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## SENATE BILL NO. 1262

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health  
on February 4, 2005)

(Patron Prior to Substitute—Senator Potts)

A BILL to amend and reenact § 23-9.6:1 of the Code of Virginia and to amend the Code of Virginia by adding in Title 23 a chapter numbered 1.1:1, consisting of sections numbered 23-9.14:3 through 23-9.14:7, relating to the Office of Learning Technology within the State Council of Higher Education for Virginia.

Be it enacted by the General Assembly of Virginia:

1. That § 23-9.6:1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 23 a chapter numbered 1.1:1, consisting of sections numbered 23-9.14:3 through 23-9.14:7, as follows:

§ 23-9.6:1. Duties of Council generally.

In addition to such other duties as may be prescribed elsewhere, the State Council of Higher Education shall have the duty, responsibility and authority:

1. To prepare plans under which the several state-supported institutions of higher education of Virginia shall constitute a coordinating system. In developing such plans, the Council shall consider the future needs for higher education in Virginia at both the undergraduate and the graduate levels, as well as the mission, programs, facilities and location of each of the existing institutions of higher education, and such other matters as the Council deems appropriate. *Such plans shall integrate the strategic plan for technology-enriched initiatives prepared pursuant to § 23-9.14:4.* The Council shall revise such plans at least once every four years and shall submit such recommendations as are necessary for the implementation of the plan to the Governor and the General Assembly.

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

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

4. To review and approve or disapprove all enrollment projections proposed by each public institution of higher education. The Council's projections shall be in numerical terms by level of enrollment and shall be used for budgetary and fiscal planning purposes only. The Council shall develop estimates of the number of degrees to be awarded by each institution and include those estimates in its reports of enrollment projections. The student admissions policies for the institutions and their specific programs shall remain the sole responsibility of the individual boards of visitors.

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

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

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

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

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

77 10. To develop in cooperation with institutions of higher education guidelines for the assessment of  
78 student achievement. An institution shall use an approved program that complies with the guidelines of  
79 the Council and is consistent with the institution's mission and educational objectives in the development  
80 of such assessment. The Council shall report the institutions' assessments of student achievement in the  
81 biennial revisions to the state's master plan for higher education.

82 11. To develop in cooperation with the appropriate state financial and accounting officials and to  
83 establish uniform standards and systems of accounting, record keeping and statistical reporting for the  
84 public institutions of higher education.

85 12. To review biennially and approve or disapprove all changes in the inventory of educational and  
86 general space that any public institution of higher education may propose, and to make a report to the  
87 Governor and the General Assembly with respect thereto. No such change shall be made until 30 days  
88 after the adjournment of the session of the General Assembly next following the filing of such report.

89 13. To visit and study the operations of each of the public institutions of higher education at such  
90 times as the Council shall deem appropriate and to conduct such other studies in the field of higher  
91 education as the Council deems appropriate or as may be requested by the Governor or the General  
92 Assembly.

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

99 15. To adopt such rules and regulations as the Council believes necessary to implement all of the  
100 Council's duties and responsibilities as set forth in this Code. The various public institutions of higher  
101 education shall comply with such rules and regulations.

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

105 17. To develop and revise, as it deems necessary, in consultation with the Coordinator of Emergency  
106 Management, a model institutional crisis and emergency management plan for the purpose of assisting  
107 public and private two-year and four-year institutions of higher education in establishing, operating, and  
108 maintaining emergency services and disaster preparedness activities.

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

120 19. To develop, in cooperation with the institutions of higher education, the Board of Nursing, and  
121 the Advisory Council on the Future of Nursing in Virginia, a strategic statewide plan to ensure an

adequate supply of nurses. The Council shall recommend to the Governor and the General Assembly such changes in public policy as may be necessary to meet the state's current and future need for essential nursing services.

20. To facilitate the development of dual admissions and articulation agreements between two- and four-year public and private institutions of higher education in Virginia. Such agreements shall be subject to the admissions requirements of the four-year institutions.

In carrying out its duties and responsibilities, the Council, insofar as practicable, shall preserve the individuality, traditions and sense of responsibility of the respective institutions. The Council, insofar as practicable, shall seek the assistance and advice of the respective institutions in fulfilling all of its duties and responsibilities.

#### CHAPTER 1.1:1.

##### OFFICE OF LEARNING TECHNOLOGY.

§ 23-9.14:3. *Office of Learning Technology created; purpose; director; advisory committee.*

A. The Office of Learning Technology (the Office) is hereby established within the State Council of Higher Education (the Council).

B. The Office shall (i) facilitate the development of innovative, cost-effective, technology-enriched teaching and learning initiatives, including distance and distributed learning initiatives, to address currently served populations and underserved constituencies in the Commonwealth; (ii) seek to improve cooperation among and between the institutions of higher education in the Commonwealth; (iii) seek to improve efficiency and expand the availability of technology-enriched courses; and (iv) facilitate the sharing of research and experience to improve student learning.

C. The director of the State Council of Higher Education shall appoint a director for the Office, who may employ the personnel required to assist the Office in the exercise and performance of its powers and duties. The director of the Office 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.

D. The director of the Council shall appoint a Learning Technology Advisory Committee (Advisory Committee) to assist the Office in fulfilling its duties. The Advisory Committee shall include, but shall not be limited to, representatives of business and industry, the Council, public and private institutions of higher education, the Electronic Campus of Virginia, and the elementary and secondary education community. The Secretaries of Education and Technology shall serve as *ex officio* members of the Advisory Committee.

In making such appointments, the director shall establish a process whereby the institutions that are parties to agreements for the development and delivery of technology-enriched programs administered by the Office may recommend from among such institutions representatives to the Advisory Committee.

The members of the Advisory Committee shall serve without compensation and shall not be reimbursed for expenses incurred in the performance of their duties as members of the Advisory Committee.

The Advisory Committee shall develop bylaws, not inconsistent with state statutes and regulations of the Council, for its own government and for the management of its official business.

§ 23-9.14:4. *Additional powers and duties.*

A. The Office shall establish and administer agreements with nonprofit public and private institutions of higher education in the Commonwealth and other entities for (i) the identification of unmet needs for technology-enriched educational programs and opportunities; and (ii) the development and delivery of technology-enriched initiatives, including distance and distributed learning initiatives, for currently served populations and underserved constituencies.

B. In addition, the Office shall (i) review technology-enriched learning initiatives and make recommendations to the Council regarding unnecessary duplication in such initiatives; (ii) assist in the development of standards for improving access to, training for, and efficiency in such learning initiatives; and (iii) enter into contracts for related program development.

C. The Office shall identify funding sources for the development of educational opportunities through technology-enriched learning and for other purposes authorized by this chapter.

D. The Office shall submit to the Council (i) a strategic plan addressing technology-enriched learning for integration by the Council into the plans for a coordinated system of higher education required by § 23-9.6:1 and (ii) an annual report of technology-enriched learning opportunities currently available through the Office, the anticipated availability of those opportunities under development, and information regarding student participation and success.

§ 23-9.14:5. *Application for and acceptance of gifts and grants.*

The Office is authorized to apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives.

§ 23-9.14:6. *Cooperation of other agencies.*

**183**     *All agencies of the Commonwealth shall cooperate with the Office, and, upon request, assist in the*  
**184** *performance of its duties and responsibilities.*

**185**     *§ 23-9.14:7. Construction of article.*

**186**     *Nothing in this article shall be construed to restrict or alter the authority of institutions of higher*  
**187** *education to engage in technology-enriched initiatives without an agreement administered or established*  
**188** *by the Office.*