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SENATE BILL NO. 173

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on January 22, 2004)

(Patron Prior to Substitute—Senator Stolle)

A BILL to amend and reenact §§ 23-276.1 and 23-276.2 of the Code of Virginia, relating to regulation of certain private and out-of-state institutions of higher education; exemptions.

Be it enacted by the General Assembly of Virginia:

1. That §§ 23-276.1 and 23-276.2 of the Code of Virginia are amended and reenacted as follows:

§ 23-276.1. Definitions.

As used in this chapter:

"Certificate" or "diploma" means an award that is given for successful completion of a curriculum comprised of courses that may also be taken for degree credit and shall apply only to those awards given for coursework offered by institutions of higher education.

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

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

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

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

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

"Postsecondary school" or "school" means an institution offering a curriculum or course of study in a discipline or interdisciplinary area that leads to a degree, certificate, or diploma.

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

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

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

§ 23-276.2. Exemptions.

A. The provisions of this chapter shall not apply to the public state-supported institutions named in § 23-9.5 *or any public institution of higher education established in statute as an authority and declared a governmental instrumentality pursuant to § 23-14*.

B. In addition, the following activities or programs offered by institutions that are otherwise subject to this chapter shall be exempt from its provisions:

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

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

3. A professional or occupational training program subject to the approval of a regulatory board pursuant to Title 54.1;

4. Any postsecondary school that is subject to the provisions of Chapter 16 (§ 22.1-319 et seq.) of Title 22.1 and offers only nondegree certificate or diploma programs that are subject to approval by the Virginia Department of Education or other governmental agency;

5. Those courses or programs of instruction given by or approved by any institution of higher education, professional body, fraternal organization, civic club or benevolent order that are principally for continuing or professional education or similar purpose and for which no degree credit is awarded;

6. Those courses or programs of instruction offered by institutions of higher education at United

60 States military posts or reservations that are open only to military personnel, their dependents or civilian
61 employees of such military posts or reservations;

62 7. Those courses or programs offered through approved multistate compacts, including, but not
63 limited to, the Southern Regional Education Board's Electronic Campus; and

64 8. Those courses for degree credit offered and delivered by an institution of higher education solely
65 on a contractual basis for which no individual is charged tuition.

66 C. The Council shall exempt from the provisions of this chapter any institution whose primary
67 purpose is to provide religious or theological education. Institutions of higher education shall apply for
68 exemptions for courses and programs related to religion and theology. Exemptions may be granted for a
69 maximum of five years, unless the institution has been granted a standing exemption prior to July 1,
70 2002.

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

77 D. Notwithstanding the exemptions provided in this section, exempted institutions shall be subject to
78 the provisions of subsection B of § 23-276.6 and an institution of higher education may seek Council
79 approval for an otherwise exempt activity or program.