ASSISTANCE PROGRAM AND FUND

§ 23.1-636. Virginia Guaranteed Assistance Program; Council to adopt regulations.

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. Funds may be paid to any public institution of higher education on behalf of students who have been awarded grants pursuant to § 23.1-638.

B. The Council shall adopt regulations for the implementation of the provisions of this article.

1992, c. 879, § 23-38.53:4; 1994, c. 789; 2016, c. 588.

§ 23.1-637. Virginia Guaranteed Assistance Fund.

There is created in the state treasury a special nonreverting fund to be known as the Virginia Guaranteed Assistance Fund (the Fund). The Fund shall be established on the books of the Comptroller. 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 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 paid to any public institution of higher education on behalf of students who have been awarded grants pursuant to the provisions of § 23.1-638. Any moneys remaining in the Fund shall be credited to the account of the Council. 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.

1992, c. 879, § 23-38.53:5; 1994, c. 789; 2016, c. 588.

§ 23.1-638. Eligibility; amount of grants; renewals.

A. Only students who (i) are accepted for full-time enrollment at a public institution of higher education, (ii) are not receiving a Virginia Commonwealth Award, (iii) demonstrate financial need as determined by the Council, and (iv) are either (a) Virginia students who graduated from a high school in the Commonwealth with a cumulative grade point average of at least 2.5 on a scale of 4.0 or its equivalent or (b) dependent children of active duty military personnel residing outside the Commonwealth pursuant to military orders, claiming Virginia on their State of Legal Residence Certificate, and satisfying the domicile requirements for such active duty military personnel pursuant to §§ 23.1-502 and 23.1-504 and who graduated from a high school within or outside the Commonwealth with a cumulative grade point average of at least 2.5 on a scale of 4.0 or its equivalent are eligible to receive such grants.

B. Each eligible student shall receive such a grant from the institution's appropriations for undergraduate student financial assistance before Commonwealth Award grants are awarded to students with equivalent remaining need.

C. Each eligible student shall receive a grant in an amount greater than Commonwealth Award grants awarded to students with equivalent remaining need.

D. Beginning with first-time students enrolled in the fall semester in 2018, each eligible student shall receive a grant in an amount greater than the grant of each eligible student with equivalent remaining need in the next-lowest class level.

E. The amount of each grant shall vary according to each student's remaining need and the total of tuition, fees, and other necessary charges, including books. The actual amount of each grant shall be determined by the proportionate award schedule adopted by each institution.

F. All grants shall be awarded for one award year and may be renewed annually for no more than three subsequent award years, and students shall not receive subsequent grants until they have satisfied the requirements to move to the next class level. Each recipient may receive a maximum of one year of support per class level for a maximum total of four years of support at a baccalaureate public institution of higher education and a maximum total of two years of support at an associate-degree-granting public institution of higher education, provided that in no case shall a recipient receive more than a combined total of four years of support, if the recipient:

1. Maintains a 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; and

4. Maintains continuous full-time enrollment for not less than two semesters or three quarters in each successive award year unless the Council grants the recipient an exception for cause.

1992, c. 879, § 23-38.53:6; 1993, c. 832; 1994, c. 789; 2002, c. 114; 2016, c. 588; 2017, cc. 325, 335.

Article 7 - SENIOR CITIZENS HIGHER EDUCATION ACT OF 1974

§ 23.1-639. Definition; construction of section.

A. As used in this article, "senior citizen" means any individual who, before the beginning of any academic term, semester, or quarter in which he claims entitlement to the benefits of this article, has reached the age of 60 and has been legally domiciled in the Commonwealth for at least one year.

B. Nothing in this section shall be construed to exclude any other rules and requirements made by any public institution of higher education for all other students besides senior citizens with respect to domicile in the Commonwealth.

1974, c. 463, § 23-38.55; 1976, c. 19; 1977, c. 281; 2002, c. 521; 2003, c. 700; 2016, c. 588.

§ 23.1-640. Senior citizens; registration and enrollment in courses.

A. Any senior citizen may, subject to any regulations prescribed by the Council:

1. Register for and enroll in courses for academic credit as a full-time or part-time student if he had a taxable individual income not exceeding $23,850 for Virginia income tax purposes for the year preceding the award year;

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

3. Register for and enroll in up to three courses not offered for academic credit in any one academic term, quarter, or semester for an unlimited number of academic terms, quarters, or semesters.

B. No senior citizen who enrolls in or audits courses pursuant to subsection A shall pay tuition or fees except fees established for the purpose of paying for course materials such as laboratory fees.

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 for which the senior citizen registers.

D. The Council shall establish procedures to ensure that tuition-paying students are accommodated in courses before senior citizens enroll in or audit courses pursuant to subsection A. However, public institutions of higher education may make individual exceptions to these procedures for any senior citizen who has completed 75 percent of the requirements for a degree.

1974, c. 463, §§ 23-38.56, 23-38.58; 1977, c. 281; 1982, c. 677; 1984, c. 371; 1988, c. 90; 1989, c. 101; 1999, c. 381; 2002, c. 521; 2015, c. 146; 2016, c. 588.

§ 23.1-641. Catalog to include statement of benefits.

Each public institution of higher education shall prominently include in its course catalog a statement of the benefits provided by this article for senior citizens.

1974, c. 463, § 23-38.59; 1977, c. 281; 2016, c. 588.

§ 23.1-642. Determination of senior citizen status; forms.

The registrar or other admissions officer of each public institution of higher education shall determine whether an individual is a senior citizen pursuant to the provisions of this article and may require senior citizens to execute appropriate forms to request the benefits provided by this article.

1974, c. 463, § 23-38.60; 2016, c. 588.

Chapter 7 - VIRGINIA COLLEGE SAVINGS PLAN AND ABLE SAVINGS TRUST ACCOUNTS

§ 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, 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 governing board of the 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, as that term is 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 or account entered into by the board and a purchaser pursuant to this chapter for the advance payment of tuition at a fixed, guaranteed level for a qualified beneficiary to attend any public institution of higher education 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, 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, 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 and a contributor that establishes a savings trust account.

"Tuition" means the quarter, semester, or term charges imposed for undergraduate tuition by any public institution of higher education and all mandatory fees required as a condition of enrollment of all students. At the discretion of the board, a beneficiary may apply benefits under a prepaid tuition contract and distributions from a college savings trust account (i) toward graduate-level tuition and (ii) toward qualified higher education expenses, 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.

1994, c. 661, § 23-38.75; 1997, cc. 785, 861; 1998, cc. 61, 85; 1999, cc. 485, 518; 2000, cc. 382, 400; 2015, cc. 227, 311; 2016, c. 588; 2019, cc. 803, 804.

§ 23.1-701. Plan established; moneys; governing board.

A. To enhance the accessibility and affordability of higher education for all citizens of the Commonwealth, 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.

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 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 shall be first deposited in the state treasury in a special nonreverting fund (the Fund). Such moneys 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 permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. Benefits 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.

D. The Plan may maintain an independent disbursement system for the disbursement of prepaid tuition contract benefits and, in connection with such system, open and maintain 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 permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. Such independent disbursement system and any related procedures shall be subject to review and approval by the State Comptroller. Nothing in this subsection shall be construed to relieve the Plan of its duty to provide prepaid tuition contract benefit transactions to the Commonwealth's system of general accounting maintained by the State Comptroller pursuant to § 2.2-802.

E. The Plan shall be administered by an 11-member board that consists of (i) the director of the Council or his designee, the Chancellor of the Virginia Community College System 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 of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on Rules, two of whom shall be appointed by the Speaker of the House of Delegates, and all of whom shall have significant experience in finance, accounting, law, investment management, higher education, or disability advocacy.

F. Members appointed to the board shall serve terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed to the board shall serve more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

G. Ex officio members of the board shall serve terms coincident with their terms of office.

H. Members of the board shall receive no compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

I. The board shall elect from its membership a chairman and a vice-chairman annually.

J. A majority of the members of the board shall constitute a quorum.

1994, c. 661, § 23-38.76; 1997, cc. 785, 861; 1999, cc. 485, 518; 2000, cc. 382, 400; 2009, cc. 827, 845; 2013, cc. 586, 649; 2014, cc. 23, 687; 2015, cc. 227, 311; 2016, c. 588; 2019, cc. 803, 804.

§ 23.1-702. Advisory committees to the board; membership; terms; qualifications; duties.

A. To assist the 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 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 about such investments and investment opportunities; (iii) make appropriate recommendations to the board about overall asset allocation; and (iv) perform such other duties as the board may delegate to the Investment Advisory Committee.

B. To assist the 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 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 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; (iv) monitor the Plan's external audit function by (a) participating in the retention, review, and discharge of independent auditors; (b) discussing the Plan's financial statements and accounting policies with independent auditors; and (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. The board may appoint such other advisory committees as it deems necessary and shall set the qualifications for members of any such advisory committee by resolution.

D. Advisory committee members shall serve at the pleasure of the board and may be removed by a majority vote of the 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 shall apply to each member of any advisory committee established pursuant to this section who is not also a board member.

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

2009, cc. 827, § 23-38.79:1, 845; 2011, cc. 18, 26; 2016, c. 588.

§ 23.1-703. Chief executive officer of the Plan.

A. The board shall employ a chief executive officer to direct, manage, and administer the Plan. 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 investments and (ii) such other qualifications as the board may set.

C. The chief executive officer shall, in addition to such other duties as the 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, advisory committees, employees, account owners, beneficiaries, and outside entities interested in the Plan; (iii) enhance the board's ability to make effective and prompt decisions in all matters relating to the administration of the Plan; (iv) with the assistance of the Investment Advisory Committee appointed by the board and investment consultants, direct, manage, and administer the Plan's assets and programs; and (v) report to the board periodically and as requested by the board.

1994, c. 661, § 23-38.79; 2009, cc. 827, 845; 2016, c. 588.

§ 23.1-704. Powers and duties of the board.

The board shall:

1. Administer the Plan established by this chapter;

2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as defined in § 23.1-700, at a fixed, guaranteed level for application at a public institution of higher education; (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, as that term is 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, as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law;

3. Invest moneys in the Plan in any instruments, obligations, securities, or property deemed appropriate by the board;

4. Develop requirements, procedures, and guidelines regarding prepaid tuition contracts and savings trust accounts, including 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;

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;

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 members from personal loss or accountability from liability arising from any action or inaction as a board member;

7. Make arrangements with public institutions of higher education to fulfill obligations under prepaid tuition contracts and apply college savings trust account distributions, including (i) payment from the Plan of the appropriate amount of tuition on behalf of a qualified beneficiary of a prepaid tuition contract to the institution to which the beneficiary is admitted and at which the beneficiary is enrolled and (ii) application of such benefits toward graduate-level tuition and toward qualified higher education expenses, 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;

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

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

10. Adopt regulations and procedures and perform any act or function consistent with the purposes of this chapter; and

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 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 that alleges a violation of state or federal securities laws. The board

shall provide for the payment of such legal fees and expenses out of funds appropriated or otherwise available to the board.

1994, c. 661, § 23-38.77; 1997, cc. 785, 861; 1998, cc. 61, 85; 1999, cc. 485, 518; 2000, cc. 382, 400; 2009, cc. 827, 845; 2015, cc. 227, 311; 2016, c. 588; 2019, cc. 803, 804.

§ 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 is a debt or a pledge of the full faith and credit of the Commonwealth or any political subdivision of the Commonwealth, and all such acts and undertakings are payable solely from the Plan.

C. Notwithstanding the provisions of subsection 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.

1994, c. 661, § 23-38.78; 1998, c. 373; 2000, cc. 382, 400; 2016, c. 588.

§ 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, and any person, investment manager, or committee to whom the board delegates any of its investment authority, shall act as trustee and shall exercise the judgment of care under the circumstances then prevailing 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 and the probable safety of their capital.

If the annual accounting and audit required by § 23.1-710 reveal that there are insufficient funds to ensure the actuarial soundness of the Plan, the 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 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 of care set forth in subsection A, the board and any person, investment manager, or committee to whom the board delegates any of its investment authority, may acquire and retain any kind of property and any kind of investment, including (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 under the laws of the Commonwealth for the purposes of acquiring and retaining real property that the 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 investment companies or investment trusts that, in turn, invest in the securities of such investment companies or investment trusts that persons of prudence, discretion, and intelligence acquire or retain for their own account. The board may retain property properly acquired without time limitation and without regard to its suitability for original purchase.

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

C. The selection of services relating to the operation and administration of the Plan, including contracts or agreements for the management, purchase, or sale of authorized investments or actuarial, recordkeeping, or consulting services, are governed by the standard of care set forth in subsection A and are not subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

D. No board member or person, investment manager, or committee to whom the board delegates any of its investment authority who acts 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, a purchaser, or 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.

1994, c. 661, § 23-38.80; 1996, c. 508; 1997, cc. 785, 861; 1999, cc. 485, 518; 2000, cc. 382, 400; 2009, cc. 827, 845; 2015, cc. 227, 311; 2016, c. 588; 2019, cc. 803, 804.

§ 23.1-707. Prepaid tuition contracts and college and ABLE savings trust agreements.

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 entitled to terminate the contract;

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

8. The number of credit hours or quarters, semesters, terms, or units contracted for by the purchaser, as applicable;

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

10. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the contract with the requirements of § 529 of the Internal Revenue Code of 1986, 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, as that term is 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 entitled to terminate the account;

6. The time period during which the qualified beneficiary 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 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 entitled to terminate the account;

6. The time period during which the qualified beneficiary 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 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 entered into prior to July 1, 2019, shall include provisions for the application of tuition prepayments (i) at accredited nonprofit independent or private institutions of higher education, including actual interest and income earned on such prepayments, and (ii) at non-Virginia public and accredited nonprofit independent or private institutions of higher education, including principal and reasonable return on such principal as determined by the board. Payments authorized for accredited nonprofit independent or private institutions of higher education shall not exceed the projected highest payment made for tuition at a public institution of higher education in the same academic year, less a fee to be determined by the board. Payments authorized for non-Virginia public and accredited nonprofit independent or private institutions of higher education shall not exceed the projected average payment made for tuition at a public institution of higher education in the same academic year, less a fee to be determined by the board. In no event, however, shall the benefit paid on any prepaid tuition contract entered into prior to July 1, 2019, be less than the sum of tuition prepayments made and a reasonable return on such prepayments to be determined by the board, less any fees determined by the board.

E. In addition to the provisions required by subsection A, each prepaid tuition contract entered into on or after July 1, 2019, shall include provisions for the application of tuition prepayments, at a rate equal to the percentage of enrollment-weighted average tuition at public institutions of higher education to be determined by the board, at (i) public institutions of higher education, (ii) accredited nonprofit independent or private institutions of higher education, and (iii) non-Virginia public and accredited nonprofit independent or private institutions of higher education. In no event, however, shall the benefit paid on any prepaid tuition contract entered into on or after July 1, 2019, be less than tuition prepayments made, less any fees as determined by the board.

F. 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 and the

qualified beneficiary's rights have not been exercised, the board, after making a 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 § 55.1-2524.

G. 1. Notwithstanding any provision of law to the contrary, money in the Plan is exempt from creditor process, is not liable to attachment, garnishment, or other process, 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. Unless required by federal law, the Commonwealth, its agencies, and its instrumentalities shall not seek payment pursuant to 26 U.S.C. § 529A from any ABLE savings trust account or its proceeds for benefits provided to the beneficiary of the account and shall not undertake estate recovery from any ABLE savings trust account pursuant to 26 U.S.C. § 529A.

2. Unless prohibited by federal law, the beneficiary of an ABLE savings trust account may appoint a survivor. In the event of the beneficiary's death, if the survivor is (i) an eligible individual, as defined in 26 U.S.C. § 529A(e), then such survivor shall become the beneficiary of the ABLE savings trust account or (ii) not an eligible individual, as defined in 26 U.S.C. § 529A(e), then any proceeds remaining after final distributions have been made on behalf of the deceased beneficiary shall be distributed to the survivor and the account shall be closed.

H. Notwithstanding any other provision of state law that requires consideration of one or more financial circumstances of an individual for the purpose of determining (i) the individual's eligibility to receive any assistance or benefit pursuant to such provision of state law or (ii) the amount of any such assistance or benefit that such individual is eligible to receive pursuant to such provision of state law, any (a) moneys in an ABLE savings trust account for which such individual is the beneficiary, including any interest on such moneys, (b) contributions to an ABLE savings trust account for which such individual is the beneficiary, and (c) distribution for qualified disability expenses for such individual from an ABLE savings trust account for which such individual is the beneficiary shall be disregarded for such purpose with respect to any period during which such individual remains the beneficiary of, makes contributions to, or receives distributions for qualified disability expenses from such ABLE savings trust account.

I. 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.

J. The board's decision on any dispute, claim, or action arising out of or relating to a prepaid tuition contract or savings trust agreement made or entered into pursuant to this chapter or benefits 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 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 provided exclusively pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

1994, c. 661, § 23-38.81; 1995, c. 315; 1997, cc. 785, 861; 1999, cc. 485, 518; 2000, cc. 382, 400; 2015, cc. 227, 311; 2016, cc. 588, 639; 2019, cc. 803, 804; 2020, c. 923.

§ 23.1-707.1. Prepaid tuition contracts; pricing reserves; limitations.

A. As used in this section:

"Funded status" means the ratio of the assets of the Plan to the actuarially estimated value of tuition obligations of the Plan, expressed as a percentage.

"Pricing reserve" means the percentage by which the actuarially determined prepaid tuition contract price exceeds the amount estimated to meet the actuarially determined tuition obligation for such prepaid tuition contract.

B. In the event that the funded status of the Plan meets or exceeds 105 percent, the pricing reserve shall not exceed five percent.

C. In the event that the funded status of the Plan does not meet or exceed 105 percent, the pricing reserve may exceed five percent but shall not exceed 10 percent.

D. The board shall provide to the House Committee on Appropriations, the Senate Committee on Finance, and the Joint Legislative Audit and Review Commission written notification and a detailed explanation of any change to the pricing reserve within 30 days of such change.

2019, cc. 805, 806.

§ 23.1-708. Assets of the Plan exempt from taxation.

The assets of the Plan and their income are exempt from state and local taxation.

1994, c. 661, § 23-38.83; 2000, cc. 382, 400; 2016, c. 588.

§ 23.1-709. Annual report.

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 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.

1994, c. 661, § 23-38.84; 1995, c. 315; 2000, cc. 382, 400; 2005, c. 633; 2011, cc. 18, 26; 2016, c. 588.

§ 23.1-710. Forms and audit of accounts and records.

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, provided that such accounts 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, and the board shall bear the cost of such audit services.

1994, c. 661, § 23-38.85; 2016, c. 588.

§ 23.1-711. Admission to institutions not guaranteed; coverage limitations.

Nothing in this chapter or in any prepaid tuition contract or savings trust agreement entered into pursuant to this chapter shall be construed as a promise or guarantee:

1. By the board or the Commonwealth of any admission to, continued enrollment at, or graduation from any public institution of higher education;

2. That the beneficiary's cost of tuition at an institution of higher education will be covered in full by the proceeds of the beneficiary's prepaid tuition contract, provided, however, that a prepaid tuition contract will cover that portion of tuition that is required under the terms of any such contract based on the tuition prepayments made; or

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

1994, c. 661, § 23-38.86; 1999, cc. 485, 518; 2016, c. 588; 2019, cc. 803, 804.

§ 23.1-712. Payroll deductions.

The Commonwealth, the agencies and localities of the Commonwealth and their subdivisions, and any employer in the Commonwealth may 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.

1994, c. 661, § 23-38.87; 1999, cc. 485, 518; 2009, cc. 827, 845; 2016, c. 588; 2017, c. 314.

§ 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, the provisions of this chapter shall control. This chapter constitutes full and complete authority, without regard to the provisions of any other law, for performing the acts authorized in this chapter and shall be liberally construed to effect the purposes of this chapter.

2009, cc. 827, 845, § 23-38.87:1; 2016, c. 588.

Chapter 8 - Health and Campus Safety

Article 1 - STUDENT HEALTH

§ 23.1-800. Health histories and immunizations required; exemptions.

A. No full-time student who enrolls for the first time in any baccalaureate public institution of higher education 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 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, in which case he is exempt from such requirement.

B. Prior to enrollment 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. Prior to enrollment for the first time in any baccalaureate public institution of higher education, each full-time student shall be vaccinated against meningococcal disease and hepatitis B unless the student or, if the student is a minor, the student's parent or legal guardian signs a written waiver stating that he has received and reviewed 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 is exempt from the immunization requirements set forth in 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, or (ii) presents a statement from a licensed physician 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. The Council shall, in cooperation with the Board and Commissioner of Health, encourage private 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.

1986, c. 621, § 23-7.5; 1987, c. 366; 1990, c. 273; 2001, c. 340; 2005, c. 15; 2016, c. 588.

§ 23.1-801. Educational program on human immunodeficiency virus infection.

Each public institution of higher education, in cooperation with the Department of Health, shall develop and implement educational programs for college students on the etiology, effects, and prevention of infection with human immunodeficiency virus.

1989, c. 613, § 23-9.2:3.2; 1991, c. 590; 2014, c. 484; 2016, c. 588.

§ 23.1-802. Student mental health; policies; website resource; training.

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 subdivision B 4 of § 23.1-1303 when a student exhibits suicidal tendencies or behavior.

B. The board of visitors of each baccalaureate public institution of higher education shall develop and implement policies that ensure that after a student suicide, affected students have access to reasonable medical and behavioral health services, including postvention services. For the purposes of this subsection, "postvention services" means services designed to facilitate the grieving or adjustment process, stabilize the environment, reduce the risk of negative behaviors, and prevent suicide contagion.

C. The board of visitors of each baccalaureate public 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. The memorandum shall 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.

D. Each 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.

E. Each resident assistant in a student housing facility at a public institution of higher education shall participate in Mental Health First Aid training or a similar program prior to the commencement of his duties.

2007, c. 705, § 23-9.2:8; 2012, cc. 697, 721; 2013, cc. 714, 735; 2014, c. 558, § 23-9.2:14; 2015, cc. 663, 716; 2016, cc. 573, 588, 684; 2017, cc. 296, 691.

Article 2 - CAMPUS SAFETY; GENERAL PROVISIONS

§ 23.1-803. First warning notification and emergency broadcast system required.

A. The governing 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.

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.

2008, cc. 413, 450, § 23-9.2:11; 2016, c. 588.

§ 23.1-804. Institutional crisis and emergency management plan.

A. The governing board of each public institution of higher education shall develop, adopt, and keep current a written crisis and emergency management plan. The plan shall (i) require the Department of

Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund 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.

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 governing 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 in § 44-146.16, to ensure integration into the local emergency operations plan.

C. The chief executive officer of each public institution of higher education shall annually (i) review the institution's crisis and emergency management plan; (ii) certify in writing to the Department of Emergency Management that 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 test or 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 a test or exercise was conducted. The activation of its crisis and emergency management plan and completion of an after-action report by a public institution of higher education in response to an actual event or incident satisfies the requirement to conduct such a test or exercise.

2008, cc. 450, 526, § 23-9.2:9; 2009, cc. 222, 269; 2010, cc. 104, 478; 2012, cc. 18, 112, 418; 2016, c. 588; 2018, cc. 201, 714.

§ 23.1-805. Violence prevention committee; threat assessment team.

A. Each public institution of higher education shall 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 governing 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 and shall consult with legal counsel as needed. Each violence prevention committee shall develop a clear statement of mission, membership, and leadership. Such statement shall be published and made available to the campus community.

C. Each violence prevention committee shall (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a physical threat to the community; (ii) identify members of the campus community to whom threatening behavior should be

reported; (iii) 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) 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, 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 governing board of each public institution of higher education shall establish a threat assessment team that includes members from law enforcement, mental health professionals, representatives of student affairs and human resources, and, if available, college or university counsel. 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 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, 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.

2008, cc. 450, 533, § 23-9.2:10; 2010, cc. 456, 524; 2013, c. 710; 2014, cc. 793, 799; 2016, c. 588.

§ 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 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 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 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 and nonprofit private institution of higher education shall establish a review committee for the purposes of reviewing information 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 Article 3 (§ 23.1-809 et seq.), 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 § 23.1-805 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 § 23.1-805 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 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.

2015, cc. 737, 745, § 23-9.2:15; 2016, c. 588.

§ 23.1-807. Sexual assault; memoranda of understanding; policies.

A. Richard Bland College and each baccalaureate public institution of higher education and nonprofit private institution of higher education shall establish, and the State Board 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 and nonprofit private 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.

C. Each public institution of higher education or nonprofit private institution of higher education may request the cooperation of the primary law-enforcement agency of the locality in which the institution is located to establish a written memorandum of understanding with such law-enforcement agency to

address the prevention of and response to criminal sexual assault as set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2.

2015, cc. 737, 745, § 23-9.2:16; 2016, cc. 481, 588.

§ 23.1-808. Sexual violence; policy review; disciplinary immunity for certain individuals who make reports.

A. By October 31 of each year, the System, Richard Bland College, each baccalaureate public institution of higher education, and each nonprofit private institution of higher education shall certify to the Council that it has reviewed its sexual violence policy and updated it as appropriate. The Council 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 Council and the Department of Criminal Justice Services shall report to the Secretary of Education on the certification status of each such institution by November 30 of each year.

B. The governing board of each nonprofit private institution of higher education and each public institution of higher education except the Virginia Military Institute shall include as part of its policy, code, rules, or set of standards governing sexual violence a provision for immunity from disciplinary action based on personal consumption of drugs or alcohol where such disclosure is made in conjunction with a good faith report of an act of sexual violence.

2015, cc. 737, 745, § 23-9.2:17; 2016, c. 588; 2020, c. 1041.

Article 3 - CAMPUS SAFETY; CAMPUS POLICE DEPARTMENTS

§ 23.1-809. Public institutions of higher education; establishment of campus police departments authorized; employment of officers.

A. The governing board of each public institution of higher education may establish a campus police department and employ campus police officers and auxiliary police forces upon appointment as provided in §§ 23.1-811 and 23.1-812. Such employment is governed by the Virginia Personnel Act (§ 2.2-2900 et seq.), except that the governing 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 and Eastern Virginia Medical School may employ police officers and auxiliary police forces as provided in this article and, in the case of the Authority, in § 23.1-2406, except that the employment of such officers and forces is not governed by the Virginia Personnel Act (§ 2.2-2900 et seq.).

1977, c. 79, § 23-232; 1991, c. 711; 1996, cc. 905, 1046; 2000, c. 720; 2009, c. 596; 2016, c. 588.

§ 23.1-810. Authorization for campus police departments in private institutions of higher education.

The governing board of each private institution of higher education may establish, in compliance with the provisions of this article, a campus police department and employ campus police officers upon

appointment as provided in § 23.1-812. Except as such provisions apply exclusively to public institutions of higher education or employees, the provisions of this article shall apply to the appointment and employment of officers and the operation, powers, duties, and jurisdiction of campus police departments at private institutions of higher education, and such departments are subject to and shall enjoy the benefits of this article. However, to be qualified to use the word "police" to describe the department or its officers, any private institution of higher education that establishes a campus police department shall require 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.

1992, c. 187, § 23-232.1; 2016, c. 588.

§ 23.1-811. Establishment of auxiliary police forces.

The governing 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, may establish, equip, and maintain an auxiliary police force. When called into service pursuant to procedures established by the governing board, members of such auxiliary police forces have all the powers, authority, and immunities of campus police officers at public institutions of higher education.

1991, c. 711, § 23-233.1; 2016, c. 588.

§ 23.1-812. 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 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 locality in which such institution is located. Such investigation shall determine whether the individual is responsible, honest, and in all ways capable of performing the duties of a campus police officer.

B. Upon application of the governing board of a public institution of higher education or private institution of higher education, the circuit court of the locality in which the institution is located may, by order, appoint the individuals named in the application to be campus police officers or members of an auxiliary police force at such institution.

C. Each campus police officer and member of an auxiliary police force appointed and employed pursuant to this 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 a distinctive uniform and badge of office for such officers and members of an auxiliary police force.

1977, c. 79, §§ 23-233, 23-236; 1991, c. 711; 2016, c. 588.

§ 23.1-813. Officers and members to comply with requirements of Department of Criminal Justice Services.

All individuals appointed and employed as campus police officers or members of an auxiliary police force pursuant to this 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.

1977, c. 79, § 23-235; 1984, c. 779; 1991, c. 711; 2016, c. 588.

§ 23.1-814. Termination of employment of campus police officers and members of auxiliary police forces.

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 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 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 employment of the officer or member at the institution.

1977, c. 79, § 23-237; 1991, c. 711; 2016, c. 588.

§ 23.1-815. 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 § 23.1-812 or a member of an auxiliary police force appointed and activated pursuant to §§ 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, including 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 public 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 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 another public institution of

higher education or private institution of higher education in the Commonwealth or an adjacent political subdivision; (iii) in close pursuit of a person as provided in § 19.2-77; 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 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 to a request by the local law-enforcement agency.

C. Each public institution of higher education and private institution of higher education that establishes a campus police force pursuant to this article shall enter into and become a party to a mutual aid agreement with an adjacent local law-enforcement agency or the Department of State Police for the use of their regular and auxiliary joint forces, 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 such institution 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. No such notification provision shall require a campus police force or the agency with which it has established a mutual aid agreement to disclose identifying information about the victim. Nothing in this section prohibits a campus police force or auxiliary police force from requesting assistance from any appropriate law-enforcement agency of the Commonwealth with which the institution has not entered into a mutual aid agreement.

D. Each public institution of higher education and nonprofit private institution of higher education that (i) has not established a campus police force or auxiliary police force pursuant to this article and (ii) has a security department, relies on local or state police forces, or contracts for security services from private parties pursuant to § 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. No such notification provision shall require the law-enforcement agency or the Department to disclose identifying information about the victim.

E. All mutual aid agreements and memoranda of understanding entered into pursuant to this section shall specify the procedure for sharing information.

1977, c. 79, § 23-234; 1985, c. 386; 1991, c. 711; 1992, c. 187; 2002, c. 97; 2012, cc. 282, 450; 2015, c. 707; 2016, cc. 513, 571, 588.

§ 23.1-816. Extending police power of public institutions of higher education beyond boundaries; 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 has and may exercise full police power over such property and individuals using such property. The governing board may prescribe policies and regulations for the operation and use of such properties and the conduct of individuals using such property and may provide appropriate administrative penalties for the violation of such policies and regulations.

B. The general district court for the locality in which violations of law or policies or regulations established by the governing board of the institution pursuant to subsection A occurs has jurisdiction over all cases involving such violations.

C. It is the duty of each local attorney for the Commonwealth to prosecute all violators of the laws pertaining to the provisions enumerated in this article that occur in such locality.

1991, c. 711, § 23-234.1; 2016, c. 588.

§ 23.1-817. Inspection of criminal incident information.

Criminal incident information of any campus police department established pursuant to § 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 citizen of the Commonwealth, currently registered student of the institution, or parent of a registered student during the regular office hours of the custodian of such information unless such disclosure is prohibited by law. 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 such damage is no longer likely to occur from the release of such information.

1994, c. 457, § 23-232.2; 2016, c. 588.

§ 23.1-818. Security departments and other security services.

Nothing in this article shall abridge the authority of the governing board of 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 § 23.1-815, in place of or in addition to campus police departments, rely upon local or state police forces, or contract for security services from private parties.

1977, c. 79, § 23-238; 2016, c. 588.

Chapter 9 - ACADEMIC POLICIES

Article 1 - General Provisions

§ 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 pursuant to the Tuition Assistance Grant Act (§ 23.1-628 et seq.) or to receive project financing from the Virginia College Building Authority pursuant to Article 2 (§ 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; (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; and (c) adopt a policy for the expungement of such notation for good cause shown and after a period of three years.

C. The institution shall remove from a student's academic transcript any notation placed on such transcript pursuant to subsection B due to such student's suspension if the student (i) completed the term and any conditions of the suspension 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.

D. The provisions of this section shall apply only to a student who is taking or has taken a course at 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 25 (§ 23.1-2500 et seq.).

2015, c. 771, § 23-9.2:18; 2016, c. 588; 2020, c. 433.

§ 23.1-900.01. Diplomas; proof of education; method.
A. Each public institution of higher education and private institution of higher education may provide any diploma or other proof of education to requesting individuals or entities using the method that it deems most appropriate, in either electronic or paper form.

B. The Council shall post on its website a statement in accordance with the provisions of subsection A.

2018, c. 515.

§ 23.1-900.1. Repealed.
Repealed by Acts 2018, c. 751, cl. 2.

Article 2 - PROGRAMS OF INSTRUCTION

§ 23.1-901. Programs on economics education and financial literacy.
A. Public institutions of higher education shall promote the development of student life skills by including the principles of economics education and financial literacy within an existing general education course, the freshman orientation process, or another appropriate venue. Such principles may include 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 Council shall encourage private institutions of higher education to include such principles as part of their student orientation programs.

2005, c. 741, § 23-9.2:3.5; 2007, c. 47; 2016, c. 588.

§ 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 meet the requirements for accreditation and program approval as prescribed by the Board of Education in its regulations.

B. The Board of Education may prescribe in its regulations requirements for admission to approved education preparation programs in the Commonwealth.

C. Any candidate who fails to achieve the minimum score established by the Board of Education may be denied entrance into an education preparation program on the basis of such failure, but any such candidate who gains entrance and enrolls in an education preparation program shall have the opportunity to address all deficiencies.

D. Education preparation programs offered by public institutions of higher education and private institutions of higher education shall ensure that, as a condition of degree completion, each student enrolled in the education preparation program receives instruction on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion.

2006, cc. 27, 349, § 23-9.2:3.6; 2016, c. 588; 2019, cc. 63, 407; 2020, c. 870.

§ 23.1-902.1. Education preparation programs; reading specialists; dyslexia.

Each education preparation program offered by a public institution of higher education or private institution of higher education that leads to a degree, concentration, or certificate for reading specialists shall include a program of coursework and other training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder. Such program shall (i) include coursework in the constructs and pedagogy underlying remediation of reading, spelling, and writing and (ii) require reading specialists to demonstrate mastery of an evidence-based, structured literacy instructional approach that includes explicit, systematic, sequential, and cumulative instruction.

2018, cc. 282, 588.

§ 23.1-903. Distance learning.

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 that use distance learning or 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 distance learning courses.

The Council shall assist the governing board of each public institution of higher education in the development of such information.

2004, c. 146, § 23-9.2:7; 2016, c. 588.

§ 23.1-903.1. Study abroad programs.

A. As used in this section, "study abroad program" means a program sponsored, offered, or approved for credit by an institution of higher education in which program participants travel outside the United States in connection with an educational experience.

B. The Council shall develop guidelines for study abroad programs.

2016, c. 572.

§ 23.1-903.2. Medical school; rotation requirement.

Any public institution of higher education that awards medical degrees shall create and support at least one clinical rotation in a hospital or clinic located in a medically underserved area of the state as determined by the Virginia Department of Health, in an area of the state that has an unemployment rate of one and one-half times the statewide average unemployment rate, or in a locality with a population of 50,000 or less in the Commonwealth.

2016, c. 691.

§ 23.1-903.3. Mortuary science education; practical experience requirement.

Every public institution of higher education that offers a degree in mortuary science shall require students to complete practical experience in the areas of funeral service and embalming prior to graduation from such program.

2018, c. 186.

§ 23.1-903.4. Innovative Internship Fund and Program.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Innovative Internship Fund (the Fund). The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf 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. Moneys in the Fund shall be used solely for the purposes of the Innovative Internship Program established pursuant to subsection B. 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. There is hereby established the Innovative Internship Program (the Program). The purpose of the Program is to expand paid or credit-bearing student internship and other work-based learning opportunities in collaboration with Virginia employers. The Program comprises institutional grants and a statewide initiative to facilitate the readiness of students, employers, and institutions of higher education to participate in internship and other work-based learning opportunities.

1. In administering the statewide initiative, the Council shall (i) engage stakeholders from business and industry, secondary and higher education, economic development, and state agencies and entities that are successfully engaging employers or successfully operating internship programs; (ii) explore strategies in Virginia and elsewhere on successful institutional, regional, statewide or sector-based internship programs; (iii) gather data on current institutional internship practices, scale, and outcomes; (iv) develop internship readiness educational resources, delivery methods, certification procedures, and outreach and awareness activities for employer partners, students, and institutional career development personnel; (v) pursue shared services or other efficiency initiatives, including technological solutions; and (vi) create a process to track key measures of performance.

2. The Council shall establish eligibility criteria, including requirements for matching funds, for institutional grants. Such grants shall be used to accomplish one or more of the following goals: (i) support state or regional workforce needs; (ii) support initiatives to attract and retain talent in the Commonwealth; (iii) support research and research commercialization in sectors and clusters targeted for development; (iv) support regional economic growth and diversification plans; (v) enhance the job readiness of students; (vi) enhance higher education affordability and timely completion for Virginia students; or (vii) further the objectives of increasing the tech talent pipeline.

2019, cc. 794, 795.

Article 3 - COURSE CREDIT

§ 23.1-904. Course credit; veterans; active duty military students.

A. The governing 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 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 board of each public institution of higher education shall, in accordance with guidelines developed by the Council, implement policies for the purpose of awarding academic credit to students for educational experience gained from service in the Armed Forces of the United States.

C. The governing board of each public institution of higher education shall, in accordance with guidelines developed by the Council, implement policies that recognize the scheduling difficulties and obligations encountered by active duty members of the Armed Forces of the United States.

2009, c. 190, § 23-9.2:3.7; 2012, cc. 167, 169; 2016, c. 588.

§ 23.1-905. Academic credit for American Sign Language.

A. Each public institution of higher education shall develop policies for counting credit received for successful completion of foreign language courses, including American Sign Language courses, either in a secondary school or another institution of higher education toward satisfaction of the foreign language entrance, placement, and course credit requirements of the public institution of higher education that are uniform across each foreign language program offered by the institution.

B. Each public institution of higher education shall count credit received for successful completion of American Sign Language courses at the institution toward satisfaction of its foreign language course credit requirements.

2011, c. 762, § 23-9.2:3.9; 2016, c. 588; 2017, c. 292.

§ 23.1-905.1. Course credit; dual enrollment courses.

A. The Council, in consultation with each public institution of higher education, shall establish a policy for granting undergraduate course credit to any entering student who has successfully completed a dual enrollment course. The policy shall:

1. Outline the conditions necessary for each public institution of higher education to grant course credit for the successful completion of a dual enrollment course;

2. Identify whether each dual enrollment course offered in the Commonwealth is transferrable to a public institution of higher education as (i) a Uniform Certificate of General Studies Program or Passport Program course credit, (ii) a general elective course credit, or (iii) a course credit meeting other academic requirements of a public institution of higher education, or if such course is not likely to transfer for course credit. The policy shall also require that each school division and comprehensive community college offering a dual enrollment course clearly specify such transfer information on any website, literature, or other materials describing or advertising the course;

3. Require each public institution of higher education offering a dual enrollment course to identify the equivalent non-dual enrollment course;

4. Ensure that the grant of course credit is consistent across each public institution of higher education and each such dual enrollment course; and

5. Require that the following information be made available on the online portal maintained by the System pursuant to subsection C of § 23.1-908: (i) a description of each dual enrollment course offered in the Commonwealth; (ii) the specific academic, career, or technical programs in the System that will accept the course credit and which specific comprehensive community colleges offer such programs; and (iii) if available, the pathway maps in which the dual enrollment course is included.

B. The Council and each public institution of higher education shall make the policy available to the public on their websites. The Council shall also forward the policy to the System for inclusion in the online portal maintained by the System pursuant to § 23.1-908.

C. The Council shall annually report to the House Committee on Education and the Senate Committee on Education and Health on the implementation of the course credit policy by each public institution of higher education.

2017, cc. 309, 316; 2018, cc. 832, 845.

§ 23.1-906. Course credit; Advanced Placement, Cambridge Advanced, College-Level Examination Program, and International Baccalaureate examinations.

A. The 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 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.

2015, c. 578, § 23-9.2:3.10; 2016, c. 588.

Article 4 - ARTICULATION, TRANSFER, AND DUAL ENROLLMENT

§ 23.1-907. Articulation, dual admissions, and guaranteed admissions agreements; admission of certain comprehensive community college graduates.

A. The board of visitors of each baccalaureate public institution of higher education shall develop, consistent with Council guidelines and the institution's six-year plan as set forth in § 23.1-306, articulation, dual admissions, and guaranteed admissions agreements with each associate-degree-granting public institution of higher education. Such guaranteed admissions agreements may provide for the guaranteed admission of a student who earns an associate degree concurrently with a high school diploma through a dual enrollment program, in addition to any guaranteed admission for a student who earns an associate degree post-high school.

B. The System, in cooperation with the Council and each public institution of higher education, and consistent with the guidelines developed pursuant to subdivision 20 of § 23.1-203, shall establish a one-semester Passport Program and a one-year Uniform Certificate of General Studies Program. The Passport Program shall consist of 15 course credit hours and shall be a component of the 30-credit-hour Uniform Certificate of General Studies Program. Each Uniform Certificate of General Studies Program and Passport Program course shall be transferable and shall satisfy a lower division general education requirement at any public institution of higher education. The Uniform Certificate of General Studies Program and Passport Program shall be available at each comprehensive community college and through the Online Virginia Network.

C. The Council shall establish procedures under which a baccalaureate public institution of higher education may seek a waiver from the Council from accepting the transfer of a Uniform Certificate of General Studies Program or Passport Program course to satisfy the requirements for the completion of a specific pathway or degree. A waiver shall not be granted allowing a baccalaureate public institution to (i) generally reject the transfer of all coursework that is a part of the Uniform Certificate of General Studies Program or Passport Program or (ii) generally reject the transfer of a course from the Uniform Certificate of General Studies Program or Passport Program for all pathway maps and degrees. An application for a waiver shall identify with particularity the course for which the institution is seeking a waiver and the particular pathway or degree to which the waiver would apply. The application shall provide justification for the waiver and shall designate alternative courses offered through the System that may be completed by a student in order to complete a transferable, 30-credit-hour Uniform Certificate or 15-credit-hour Passport. The Council shall adopt guidelines regarding the criteria to be used to review and issue decisions regarding waiver requests. Such waiver requests shall only be granted if the baccalaureate public institution of higher education provides evidence that the specified pathway or degree requires a specialized, lower division course not available through the System. Once approved, notice of a waiver granted by the Council shall be included in the online portal established pursuant to § 23.1-908.

D. The Council shall develop guidelines for associate-degree-granting and baccalaureate public institutions of higher education to use in mapping pathways for the completion of credits in particular programs of study, including the courses recommended to be taken in a dual enrollment, comprehensive community college, and baccalaureate public institution setting in order to pursue a specific degree or career. Such guidelines shall define the elements of a pathway map and identify the pathway maps to

be developed. Initial guidelines adopted for mapping such pathways shall establish a multiyear schedule for the development and implementation of pathway maps for all fields of study.

E. Each baccalaureate public institution of higher education, in cooperation and consultation with the System, shall develop pathway maps consistent with the guidelines established pursuant to subsection D. Such pathways maps shall clearly set forth the courses that a student at a comprehensive community college is encouraged to complete prior to transferring to the baccalaureate institution. The goal of the career education pathway maps shall be to assist students in achieving optimal efficiencies in the time and cost of completing a degree program. Such program map shall also clearly identify the courses, if any, for which the baccalaureate institution has received a waiver from transfer pursuant to subsection C.

F. The Council shall prepare a comprehensive annual report on the effectiveness of transferring from comprehensive community colleges to baccalaureate public institutions of higher education, including a review of the effectiveness of the use of pathway maps in achieving efficiencies and cost savings in the completion of a degree program. The report shall include the following elements: completion rates, average time to degree, credit accumulation, post-transfer student academic performance, and comparative efficiency. The Council shall adopt guidelines for data submission from public institutions of higher education necessary for such report, and all institutions shall report such data in accordance with the guidelines. The report shall be made publicly available on the Council website and on the online portal maintained pursuant to § 23.1-908.

G. Each comprehensive community college shall develop agreements for postsecondary attainment with the public high schools in the school divisions that such comprehensive community college serves specifying the options for students to complete an associate degree, the Passport Program, or the Uniform Certificate of General Studies Program 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.

H. The provisions of this section shall not apply to any public institution of higher education established pursuant to Chapter 25 (§ 23.1-2500 et seq.).

2005, c. 818, § 23-9.2:3.02; 2006, cc. 379, 531; 2007, c. 46; 2011, cc. 828, 869; 2012, cc. 142, 794; 2014, c. 628; 2016, c. 588; 2017, c. 521; 2018, cc. 593, 832, 845.

§ 23.1-908. State Transfer Tool.

A. The Council shall develop, in cooperation with the System and each public institution of higher education, a State Transfer Tool that designates each general education course, in addition to the courses that comprise the Uniform Certificate of General Studies Program and the Passport Program, that is offered in an associate degree program at an associate-degree-granting public institution of higher education and transferable for course credit to a baccalaureate public institution of higher education. In developing the State Transfer Tool, the Council shall also seek the participation of private institutions of higher education.

B. The Council shall develop guidelines to govern the development and implementation of articulation, dual admissions, and guaranteed admissions agreements between associate-degree-granting public institutions of higher education and baccalaureate public institutions of higher education. Dual admissions agreements shall set forth (i) the obligations of each student accepted to such a program, including grade point average requirements, acceptable associate degree majors, and completion timetables, and (ii) the extent to which each student accepted to such a program may access the privileges of enrollment at both institutions while he is enrolled at either institution. Such agreements are subject to the admissions requirements of the baccalaureate public institutions of higher education.

C. Each baccalaureate public institution of higher education shall update its transfer agreements immediately following any program modifications and shall send a copy of its updated agreement and any other transfer-related documents and resources to the System. The Council shall also send to the System a copy of any transfer-related guidelines and resources that it possesses. The System shall maintain an online portal that allows access to all such agreements, documents, and resources. The online portal shall also include (i) documents and resources related to course equivalency, (ii) pathway maps established pursuant to subsection E of § 23.1-907, (iii) the transfer tool established pursuant to subsection A, (iv) information regarding dual enrollment courses as described in § 23.1-905.1, and (v) any other information required to be included by law or deemed relevant by the System. The online portal shall be available to the public on the websites of the Council, the System, each public institution of higher education, and each school division offering a dual enrollment course.

2004, c. 553, § 23-9.14:2; 2005, c. 818; 2006, c. 379; 2014, c. 628; 2016, c. 588; 2017, c. 521; 2018, cc. 832, 845.

§ 23.1-909. Combined cooperative degree program.

A. The Secretary of Education and the director of the Council, in consultation with each public institution of higher education and nonprofit private institution of higher education, shall develop a plan to establish and advertise a cooperative degree program whereby any undergraduate student enrolled at any public institution of higher education or nonprofit private institution of higher education 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 the lowest cost that is achievable, per academic year.

B. No later than October 1, 2016, the Secretary of Education and the 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 toward developing a cooperative degree program plan pursuant to this section.

2015, c. 664, § 23-7.4:7; 2016, c. 588.