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**SENATE BILL NO. 534**

Offered January 13, 2010

Prefiled January 13, 2010

*A BILL to amend and reenact §§ 2.2-106, 2.2-208, 2.2-1516, 2.2-2233.1, 2.2-2238, 2.2-2518, 2.2-2519, 2.2-4002, 2.2-5005, 22.1-17.3, 22.1-26, 22.1-290.01, 22.1-305.2, 22.1-338, 23-2.2:1, 23-4.3, 23-4.3:2, 23-4.4, 23-7.1:02, 23-7.4 through 23-7.4:6, 23-7.5, 23-9.2:3, 23-9.2:3.02, 23-9.2:3.03, 23-9.2:3.1, 23-9.2:3.2, 23-9.2:3.5, 23-9.2:4.1, 23-9.2:7, 23-9.5, 23-9.6:1, 23-9.6:1.01, 23-9.6:2, 23-9.9, 23-9.9:01, 23-9.9:1, 23-9.10:1, 23-9.10:2, 23-9.10:3, 23-9.13:1, 23-9.14:2, 23-31, 23-38.10:1, 23-38.10:2, 23-38.12, 23-38.13, 23-38.18, 23-38.19:1, 23-38.19:2, 23-38.88, 23-38.45 through 23-38.51, 23-38.52, 23-38.53:4, 23-38.53:6, 23-38.56, 23-38.72, 23-38.76, 23-38.88, 23-38.90, 23-38.93, 23-50.16:01, 23-214, 23-220, 23-220.01, 23-220.3, 23-220.4, 23-221, 23-222, 23-224, 23-225, 23-229, 23-230, 23-231, 23-231.1, 23-231.2, 23-231.3, 23-231.14, 23-231.15, 23-231.24, 23-231.25, 23-261, 23-276.1 through 23-276.10, 23-276.12 through 23-276.15, 23-277, 28.2-245, 30-198, 30-231.01, 30-231.3, 30-231.4, 30-231.8, 30-231.9, and 54.1-3029 of the Code of Virginia; to amend and reenact the third enactment clause of Chapter 939 of the 2006 Acts of Assembly and the first and second enactment clauses of Chapters 448 and 615 of the 2009 Acts of Assembly; to amend the Code of Virginia by adding a section numbered 2.2-2001.2, by adding in Chapter 24 of Title 2.2 an article numbered 22, consisting of sections numbered 2.2-2462 through 2.2-2466, by adding a section numbered 22.1-17.6, by adding in Title 23 a Chapter numbered 1.1:1, consisting of sections numbered 23-9.14:3 through 23-9.14:17; and to repeal Article 7 (§§ 2.2-2518 through 2.2-2522) of Chapter 25 of Title 2.2, § 23-7.4:1, Chapter 1.1 (§§ 23-9.3 through 23-9.14:2) of Title 23, and §§ 23-9.3, 23-9.3:1, 23-9.4, 23-9.5, 23-9.8, 23-9.8:1, 23-215, 23-216, 23-217, 23-223, 23-227, 23-228 and 23-276.3 of the Code of Virginia, relating to the administration of higher education.*

Patron—McDougle

Referred to Committee on Education and Health

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-106, 2.2-208, 2.2-1516, 2.2-2233.1, 2.2-2238, 2.2-2518, 2.2-2519, 2.2-4002, 2.2-5005, 22.1-17.3, 22.1-26, 22.1-290.01, 22.1-305.2, 22.1-338, 23-2.2:1, 23-4.3, 23-4.3:2, 23-4.4, 23-7.1:02, 23-7.4 through 23-7.4:6, 23-7.5, 23-9.2:3, 23-9.2:3.02, 23-9.2:3.03, 23-9.2:3.1, 23-9.2:3.2, 23-9.2:3.5, 23-9.2:4.1, 23-9.2:7, 23-9.5, 23-9.6:1, 23-9.6:1.01, 23-9.6:2, 23-9.9, 23-9.9:01, 23-9.9:1, 23-9.10:1, 23-9.10:2, 23-9.10:3, 23-9.13:1, 23-9.14:2, 23-31, 23-38.10:1, 23-38.10:2, 23-38.12, 23-38.13, 23-38.18, 23-38.19:1, 23-38.19:2, 23-38.88, 23-38.45 through 23-38.51, 23-38.52, 23-38.53:4, 23-38.53:6, 23-38.56, 23-38.72, 23-38.76, 23-38.88, 23-38.90, 23-38.93, 23-50.16:01, 23-214, 23-220, 23-220.01, 23-220.3, 23-220.4, 23-221, 23-222, 23-224, 23-225, 23-229, 23-230, 23-231, 23-231.1, 23-231.2, 23-231.3, 23-231.14, 23-231.15, 23-231.24, 23-231.25, 23-261, 23-276.1 through 23-276.10, 23-276.12 through 23-276.15, 23-277, 28.2-245, 30-198, 30-231.01, 30-231.3, 30-231.4, 30-231.8, 30-231.9, and 54.1-3029 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-2001.2, by adding in Chapter 24 of Title 2.2 an article numbered 22, consisting of sections numbered 2.2-2462 through 2.2-2466, by adding a section numbered 22.1-17.6; and by adding in Title 23 a Chapter numbered 1.1:1, consisting of sections numbered 23-9.14:3 through 23-9.14:17, as follows:**

**§ 2.2-106. Appointment of agency heads; severance.**

**A. Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of state government except the:**

- 1. Executive Director of the Virginia Port Authority;**
- 2. Director of the State Council of Higher Education for Virginia;**
- 3. Executive Director of the Department of Game and Inland Fisheries;**
- 4. Executive Director of the Jamestown-Yorktown Foundation;**
- 5. Executive Director of the Motor Vehicle Dealer Board;**
- 6. Librarian of Virginia;**
- 7. Administrator of the Commonwealth's Attorneys' Services Council;**
- 8. Executive Director of the Virginia Housing Development Authority;**
- 9. Executive Director of the Board of Accountancy; and**
- 10. Chief Information Officer of the Commonwealth.**

**However, the manner of selection of those heads of agencies chosen as set forth in the Constitution**

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59 of Virginia shall continue without change. Each administrative head and Secretary appointed by the  
60 Governor pursuant to this section shall (i) be subject to confirmation by the General Assembly, (ii) have  
61 the professional qualifications prescribed by law, and (iii) serve at the pleasure of the Governor.

62 B. As part of the confirmation process for each administrative head and Secretary, the Secretary of  
63 the Commonwealth shall provide copies of the resumes and statements of economic interests filed  
64 pursuant to § 2.2-3117 to the chairs of the House of Delegates and Senate Committees on Privileges and  
65 Elections. For appointments made before January 1, copies shall be provided to the chairs within 30  
66 days of the appointment or by January 7 whichever time is earlier; and for appointments made after  
67 January 1 through the regular session of that year, copies shall be provided to the chairs within seven  
68 days of the appointment. Each appointee shall be available for interviews by the Committees on  
69 Privileges and Elections or other applicable standing committee. For the purposes of this section and  
70 § 2.2-107, there shall be a joint subcommittee of the House of Delegates and Senate Committees on  
71 Privileges and Elections consisting of five members of the House Committee and three members of the  
72 Senate Committee appointed by the respective chairs of the committees to review the resumes and  
73 statements of economic interests of gubernatorial appointees. The members of the House of Delegates  
74 shall be appointed in accordance with the principles of proportional representation contained in the Rules  
75 of the House of Delegates. No appointment confirmed by the General Assembly shall be subject to  
76 challenge by reason of a failure to comply with the provisions of this paragraph pertaining to the  
77 confirmation process.

78 C. For the purpose of this section, "agency" includes all administrative units established by law or by  
79 executive order that are not (i) arms of the legislative or judicial branches of government; (ii)  
80 institutions of higher education as classified under §§ 23-253.7, 22.1-346, 23-14, 23-252, and; (iii)  
81 regional planning districts, regional transportation authorities or districts, or regional sanitation districts;  
82 and (iv) assigned by law to other departments or agencies, not including assignments to secretaries under  
83 Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.

84 D. Severance benefits provided to any departing agency head, whether or not appointed by the  
85 Governor, shall be publicly announced by the appointing authority prior to such departure.

86 § 2.2-208. Position established; agencies for which responsible; powers and duties.

87 The position of Secretary of Education (the "Secretary") is created. The Secretary shall be responsible  
88 to the Governor for the following agencies: Department of Education, ~~State Council of Higher Education~~  
89 *Virginia Higher Education Advisory Board*, Virginia Museum of Fine Arts, The Science Museum of  
90 Virginia, Frontier Culture Museum of Virginia, The Library of Virginia, Jamestown-Yorktown  
91 Foundation, Board of Regents of Gunston Hall, the Commission for the Arts, and the Board of Visitors  
92 of the Virginia School for the Deaf and the Blind. The Governor may, by executive order, assign any  
93 other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

94 Unless the Governor expressly reserves such a power to himself, the Secretary is empowered to  
95 *oversee the system of higher education and to resolve administrative, jurisdictional or policy conflicts*  
96 *between any agencies or officers for which he is responsible and to provide policy direction for*  
97 *programs involving more than a single agency. He is authorized to direct the preparation of alternative*  
98 *policies, plans and budgets for education for the Governor and, to that end, may require the assistance*  
99 *of the agencies for which he is responsible. He shall direct the formulation of a comprehensive program*  
100 *budget for cultural affairs encompassing the programs and activities of the agencies involved in cultural*  
101 *affairs.*

102 § 2.2-2001.2. *Virginia Military and Law-Enforcement Survivors and Dependents Education Program*  
103 *established; waiver of tuition and certain charges and fees for eligible children and spouses of certain*  
104 *military service members, eligible children and spouses of certain public safety personnel, and certain*  
105 *foreign students.*

106 A. *There is hereby established the Virginia Military Law-Enforcement Survivors and Dependents*  
107 *Education Program. Qualified survivors and dependents of military service members, who have been*  
108 *admitted to any public institution of higher education or other public accredited postsecondary*  
109 *institution granting a degree, diploma, or certificate in the Commonwealth of Virginia, upon certification*  
110 *to the Commissioner of the Department of Veterans Services of eligibility under this subsection, shall be*  
111 *admitted free of tuition and all required fees.*

112 *The Virginia Military and Law-Enforcement Survivors and Dependents Education Program shall be*  
113 *implemented pursuant to the following:*

114 1. *For the purposes of this subsection, "qualified survivors and dependents" means the spouse or a*  
115 *child between the ages of 16 and 29 of a military service member who, while serving as an active-duty*  
116 *member of the United States Armed Forces, United States Armed Forces Reserves, Virginia National*  
117 *Guard, or Virginia National Guard Reserve, during military operations against terrorism, on a*  
118 *peacekeeping mission, as a result of a terrorist act, or in any armed conflict subsequent to December 6,*  
119 *1941, was killed or is missing in action or is a prisoner of war, or of a veteran who, due to such*  
120 *service, has been rated by the United States Department of Veterans Affairs as totally and permanently*

disabled or at least 90 percent disabled, and has been discharged or released under conditions other than dishonorable. However, the Commissioner of the Department of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.

2. Such qualified survivors and dependents shall be eligible for the benefits conferred by this subsection if the military service member who was killed, is missing in action, is a prisoner of war, or is disabled (i) was a bona fide domiciliary of Virginia at the time of entering such active military service or called to active duty as a member of the Armed Forces Reserves or Virginia National Guard Reserve; (ii) is and has been a bona fide domiciliary of Virginia for at least five years immediately prior to the date on which the admission application was submitted by or on behalf of such qualified survivor or dependent for admission to such institution of higher education or other public accredited postsecondary institution; (iii) if deceased, was a bona fide domiciliary of Virginia on the date of his death and had been a bona fide domiciliary of Virginia for at least five years immediately prior to his death; (iv) in the case of a qualified child, is deceased and the surviving parent had been, at some time previous to marrying the deceased parent, a bona fide domiciliary of Virginia for at least five years or is and has been a bona fide domiciliary of Virginia for at least five years immediately prior to the date on which the admission application was submitted by or on behalf of such child; or (v) in the case of a qualified spouse, is deceased and the surviving spouse had been, at some time previous to marrying the deceased spouse, a bona fide domiciliary of Virginia for at least five years or is and has been a bona fide domiciliary of Virginia for at least five years prior to the date on which the admission application was submitted by such qualified spouse.

3. From such funds as may be appropriated and from such gifts, bequests, and any gifts, grants, or donations from public or private sources, there is hereby established the Virginia Military and Law-Enforcement Survivors and Dependents Education Fund for the sole purpose of providing financial assistance for board and room charges, books and supplies, and other expenses at any public institution of higher education or other public accredited postsecondary institution granting a degree, diploma, or certificate in the Commonwealth of Virginia for the use and benefit of qualified survivors and dependents.

Each year, from the funds available in the Virginia Military and Law-Enforcement Survivors and Dependents Education Fund, the Department of Veterans Services and public institutions of higher education shall determine the amount and the manner in which financial assistance shall be made available to beneficiaries and shall make that information available to the Commissioner of the Department of Veterans Services for distribution.

The Department of Veterans Services shall be responsible for disbursing to the institutions the funds appropriated or otherwise made available by the Commonwealth of Virginia to support the Virginia Military and Law-Enforcement Survivors and Dependents Education Fund and shall report to the Commissioner of the Department of Veterans Services the beneficiaries' completion rate.

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

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

B. The surviving spouse and any child between the ages of 16 and 25 whose parent or whose spouse has been killed in the line of duty while employed or serving as a law-enforcement officer; sworn law-enforcement officer; firefighter; special forest warden pursuant to § 10.1-1135; member of a rescue squad; special agent of the Department of Alcoholic Beverage Control; state correctional, regional, or local jail officer; regional jail or jail farm superintendent; sheriff or deputy sheriff; member of the Virginia National Guard while serving on official state duty or federal duty under Title 32 of the United States Code; or member of the Virginia State Defense Force while serving on official state duty shall be entitled to free undergraduate tuition and the payment of required fees at any public institution of higher education or other public accredited postsecondary institution granting a degree, diploma, or certificate in Virginia under the following conditions:

1. The chief administrative officer of the Alcoholic Beverage Control Board, emergency medical

182 services agency, law-enforcement agency, or other appropriate agency or the Superintendent of State  
 183 Police certifies that the deceased parent or spouse was employed or serving as a law-enforcement  
 184 officer, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, or  
 185 member of a rescue squad or in any other capacity as specified in this section and was killed in the line  
 186 of duty while serving or living in the Commonwealth; and

187 2. The child or spouse shall have been offered admission to such public institution of higher  
 188 education or other public accredited postsecondary institution. Any child or spouse who believes he is  
 189 eligible shall apply to the public institution of higher education or other accredited postsecondary  
 190 institution to which he has been admitted for the benefits provided by this subsection. The institution  
 191 shall determine the eligibility of the applicant for these benefits and shall also ascertain that the  
 192 recipients are in attendance and are making satisfactory progress. The amounts payable for tuition,  
 193 institutional charges and required fees, and books and supplies for the applicants shall be waived by the  
 194 institution accepting the students.

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

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

203 E. Each public institution of higher education and other public accredited postsecondary institution  
 204 granting a degree, diploma, or certificate in Virginia shall include in its catalogue or equivalent  
 205 publication a statement describing the benefits provided by subsections A and B.

206 § 2.2-1516. Six-Year Capital Outlay Plan Advisory Committee.

207 A. There is hereby established the Six-Year Capital Outlay Plan Advisory Committee. The Advisory  
 208 Committee shall consist of the following, or their designees: the Secretary of Finance, *the Secretary of*  
 209 *Education*, the Director of the Department of Planning and Budget, the Director of the Department of  
 210 General Services, ~~the Executive Director of the State Council of Higher Education for Virginia~~, and the  
 211 staff directors of the House Appropriations Committee and the Senate Finance Committee.

212 B. 1. On or before November 1, 2008, the Advisory Committee shall submit to the Governor and the  
 213 Chairmen of the House Appropriations and Senate Finance Committees a proposed list of new capital  
 214 outlay projects (and previously planned or authorized capital outlay projects) to be funded entirely or  
 215 partially from general fund-supported resources for the six fiscal years beginning July 1, 2009.

216 2. The list shall include projects by agency, in priority order for each agency. In determining  
 217 priorities, the Advisory Committee shall consider, but not be limited to, the following:

218 a. Projects that address safety, health, regulatory, security, environmental requirements, or  
 219 accreditation;

220 b. Projects to upgrade or replace major mechanical systems and utility infrastructure;

221 c. Projects to renovate or maintain existing facilities;

222 d. Projects to construct, expand, or acquire facilities in order to meet programmatic needs;

223 e. For public institutions of higher education, projects that meet ~~State Council of Higher Education~~  
 224 ~~for Virginia~~ *the Secretary of Education's* recommendations or guideline parameters;

225 f. Projects that improve energy efficiency;

226 g. Projects that are listed on, or eligible to be listed on, the Virginia Landmarks Register;

227 h. Renovation projects for which a facility condition assessment has been completed; and

228 i. Projects previously planned.

229 3. The list shall:

230 a. Identify each capital outlay project;

231 b. Describe the scope and nature of the project; and

232 c. Include any other information that the Advisory Committee deems useful.

233 C. Beginning in 2009, on or before October 1 of each year, the Advisory Committee shall make  
 234 recommendations to the Governor and the Chairmen of the House Appropriations and the Senate  
 235 Finance Committees of any changes to the current six-year capital outlay plan (described in § 2.2-1518)  
 236 and of project funding, including adjusting the fiscal years covered by the plan so that the plan will  
 237 cover the six fiscal years beginning July 1 of the following year.

238 § 2.2-2233.1. Commonwealth Research Commercialization Fund; continued; purposes; report.

239 A. For purposes of this section:

240 "Qualified research and technologies" means research programs or technologies substantially focused  
 241 in the following fields: energy, conservation, environment, microelectronics, robotics and unmanned  
 242 vehicle systems, advanced shipbuilding, or lifespan biology and medicine.

243 "Qualifying institution" means a public or private institution of higher education in the

Commonwealth or its associated intellectual property foundation that adopts a policy regarding the ownership, protection, assignment, and use of intellectual property pursuant to § 23-4.3.

"SBIR" means the Small Business Innovation Research Program authorized under 15 U.S.C. § 638.

"STTR" means the Small Business Technology Transfer Program authorized under 15 U.S.C. § 638.

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, permanent fund, to be known as the Commonwealth Research Commercialization Fund (the Fund), to be administered by the Authority. 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 at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the chairman or the vice-chairman of the Authority, or, if so authorized by the Authority, bearing his facsimile signature, and the official seal of the Authority.

C. Awards from the Fund shall be made by the Authority. The chairman of the Authority shall coordinate the evaluation of proposals and may form review panels with the appropriate science and technology expertise to assist in reviewing applicants for grants or loans from the Fund.

Specific guidelines for the award of funds from this program shall be established and maintained by the Authority, in consultation with the Virginia Economic Development Partnership and the State Council of Higher Secretary of Education. These guidelines shall address, at a minimum, the application process and the composition and operation of proposal review panels, and shall give special emphasis to fostering collaboration between institutions of higher education and partnerships between institutions of higher education and business and industry.

D. Awards from the Fund may be granted for the following programs:

1. For fiscal years beginning with a Fund balance of less than \$7 million, an SBIR matching funds program for Virginia-based technology businesses. Businesses meeting the following criteria shall be eligible to apply for an award:

a. The applicant has received a Phase I SBIR award from the National Institute of Health targeted at the development of qualified research or technologies;

b. The applicant employs fewer than 12 full-time employees;

c. At least 51 percent of the applicant's employees reside in Virginia; and

d. At least 51 percent of the applicant's property is located in Virginia.

Applicants shall be eligible for matching grants of up to \$50,000 of the Phase I award. All applicants shall be required to submit a commercialization plan with their application.

2. For fiscal years beginning with a Fund balance of \$7 million or greater, an SBIR and STTR matching funds program for Virginia-based technology businesses. Businesses meeting the following criteria shall be eligible to apply for an award:

a. The applicant has received an SBIR or STTR award targeted at the development of qualified research or technologies;

b. The applicant employs fewer than 12 full-time employees;

c. At least 51 percent of the applicant's employees reside in Virginia; and

d. At least 51 percent of the applicant's property is located in Virginia.

Applicants shall be eligible for matching grants of up to \$100,000 for Phase I awards and up to \$500,000 for Phase II awards. All applicants shall be required to submit a commercialization plan with their application.

3. A matching funds program to assist qualifying institutions in leveraging federal and private funds designated for the commercialization of qualified research or technologies. The chairman of the Authority is authorized to issue letters of financial commitment to assist applicants in leveraging federal and private funds.

4. A facilities enhancement loan program for qualifying institutions and political subdivisions to provide lease or credit guarantees to assist in financing facilities utilized for commercializing qualified research or technologies developed at qualifying institutions. The facilities enhancement loan program shall have the following parameters:

a. Qualifying institutions and political subdivisions may apply to the Fund for loans to the extent that such institution's or political subdivision's outstanding principal balance at any one time does not exceed \$500,000. Loan applications shall include business plans that detail and explain the anticipated uses of funds received and the proposed repayment schedule.

b. Loans from the Fund shall take the form of a contractual commitment to the recipient qualifying institution or political subdivision for a line of credit for up to five years, along with an approved schedule of repayment. During the contractual period the recipient qualifying institution or political subdivision may draw upon the line of credit for any expense for which the loan was made, not to

exceed the stated amount of the loan award. At the end of the contractual period, the line of credit shall terminate and the outstanding balance of the withdrawals on that line of credit shall become the established basis for that loan.

c. During the contractual period, deferred interest shall accumulate on the outstanding balance at a rate of three percent compounded annually. Borrowing institutions or political subdivisions may prepay part or all of any loan received from the Fund without penalty, and, if repayment is completed within the contractual period of the line of credit, the accumulated interest obligation shall be forgiven.

d. Repayment of the established basis shall consist of a maximum of 84 equal monthly payments of principal and compounded interest at the determined rate beginning on the first day of the month following the end of the contractual period.

E. The chairman of the Authority shall provide the Governor and the General Assembly with an annual report to include a detailed list of awards and loans committed, the amount of each approved award or loan, a description of the approved proposals, and the amount of federal or private matching funds anticipated where applicable, and an assessment of the effectiveness of the Fund.

§ 2.2-2238. Economic development services.

A. It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the economy of the Commonwealth. The Authority is charged with the following duties and responsibilities to:

1. See that there are prepared and carried out effective economic development marketing and promotional programs;

2. Make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;

3. Formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the location of new businesses in the Commonwealth and the retention and growth of existing businesses;

4. Encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;

5. Encourage the coordination of the economic development efforts of public institutions, regions, communities, and private industry and collect and maintain data on the development and utilization of economic development capabilities;

6. Establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade;

7. Encourage the export of products and services from the Commonwealth to international markets;

8. Advise, upon request, the ~~State Board for Community Colleges~~ *Secretary of Education* in designating technical training programs in Virginia's comprehensive community colleges for the Community College Incentive Scholarship Program pursuant to § 23-220.4; and

9. Offer a program for the issuance of export documentation for companies located in Virginia exporting goods and services if no federal agency or other regulatory body or issuing entity will provide export documentation in a form deemed necessary for international commerce.

B. The Authority shall prepare a specific plan annually that shall serve as the basis for marketing high unemployment areas of Virginia. This plan shall be submitted to the Governor and General Assembly annually on or before November 1 of each year. The report shall contain the plan and activities conducted by the Authority to market these high unemployment areas. The annual report shall be part of the report required by § 2.2-2242.

#### Article 22.

##### *Virginia Higher Education Advisory Board.*

§ 2.2-2462. *The Virginia Higher Education Advisory Board; purpose.*

*The Virginia Higher Education Advisory Board is established as an advisory board within the executive branch of state government.*

*The purpose of the Board is to advise the Governor, General Assembly, and Secretary of Education on the development and operation of a seamless and educationally and economically sound, vigorous, progressive, and coordinated system of higher education in the Commonwealth. The Board shall also advise the Governor, General Assembly, and Secretary of Education concerning the establishment, control, and administration of a statewide system of publicly supported comprehensive community colleges that shall be known as the Virginia Community College System.*

§ 2.2-2463. *Membership; terms; quorum; meetings.*

*The Board shall have a total membership of 15 nonlegislative citizen members to be appointed by the Governor, subject to confirmation by the General Assembly. Nonlegislative citizen members shall be selected from the Commonwealth at large without regard to political affiliation but with due consideration of geographical representation. Appointees shall be selected for their ability and all appointments shall be of such nature as to aid the work of the Board and to inspire the highest degree of cooperation and confidence. No officer, employee, trustee or member of the governing board of any*

institution of higher education or local community college board and no employee of the Commonwealth shall be eligible for appointment to the Board. All members shall be deemed members at large charged with the responsibility of serving the best interests of the whole Commonwealth. No member shall act as the representative of any particular region or of any particular institution of higher education or local community college. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

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. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.

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.

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.

§ 2.2-2464. Compensation; expenses.

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 Secretary of Education.

§ 2.2-2465. Powers and duties of the Board.

The Board shall have the following powers and duties:

1. To advise the Secretary of Education regarding the advancement and enhancement of the system of higher education in Virginia.

2. To assist in the coordination of workforce training at the postsecondary to the associate degree level, exclusive of the career and technical education programs provided through and administered by the public school system. This responsibility shall not preclude other agencies from also providing such services as appropriate, but these activities shall be coordinated with the Board.

3. To propose and formulate rules and regulations to facilitate a seamless system of higher education in Virginia, and provide such assistance as the Secretary of Education may deem appropriate and necessary to ensure degree program effectiveness and an effective higher education system.

4. To recommend the appointment by the Secretary of Education of such agents and employees as may be needed in the exercise of the functions, duties and powers conferred and imposed by law in order to effect a proper organization of the system of higher education.

5. To assist the community colleges in (i) maximizing noncredit course offerings made available to business and industry at a time and place that meet current and projected workforce needs and minimize the cost of noncredit offerings to business and industry to the extent feasible; (ii) dealing directly with employers in designing and offering courses to meet real, current, and projected workforce training needs; and (iii) maximizing the availability and use of distance learning courses addressing workforce training needs. The Virginia Community College System shall report on actions taken to meet the requirements of this subsection in its annual report to the General Assembly on workforce development activities required by the appropriation act.

6. To provide advice and counsel on the provision of high quality higher education.

7. To recommend the mobilization of activities and resources of public and private sector entities to effectuate the purposes of this article.

8. To make recommendations regarding appropriate legislative and executive actions, including, but not limited to, recommendations governing a coordinated system of higher education.

9. To develop and implement a process for evaluating potential appointees to the governing boards of institutions of higher education, based on substantive qualifications, including merit and experience.

10. To make recommendations to the Secretary of Education and the Governor at least 30 days prior to the expiration of terms of appointees to the governing boards of institutions of higher education for which recommendations have been requested to fill vacancies on higher education governing boards.

11. To submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 2.2-2466. Staffing.

428 *The Secretary of Education shall provide staff support to the Board. All agencies of the*  
429 *Commonwealth shall provide assistance to the Board, upon request.*

430 § 2.2-4002. Exemptions from chapter generally.

431 A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.),  
432 the following agencies shall be exempted from the provisions of this chapter, except to the extent that  
433 they are specifically made subject to §§ 2.2-4024, 2.2-4030 and 2.2-4031:

434 1. The General Assembly.

435 2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly  
436 granted any of the powers of a court of record.

437 3. The Department of Game and Inland Fisheries in promulgating regulations regarding the  
438 management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2  
439 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7  
440 (§ 29.1-700 et seq.) of Title 29.1.

441 4. The Virginia Housing Development Authority.

442 5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created  
443 under this Code, including those with federal authorities.

444 6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031,  
445 such educational institutions shall be exempt from the publication requirements only with respect to  
446 regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion and disciplining  
447 of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of  
448 students.

449 7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii)  
450 classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for  
451 producers' milk, time and method of payment, butterfat testing and differential.

452 8. The Virginia Resources Authority.

453 9. Agencies expressly exempted by any other provision of this Code.

454 10. The Department of General Services in promulgating standards for the inspection of buildings for  
455 asbestos pursuant to § 2.2-1164.

456 ~~11. The State Council of Higher Education for Virginia, in developing, issuing, and revising~~  
457 ~~guidelines pursuant to § 23-9.6:2.~~

458 ~~1211. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to~~  
459 ~~subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.~~

460 ~~1312. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and~~  
461 ~~Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601,~~  
462 ~~subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206,~~  
463 ~~and subsection A of § 3.2-5406.~~

464 ~~1413. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment~~  
465 ~~guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification~~  
466 ~~of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.~~

467 ~~1514. The Virginia War Memorial Foundation.~~

468 ~~1615. The Virginia Medicaid Prior Authorization Advisory Committee in making recommendations to~~  
469 ~~the Board of Medical Assistance Services regarding prior authorization for prescription drug coverage~~  
470 ~~pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.~~

471 ~~1716. The State Board of Education, in developing, issuing, and revising guidelines pursuant to~~  
472 ~~§ 22.1-203.2.~~

473 ~~1817. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards~~  
474 ~~or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual~~  
475 ~~live horse racing at race meetings licensed by the Commission.~~

476 ~~1918. The Virginia Small Business Financing Authority.~~

477 ~~2019. The Virginia Economic Development Partnership Authority.~~

478 ~~2120. The Board of Agriculture and Consumer Services in adopting, amending or repealing~~  
479 ~~regulations pursuant to subsection A (ii) of § 59.1-156.~~

480 ~~2221. The Insurance Continuing Education Board pursuant to § 38.2-1867.~~

481 ~~2322. The Board of Health in promulgating the list of diseases that shall be reported to the~~  
482 ~~Department of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant~~  
483 ~~to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining~~  
484 ~~to restaurants or food service.~~

485 ~~2423. The nonprofit, nonstock corporation established by the Commissioner of Agriculture and~~  
486 ~~Consumer Services pursuant to subdivision B 5 of § 3.2-102.~~

487 ~~2524. (Expires December 31, 2010) The Secretary of Natural Resources in setting a date of closure~~  
488 ~~for the Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to~~  
489 ~~§ 28.2-1000.2.~~



2625. The Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.

B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:

1. Money or damage claims against the Commonwealth or agencies thereof.
  2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
  3. The location, design, specifications or construction of public buildings or other facilities.
  4. Grants of state or federal funds or property.
  5. The chartering of corporations.
  6. Customary military, naval or police functions.
  7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.
  8. The conduct of elections or eligibility to vote.
  9. Inmates of prisons or other such facilities or parolees therefrom.
  10. The custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the treatment, supervision, or discharge of such persons.
  11. Traffic signs, markers or control devices.
  12. Instructions for application or renewal of a license, certificate, or registration required by law.
  13. Content of, or rules for the conduct of, any examination required by law.
  14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.) of this title.
  15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the State Lottery Board, and provided that such regulations are published and posted.
  16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
  17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1.
  18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.
  19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Chapter 3.1 (§ 51.5-12.1 et seq.) of Title 51.5.
  20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.
  21. The Virginia Breeders Fund created pursuant to § 59.1-372.
  22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.
  23. The administration of medication or other substances foreign to the natural horse.
- C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act, Chapter 41 (§ 2.2-4100 et seq.) of this title, made by the Virginia Code Commission pursuant to § 30-150, shall be exempt from the provisions of this chapter.
- § 2.2-5005. Incentive performance benefits to certain public institutions of higher education.
- As used in this section, unless the context requires a different meaning:
- "Fiscal year of implementation" means the first full fiscal year for which the financial and administrative management and educational-related performance benchmarks described under ~~§ 23-9.6-1.04~~ 23-9.2:13 are effective, as provided in a general appropriation act.
- Beginning with the fiscal year that immediately follows the fiscal year of implementation and for all fiscal years thereafter, each public institution of higher education that (i) has been certified during the fiscal year by the ~~State Council of Higher Education of Virginia~~ *Secretary of Education* pursuant to ~~§ 23-9.6-1.04~~ 23-9.2:13 as having met the institutional performance benchmarks for public institutions of higher education and (ii) meets the conditions prescribed in subsection B of § 23-38.88, shall receive the following financial benefits:
1. Interest on the tuition and fees and other nongeneral fund Educational and General Revenues deposited into the State Treasury by the public institution of higher education, as provided in the appropriation act. Such interest shall be paid from the general fund and shall be an appropriate and equitable amount as determined and certified in writing by the Secretary of Finance to the Comptroller by the end of each fiscal year, or as soon thereafter as practicable;
  2. Any unexpended appropriations of the public institution of higher education at the close of the fiscal year, which shall be reappropriated and allotted for expenditure by the institution in the immediately following fiscal year; and
  3. A pro rata amount of the rebate due to the Commonwealth on credit card purchases of \$5,000 or less made during the fiscal year. The amount to be paid to each institution shall equal a pro rata share

based upon its total transactions of \$5,000 or less using the credit card that is approved for use by all state agencies as compared to all transactions of \$5,000 or less using such card by all state agencies. The Comptroller shall determine the public institution's pro rata share and, as provided in the appropriation act, shall pay the institution by August 15, or as soon thereafter as practicable, of the fiscal year immediately following the year of certification.

The payment to an institution of its pro rata share under this subdivision shall also be applicable to other rebate or refund programs in effect that are similar to that of the credit card rebate program described in this subdivision. The Secretary of Finance shall identify such other rebate or refund programs and shall determine the pro rata share to be paid to the public institution of higher education.

4. A rebate of any transaction fees for the prior fiscal year paid for sole source procurements made by the institution in accordance with subsection E of § 2.2-4303, for using a vendor who is not registered with the Department of General Service's web-based electronic procurement program commonly known as "eVA", as provided in the appropriation act. Such rebate shall be certified by the Department of General Services and paid to each public institution by August 15, or as soon thereafter as practicable, of the fiscal year immediately following the year of certification.

§ 22.1-17.3. Identification of student internship programs.

The Board of Education, together with the Department of Labor and Industry and the ~~State Board for Community Colleges~~ *Secretary of Education*, shall identify student internship programs that may be eligible for exemptions from those federal and state laws and regulations for which exemptions are available for student apprenticeship programs. The Board of Education, the ~~State Board for Community Colleges~~ *Secretary of Education*, and the Department shall also establish procedures by which such exemptions may be obtained for student internship programs.

§ 22.1-17.6. *Board of Education to advise the Brown v. Board of Education Scholarship Awards Committee.*

*Consistent with its constitutional and statutory responsibilities, the Board shall advise and provide technical assistance to the Brown v. Board of Education Scholarship Awards Committee in the implementation and administration of the Brown v. Board of Education Scholarship Program, pursuant to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.*

§ 22.1-26. Joint and regional schools; regional public charter schools.

A. Two or more school boards may, with the consent of the ~~State Board of Education~~, establish joint or regional schools, including regional public charter schools as defined in § 22.1-212.5, comprehensive schools offering all-day academic programs and career and technical education, and regional residential charter schools for at-risk pupils, for the use of their respective school divisions and may jointly purchase, take, hold, lease, convey and condemn both real and personal property for such joint, regional, or regional public charter schools. The school boards, acting jointly, shall have the same power of condemnation as other school boards except that land so condemned shall not be in excess of 30 acres for the use of any one joint or regional school. The title to all property acquired for such purposes shall vest jointly in the school boards in such respective proportions as the school boards may determine, and the schools shall be managed and controlled by the school boards jointly, in accordance with such regulations as are promulgated by the ~~State Board of Education~~. With the approval of the participating school boards and the respective local governing bodies, title to property acquired for a joint school shall be vested in the governing body of such school. The school boards operating a regional public charter school shall determine the school division to which any regional public charter school is assigned for the purposes of any restrictions on the number of public charter schools imposed by § 22.1-212.11.

B. Effective July 1, 2008, joint, regional, or regional charter schools in operation prior to the promulgation of new regulations may request a waiver of the new regulation requirements. This waiver request shall be submitted to the Board of Education on a form and in a manner prescribed by the Board. If the Board of Education grants the waiver request, the approved school shall continue to operate under the previous regulations.

C. Consistent with the provisions of this section, two or more school boards may, with the consent of the ~~State Board of Education~~, establish joint or regional schools, including regional public charter schools, to serve as high schools offering (i) in addition to a comprehensive high school curriculum, specialized training to students desiring to pursue careers in law enforcement, fire fighting, emergency and rescue services, and other occupations addressing public safety and welfare; or (ii) a specialized curriculum leading to a high school diploma and a postsecondary credential, such as industry certification, career certificate, or degree; or (iii) both.

Such schools described in clause (i) may be designed to incorporate the instructional services of retired or disabled emergency, fire, rescue, and law-enforcement personnel and internships with local agencies and organizations providing such emergency, fire, rescue, and law-enforcement services.

The relevant school boards operating schools described in clause (ii) may, by agreement, establish alternative schedules for the delivery of instruction that may include alternatives to standard school day and year requirements, subject to the issuance of any necessary waivers by the Board of Education

pursuant to § 22.1-79.1 and relevant Board regulations. Such school boards may contract with an accredited institution of higher education or other postsecondary school licensed or certified by the Board of Education or the ~~State Council of Higher~~ *Secretary of Education*, as the case may be, pursuant to Chapter 16 (§ 22.1-319 et seq.) of this title or Chapter 21.1 (§ 23-276.1 et seq.) of Title 23, to deliver such instruction, which may include specialized instruction and training for students who are eligible to enroll in public high schools, consistent with §§ 22.1-3, 22.1-5, and 22.1-213.

D. Joint or regional schools, such as academic year Governor's Schools, may set the school calendar so that the first day students are required to attend school shall comport with the calendar of any of the participating school divisions, including those granted a waiver, as prescribed in § 22.1-79.1. Such calendar must be approved by the governing board of the joint or regional school.

§ 22.1-290.01. Virginia Teaching Scholarship Loan Program established; purpose; Board of Education to administer Program; eligibility requirements for scholarship and awards; repayment of scholarship required.

A. With such funds as may be appropriated for this purpose and any gifts, donations, grants, bequests, and other funds that may be received on behalf of the Program by the Board of Education, there is hereby established the Virginia Teaching Scholarship Loan Program, hereinafter referred to as the "Program," to: (i) increase the number of teacher candidates pursuing careers in critical teacher shortage areas as defined in the Board of Education's Regulations Governing the Determination of Critical Teacher Shortage Areas; (ii) expand eligibility to teacher candidates, including graduate students and paraprofessionals from Virginia school divisions who are enrolled full-time or part-time in an approved teacher education program; (iii) increase the diversity of persons pursuing careers in teaching, including male teacher candidates enrolled in an elementary or middle school education program and minority teacher candidates enrolled in any teaching endorsement area; and (iv) increase the number of teacher candidates pursuing careers in career and technical education.

B. The Board of Education shall establish, in regulation, criteria for determining critical teacher shortage areas for awarding scholarships pursuant to this section. The criteria shall include such factors as the needs in teaching endorsement areas among the several school divisions of the Commonwealth, teacher shortages at the elementary and secondary grade levels, and teacher shortages in rural and urban regions of the Commonwealth.

C. The Program shall be administered by the Board of Education. The Board may promulgate such regulations as may be necessary for the implementation of the Program. The Board shall consult with the ~~State Council of Higher~~ *Secretary of Education* in the implementation of the Program.

The Program shall consist of scholarships awarded annually to teacher candidates, including graduate students and paraprofessionals from Virginia school divisions at an accredited public or private four-year institution of higher education in the Commonwealth, who (i) are enrolled full-time or part-time in an approved teacher education program or are participants in another approved teacher education program; (ii) have maintained a cumulative grade point average of at least 2.7 on a 4.0 scale or its equivalent; and (iii) are nominated for such scholarship by the institution where they are enrolled. In addition, the candidates must meet one or more of the following criteria: (a) be enrolled in a program leading to an endorsement in a critical shortage area as established by the Board of Education; (b) be a male teacher candidate in an elementary or middle school education program; (c) be a minority teacher candidate enrolled in any teacher endorsement area; or (d) be a student in an approved teacher education program leading to an endorsement in career and technical education.

D. Before any teaching scholarship is awarded in accordance with the provisions of this section, the scholarship recipient shall sign a promissory note agreeing (i) to pursue an approved teacher education program full-time or part-time at an accredited public or private four-year institution of higher education in Virginia or another approved teacher education program and (ii) upon graduation, to begin teaching in the public schools of the Commonwealth in a critical teaching shortage discipline or in a career and technical education discipline or, regardless of teaching discipline, in a school with a high concentration of students eligible for free or reduced lunch or in a rural or urban region of the Commonwealth with a teacher shortage.

Upon program completion, the scholarship recipient shall begin teaching in the public schools of the Commonwealth in the first full academic year after becoming eligible for a teaching license, and shall fulfill the teaching obligation in accordance with the promissory note by teaching continuously in Virginia for the same number of years that he was the beneficiary of such scholarship. Such scholarship recipient may fulfill the teaching obligation by accepting a teaching position (i) in one of the critical teacher shortage disciplines as established by the Board of Education; or (ii) in a career and technical education discipline; or (iii) regardless of teaching discipline, in a school with a high concentration of students eligible for free or reduced lunch; or (iv) in any discipline or at any grade level within a school division with a shortage of teachers, as defined in the Board of Education's Regulations Governing the Determination of Critical Teacher Shortage Areas; or (v) in a rural or urban region of the state with a

674 teacher shortage.

675 E. The Board of Education may recover the total amount of funds awarded as a scholarship, or the  
676 appropriate proportion thereof, including any accrued interest, if the scholarship recipient fails to honor  
677 the teaching obligation.

678 F. There is hereby created in the Department of the Treasury a special nonreverting fund known as  
679 the Virginia Teaching Scholarship Loan Fund, hereinafter referred to as the "Fund." The Fund shall be  
680 established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the  
681 biennium shall not revert to the general fund but shall remain in the Fund. The Fund shall consist of  
682 such moneys as may be appropriated for the Virginia Teaching Scholarship Loan Program and such  
683 gifts, donations, grants, bequests, and other funds as may be received on its behalf by the Board of  
684 Education. The Fund shall be used solely to fund the Virginia Teaching Scholarship Loan Program.  
685 Interest earned on such moneys shall remain in the Fund and be credited to it. Moneys in the Fund shall  
686 be used solely to award scholarships pursuant to the Virginia Teaching Scholarship Loan Program as  
687 provided in this section. Disbursements from the Fund for such scholarships shall be made by the State  
688 Treasurer on warrants issued by the Comptroller upon written request of the President of the Board of  
689 Education.

690 G. The Board of Education and the ~~State Council of Higher~~ *Secretary of Education* shall make  
691 available to parents, students, teachers, high school guidance counselors, and academic advisors and  
692 financial aid administrators at public and private institutions of higher education information concerning  
693 the Virginia Teacher Scholarship Loan Program, eligibility for the loans, and the terms and conditions  
694 under which such loans are awarded, in order that students interested in pursuing careers in the teaching  
695 profession may be advised of the availability of such financial assistance.

696 § 22.1-305.2. Advisory Board on Teacher Education and Licensure.

697 There is hereby established the Advisory Board on Teacher Education and Licensure which shall  
698 consist of ~~nineteen~~/8 members to be appointed by the Board of Education. Ten members of the  
699 Advisory Board shall be classroom teachers, with at least the following representation: three elementary  
700 school teachers, three middle school teachers, and three high school teachers. Three members of the  
701 Advisory Board shall be school administrators, one of whom shall be a school principal, one of whom  
702 shall be a division superintendent, and one of whom shall be a school personnel administrator. Two  
703 members of the Advisory Board shall be faculty members in teacher preparation programs in public or  
704 private institutions of higher education, who may represent the arts and sciences. One member of the  
705 Advisory Board shall be a member of a school board. One member of the Advisory Board shall be a  
706 member of a parent-teacher association. One member of the Advisory Board shall be a representative of  
707 the business community and one member shall be a citizen at large. The Superintendent of Public  
708 Instruction or his designee and the ~~Director of the State Council of Higher Education~~ or his designee  
709 and the ~~Chancellor of the Virginia Community College System~~ *Secretary of Education* or his designee  
710 shall serve as nonvoting ex officio members of the Advisory Board.

711 The Superintendent of Public Instruction shall designate a staff liaison to coordinate the activities of  
712 the Advisory Board. The Advisory Board shall meet five times per year or upon the request of its  
713 chairman or the Board of Education. The Advisory Board shall annually elect a chairman from its  
714 membership. The members of the Advisory Board shall serve without compensation; however, the  
715 necessary expenses incurred in the performance of their duties as members of the Advisory Board shall  
716 be reimbursed by the Department of Education.

717 The members of the Advisory Board shall be appointed for three-year terms. However, the  
718 incumbent members of the Teacher Education Advisory Board serving on July 1, 1990, shall be  
719 appointed to serve as initial members of the Advisory Board on Teacher Education and Licensure for  
720 the duration of the terms for which they were originally appointed. Upon the expiration of the terms of  
721 these incumbent members, the members appointed to replace them shall serve for three-year terms. No  
722 person may be appointed to serve for more than two consecutive terms. Those serving as incumbent  
723 members on July 1, 1990, shall be eligible to be reappointed to serve for one additional term. Members  
724 shall hold office after expiration of their terms until their successors are duly appointed.

725 The Advisory Board on Teacher Education and Licensure shall advise the Board of Education and  
726 submit recommendations on policies applicable to the qualifications, examination, licensure, and  
727 regulation of school personnel including revocation, suspension, denial, cancellation, reinstatement, and  
728 renewals of licensure, fees for processing applications, standards for the approval of preparation  
729 programs, reciprocal approval of preparation programs, and other related matters as the Board of  
730 Education may request or the Advisory Board may deem necessary. The final authority for licensure of  
731 school personnel shall remain with the Board of Education.

732 § 22.1-338. Education Commission to file bylaws with Secretary of Education.

733 Pursuant to paragraph I of Article III of the compact for education set forth in § 22.1-336, the  
734 Education Commission of the States shall file a copy of its bylaws and amendments thereto with the  
735 ~~State Council of Higher Education for Virginia~~ *Secretary of Education*.

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

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

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

§ 23-4.3. Adoption of intellectual property policies; employees to be bound by such policies.

A. The boards of visitors of state-supported institutions of higher education ~~and the State Board for Community Colleges and local community college boards~~ shall adopt policies regarding the ownership, protection, assignment, and use of intellectual property.

B. All employees of state-supported institutions of higher education, including the Virginia Community College System, as a condition of employment, shall be bound by the intellectual property policies of the institution employing them.

C. Upon adoption, the boards of visitors of state-supported institutions of higher education, including the ~~State Board for Community Colleges~~ *local community college boards*, shall provide a copy of their intellectual property policies to the Governor and the Joint Commission on Technology and Science.

D. For purposes of this section, "intellectual property" means (i) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable.

§ 23-4.3:2. Policies addressing student loan vendors.

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

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

C. The ~~State Council of Higher Education for Virginia~~ *Secretary of Education*, with the advice and input of the governing boards of each public institution of higher education, shall develop policies and procedures for disclosing certain information to students on student lending practices. This information shall include (i) the criteria used to determine which lenders, if any, are recommended or endorsed by the school, or included on a preferred lender list made available to students, and (ii) explicit notification that students are free to borrow from any lender of their choosing and are not limited to any lender or lenders suggested by the school.

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

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

B. The president of each state-supported institution of higher education, including the ~~chancellor of the Virginia Community College System~~ *local community college boards*, shall report annually to the

797 Governor and the Joint Commission on Technology and Science regarding the assignment of any  
798 intellectual property interests by that institution.

799 § 23-7.1:02. Participation in or eligibility for state-supported financial aid programs.

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

805 B. Persons who have completed a program of home school instruction in accordance with  
806 § 22.1-254.1 and persons who have been excused from school attendance pursuant to subsection B of  
807 § 22.1-254 shall be deemed to have met the high school graduation requirements for purposes of  
808 eligibility for any state-supported financial aid or other higher education programs. When a high school  
809 grade point average, class rank, or other academic criteria is specified as a condition of participating in a  
810 program, the ~~State Council of Higher Education for Virginia~~ *Secretary of Education* shall develop  
811 empirical alternative equivalent measures that may be required for such programs.

812 § 23-7.4. Eligibility for in-state tuition charges.

813 A. For purposes of this section and §§ 23-7.4:1, 23-7.4:2 and 23-7.4:3, the following definitions shall  
814 apply:

815 "Date of the alleged entitlement" means the first official day of class within the term, semester or  
816 quarter of the student's program.

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

826 "Domicile" means the present, fixed home of an individual to which he returns following temporary  
827 absences and at which he intends to stay indefinitely. No individual may have more than one domicile  
828 at a time. Domicile, once established, shall not be affected by mere transient or temporary physical  
829 presence in another jurisdiction.

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

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

834 "Full-time employment" means employment resulting in, at least, an annual earned income reported  
835 for tax purposes equivalent to fifty work weeks of forty hours at minimum wage.

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

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

842 "Substantial financial support" means financial support in an amount which equals or exceeds that  
843 required to qualify the individual to be listed as a dependent on federal and state income tax returns.

844 "Unemancipated minor" means a student under the age of eighteen on the date of the alleged  
845 entitlement who is under the legal control of and is financially supported by either of his parents, legal  
846 guardian or other person having legal custody.

847 "Virginia employer" means any employing unit organized under the laws of Virginia or having  
848 income from Virginia sources regardless of its organizational structure, or any public or nonprofit  
849 organization authorized to operate in Virginia.

850 B. To become eligible for in-state tuition, an independent student shall establish by clear and  
851 convincing evidence that for a period of at least one year immediately prior to the date of the alleged  
852 entitlement, he was domiciled in Virginia and had abandoned any previous domicile, if such existed.

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

year from the date of such abandonment.

In determining domiciliary intent, all of the following applicable factors shall be considered: continuous residence for at least one year prior to the date of alleged entitlement, state to which income taxes are filed or paid, driver's license, motor vehicle registration, voter registration, employment, property ownership, sources of financial support, military records, a written offer and acceptance of employment following graduation, and any other social or economic relationships with the Commonwealth and other jurisdictions.

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

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

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

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

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

The domicile of a dependent student shall be rebuttably presumed to be the domicile of the parent or legal guardian 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 providing him substantial financial support.

For the purposes of this section, the domicile of an unemancipated minor or a dependent student eighteen years of age or older may be either the domicile of the parent with whom he resides, the parent who claims the student as a dependent for federal and 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 substantial financial support. If there is no surviving parent or the whereabouts of the parents are unknown, then the domicile of an unemancipated minor shall be the domicile of the legal guardian of such unemancipated minor unless there are circumstances indicating that such guardianship was created primarily for the purpose of conferring a Virginia domicile on the unemancipated minor.

D. It is incumbent on the student to apply for change in domiciliary status on becoming eligible for such change. Changes in domiciliary status shall only be granted prospectively from the date such application is received.

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

E. Notwithstanding any other provision of law, all dependents, as defined by 37 U.S.C. § 401, of active duty military personnel, or activated or temporarily mobilized reservists or guard members, assigned to a permanent duty station or workplace geographically located in Virginia, or in a state contiguous to Virginia or the District of Columbia, who reside in Virginia shall be deemed to be domiciled in Virginia for purposes of eligibility for in-state tuition and shall be eligible to receive in-state tuition in Virginia in accordance with this section. All such dependents shall be afforded the same educational benefits as any other individual receiving in-state tuition pursuant to this section. Such benefits and in-state tuition status shall continue so long as they are continuously enrolled in an institution of higher education in Virginia or are transferring between Virginia institutions of higher education or from an undergraduate degree program to a graduate degree program, regardless of any change of duty station or residence of the military service member.

For the purpose of this subsection:

"Date of alleged entitlement" means the date of admission or acceptance for dependents currently

920 residing in Virginia or the final add/drop date for dependents of members newly transferred to Virginia.

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

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

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

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

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

944 § 23-7.4:2. Eligibility for in-state or reduced tuition for students not domiciled in Virginia; tuition  
945 grants for members of the National Guard of the Commonwealth of Virginia.

946 A. Students who live outside this Commonwealth and have been employed full time inside Virginia  
947 for at least one year immediately prior to the date of the alleged entitlement for in-state tuition shall be  
948 eligible for in-state tuition charges if such student has paid Virginia income taxes on all taxable income  
949 earned in this Commonwealth for the tax year prior to the date of the alleged entitlement. Students  
950 claimed as dependents for federal and Virginia income tax purposes who live outside this  
951 Commonwealth shall become eligible for in-state tuition charges if the nonresident parents claiming  
952 them as dependents have been employed full time inside Virginia for at least one year immediately prior  
953 to the date of the alleged entitlement and paid Virginia income taxes on all taxable income earned in  
954 this Commonwealth for the tax year prior to the date of the alleged entitlement. Such students shall  
955 continue to be eligible for in-state tuition charges for so long as they or their qualifying parent is  
956 employed full time in Virginia, paying Virginia income taxes on all taxable income earned in this  
957 Commonwealth and the student is claimed as a dependent for Virginia and federal income tax purposes.

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

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

974 C. Notwithstanding the provisions of § 23-7.4 or any other provision of the law to the contrary, the  
975 governing board of any state institution of higher education or the ~~governing board of the Virginia~~  
976 ~~Community College System~~ *local community college boards* may charge the same tuition as is charged  
977 to any person domiciled in Virginia pursuant to the provisions of § 23-7.4 to:

978 1. Any person enrolled in one of the institution's programs designated by the ~~State Council of Higher~~  
979 *Secretary of Education* who is domiciled in and is entitled to reduced tuition charges in the institutions  
980 of higher ~~learning~~ *education* in any state which is a party to the Southern Regional Education Compact  
981 which has similar reciprocal provisions for persons domiciled in Virginia;



2. Any student from a foreign country who is enrolled in a foreign exchange program approved by the state institution during the same period that an exchange student from the same state institution, who is entitled to in-state tuition pursuant to § 23-7.4, is attending the foreign institution; 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 community college for which he may, upon successful completion, receive high school and community college credit pursuant to a dual enrollment agreement between the high school or magnet school and the community college.

D. ~~The governing board of the Virginia Community College System~~ *local community colleges boards* shall charge in-state tuition to any person enrolled in one of the System's institutions who lives within a 30-mile radius of a Virginia institution, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher ~~learning~~ *education* in any state which is contiguous to Virginia and which has similar reciprocal provisions for persons domiciled in Virginia.

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

E. The board of the University of Virginia's College at Wise and the board of visitors of the University of Virginia may charge reduced tuition to any person enrolled at the University of Virginia's College at Wise who lives within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in Kentucky, if Kentucky has similar reciprocal provisions for persons domiciled in Virginia.

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

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

F. Public institutions of higher education may enter into special arrangement contracts with Virginia employers or authorities controlling federal installations or agencies located in Virginia. The special arrangement contracts shall be for the purpose of providing reduced rate tuition charges for the employees of the Virginia employers or federal personnel when the employers or federal authorities are assuming the liability for paying, to the extent permitted by federal law, the tuition for the employees or personnel in question and the employees or personnel are classified by the requirements of this section as out-of-state.

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

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

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

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

G. Any active duty members, activated guard or reservist members, or guard or reservist members mobilized or on temporary active orders for six months or more, that are either stationed or assigned by their military service to a work location in Virginia, and residing in Virginia, shall pay tuition, to the public institution of higher education in which they are enrolled, in an amount no more than the institution's in-state tuition rate.

§ 23-7.4:3. 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 tuition charges pursuant to §§ 23-7.4 and 23-7.4:2. The Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to these administrative reviews.

An initial determination shall be made. Each appeals process shall include an intermediate review of the initial determination and a final administrative review. The final administrative decision shall be in writing. A copy of this decision shall be sent to the student. Either the intermediate review or the final administrative review shall be conducted by an appeals committee consisting of an odd number of members. No person who serves at one level of this appeals process shall be eligible to serve at any other level of this review. 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.

Any party aggrieved by a final administrative decision shall have the right to review in the circuit court for the jurisdiction in which the relevant institution is located. A petition for review of the final administrative decision shall be filed within thirty days of receiving the written decision. In any such action, the institution shall forward the record to the court, whose function shall be only to determine whether the decision reached by the institution could reasonably be said, on the basis of the record, not to be arbitrary, capricious or otherwise contrary to law.

B. To ensure the application of uniform criteria in administering this section and determining eligibility for in-state tuition charges, the ~~State Council of Higher Education~~ *Secretary of Education* shall issue and from time to time revise guidelines, including domiciliary status questions to be incorporated by all state institutions of higher education in their admissions applications. These guidelines shall not be subject to the Administrative Process Act.

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

§ 23-7.4:5. Grant for tuition and fees for certain individuals.

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

1. Has received a high school diploma or a general educational development (GED) certificate and was in foster care or in the custody of the Department of Social Services or is considered a special needs adoption at the time such diploma or certificate was awarded, or was in foster care when he turned 18 and subsequently received a high school diploma or GED certificate;

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

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

4. Maintains the required grade point average established *collectively* by the ~~State Board for Community Colleges~~ *local community colleges boards for the Virginia Community College System*;

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

6. Demonstrates financial need and meets any additional financial need requirements *as established collectively* by the ~~State Board for Community Colleges~~ *local community colleges boards* for the purposes of such grant.

B. The ~~State Board for Community Colleges~~ *Secretary of Education*, in consultation with the ~~State Council of Higher Education~~ *local community colleges boards* and the Department of Social Services, shall establish regulations governing such grants. The regulations shall include, but shall not be limited to, provisions addressing renewals of grants; financial need; the calculation of grant amounts, after consideration of any additional financial resources or aid the student may hold; the 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.

§ 23-7.4:6. (Expires July 1, 2012) Grants for tuition and fees for certain commercial fishermen.

A. The payment of tuition or fees, except fees established for the purpose of paying for course materials, such as laboratory fees, shall be provided for a person who is a bona fide domiciliary of Virginia, as defined in 23-7.4, and who:

1. Is a Virginia waterman holding a valid Virginia commercial crabbing license that has incurred adverse economic impacts as determined by the U.S. Department of Commerce Blue Crab Commercial Fishery Failure Declaration;

2. Is enrolled or has been accepted for enrollment in a degree or certificate program of at least one academic year in length in a public two-year institution of higher education in the Commonwealth;

3. Has not been enrolled in postsecondary education as a full-time student for more than three years;

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

5. Is not in default of a federal educational loan or student loan made or guaranteed by Virginia.

The ~~State Board for Community Colleges~~ *Secretary of Education*, in consultation with the ~~State Council of Higher Education~~ *local community colleges boards* and the Department of Social Services, shall establish regulations governing such grants.

§ 23-7.5. Health histories required; immunizations.

A. No full-time student shall be enrolled for the first time in any four-year, public institution of higher education in this Commonwealth unless he has furnished, before the beginning of the second semester or quarter of enrollment, a health history consistent with guidelines adopted by each institution's board of visitors, pursuant to the requirements of this section. Any student who fails to furnish the history will not be eligible for registration for the second semester or quarter. Any student who objects on religious grounds shall be exempt from the health history requirement set forth in this section.

B. The health history shall include documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated. Prior to enrollment, all students shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the guidelines of the American College Health Association.

C. In addition to the immunization requirements set forth in subsection B, all incoming full-time students, prior to enrollment in any public four-year institution of higher education, shall be vaccinated against (i) meningococcal disease and (ii) hepatitis B.

However, if the institution of higher education provides the student or, if the student is a minor, the student's parent or other legal representative, detailed information on the risks associated with meningococcal disease and hepatitis B and on the availability and effectiveness of any vaccine, the student or, if the student is a minor, the student's parent or other legal representative may sign a written waiver stating that he has received and reviewed the information on meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine and has chosen not to be or not to have the student vaccinated.

D. Any student shall be exempt from the immunization requirements set forth in this section who (i) objects on the grounds that administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board of Health, or (ii) presents a statement from a licensed physician which states that his physical condition is such that administration of one or more of the required immunizing agents would be detrimental to his health.

E. The Board and Commissioner of Health shall cooperate with any board of visitors seeking assistance in the implementation of this section.

F. Further, the ~~State Council of Higher Education~~ *Secretary of Education* shall, in cooperation with the Board and Commissioner of Health, encourage private colleges and universities 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.

§ 23-9.2:3. Power of governing body of educational institution to establish rules and regulations; offenses occurring on property of institution; state direct student financial assistance; release of educational records.

A. In addition to the powers now enjoyed by it, the board of visitors or other governing body of every educational institution shall have the power:

1. To establish rules and regulations for the acceptance and assistance of students except that (i) individuals who have failed to meet the federal requirement to register for the selective service shall not be eligible to receive any state direct student assistance; (ii) the accreditation status of a Virginia public high school shall not be considered in making admissions determinations for students who have earned a diploma pursuant to the requirements established by the Board of Education; and (iii) the governing boards of the four-year institutions shall establish policies providing for the admission of certain graduates of Virginia community colleges as set forth in § 23-9.2:3.02.

2. To establish rules and regulations for the conduct of students while attending such institution.

3. To establish programs, in cooperation with the ~~State Council of Higher Education~~ *Secretary of Education* and the Office of the Attorney General, to promote compliance among students with the Commonwealth's laws relating to the use of alcoholic beverages.

4. To establish rules and regulations for the rescission or restriction of financial aid, within the

discretionary authority provided to the institution by federal or state law and regulations, and the suspension and dismissal of students who fail or refuse to abide by such rules and regulations for the conduct of students.

5. To establish rules and regulations for the employment of professors, teachers, instructors and all other employees and provide for their dismissal for failure to abide by such rules and regulations.

6. To provide parking and traffic rules and regulations on property owned by such institution.

7. To establish guidelines for the initiation or induction into any social fraternity or sorority in accordance with § 18.2-56.

8. To establish programs, in cooperation with the ~~State Council of Higher Education for Virginia~~ *Secretary of Education* and the Office of the Attorney General, to promote the awareness and prevention of sexual crimes committed upon students.

B. Upon receipt of an appropriate resolution of the board of visitors or other governing body of an educational institution, the governing body of a political subdivision which is contiguous to the institution shall enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution.

The governing bodies of the public institutions of higher education shall assist the ~~State Council of Higher Education~~ *Secretary of Education* in enforcing the provisions related to eligibility for financial aid.

C. Notwithstanding any other provision of state law, the board of visitors or other governing body of every public institution of higher education in Virginia shall establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs. However, notification may be withheld if the student's treating physician or treating clinical psychologist has made a part of the student's record a written statement that, in the exercise of his professional judgment, the notification would be reasonably likely to cause substantial harm to the student or another person. No public institution of higher education or employee of a public institution of higher education making a disclosure pursuant to this subsection shall be civilly liable for any harm resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct by the institution or its employees.

D. The board of visitors or other governing body of every public institution of higher education in Virginia shall establish policies and procedures requiring the release of the educational record of a dependent student, as defined by 20 U.S.C. § 1232g, to a parent at his request.

E. In order to improve the quality of the Commonwealth's work force and educational programs, the governing bodies of the public institutions of higher education shall establish programs to seek to ensure that all graduates have the technology skills necessary to compete in the 21st Century and, particularly, that all students matriculating in teacher-training programs receive instruction in the effective use of educational technology.

§ 23-9.2:3.02. Articulation, transfer, and dual enrollment and admissions agreements; admission of certain community college graduates.

A. The governing board of each four-year public institution of higher education shall develop, consistent with the ~~State Council of Higher Education~~ *Secretary of Education's* Guidelines and the institution's six-year plan as set forth in § 23-9.2:3.03, articulation, transfer, and dual enrollment and admissions agreements with uniform application to all institutions within the Virginia Community College System and any two-year public institution of higher education that (i) meet appropriate general education and program requirements at the four-year institutions; (ii) provide additional opportunities for associate degree graduates to be admitted and enrolled; and (iii) establish dual admissions programs for qualified students to be simultaneously accepted by a community college and, contingent upon the successful completion of an acceptable associate degree program from the community college, by the four-year public institution of higher education.

B. The ~~State Council of Higher Education for Virginia~~ *Secretary of Education* shall submit an annual report to the Senate Committee on Education and Health and the House Committee on Education specifying the total number of transfer students each institution of higher education admitted, enrolled, and graduated from institutions within the Virginia Community College System.

C. Students enrolling at an institution within the Virginia Community College System or a two-year public institution of higher education may declare an intention in writing to transfer to a four-year public institution of higher education in Virginia having an articulation agreement with the relevant community

college or two-year public institution. If a student (i) completes an associate degree within four years of submitting a written declaration of intent to transfer to a four-year public institution of higher education in Virginia and (ii) enrolls in such an institution within 18 months of completing an associate degree, the articulation agreement in force at the time of the student's declaration shall determine those credits that will be transferred from the community college or two-year public institution to the four-year public institution upon successful completion of an associate degree.

D. Nothing in this section shall be construed to require the admission of students of the Virginia Community College System by a four-year public institution of higher education.

E. The ~~State Council of Higher~~ *Secretary of Education*, consistent with ~~its~~ *his* responsibility to facilitate the development of articulation, transfer, and dual enrollment and admissions agreements set forth in §§ 23-9.6:1 and 23-9.14:2, shall develop guidelines for such agreements, including the conditions required to establish dual admissions programs for qualified students to be simultaneously accepted by a community college and a four-year public institution of higher education and, upon successful completion of an acceptable associate degree program from the community college, to be automatically enrolled in the four-year institution of higher education. Dual admissions agreements shall set forth (i) the obligations of the students accepted in such programs, including grade point average requirements, acceptable associate degree majors, and completion timetables; and (ii) the student's access to the privileges of enrollment in both institutions during the time enrolled in either institution.

§ 23-9.2:3.03. Six-year institutional plans; annual assessment by Secretary of Education.

A. The governing boards of the public institutions of higher education shall develop and adopt biennially a six-year plan for the relevant institution. Each governing board shall submit the plan to the ~~State Council~~ *Secretary*, the Governor, and the respective chairs of the House Committee on Appropriations and the Senate Committee on Finance no later than October 1 of each odd-numbered year.

B. Each plan shall address the institution's academic, financial, and enrollment plans (to include the proportion of in-state and out-of-state students) for the six-year period. The plans shall be structured in accordance with the goals and objectives included in subsection B of § 23-38.88 and in a form and manner prescribed by the ~~State Council~~ *Secretary of Education*, in consultation with the Secretary of Finance and the Director of the Department of Planning and Budget.

C. Such plans shall include financial planning reflecting the level of resources anticipated from the general fund assuming (i) no increase in general fund support for the subsequent biennial budget cycles and (ii) incremental general fund support based upon a general fund share for costs for all in-state students as set forth in the current biennial budget. The plan shall also include the anticipated tuition and fee charges required by (a) degree level and (b) domiciliary status to generate sufficient nongeneral fund revenues, as well as the institution's strategies for providing sufficient financial aid to mitigate the impact of tuition and fee increases on students and their families.

The plans shall be based upon assumptions for achieving adequate base funding as prescribed by the ~~State Council~~ *Secretary* and shall be aligned with six-year enrollment projections.

D. In developing such plans, each public institution of higher education shall give consideration to potential future impacts of tuition increases on the Virginia College Savings Plan (§ 23-38.75 et seq.) and shall discuss such potential impacts with the 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.

E. The ~~State Council~~ *Secretary* shall annually review and assess the six-year institutional plans required by this section to determine the degree to which the Commonwealth's system of public higher education is meeting statewide educational needs and objectives, as identified in the ~~State Council's~~ *Secretary's* strategic plan. The ~~State Council~~ *Secretary* shall identify any disparities between such institutional plans and such statewide needs and objectives and shall make recommendations for the revision of such plans for consideration by the respective public institutions, the Governor, and the General Assembly.

§ 23-9.2:3.2. Education program on human immunodeficiency virus infection.

Virginia public colleges and universities, in cooperation with the ~~State Council of Higher~~ *Secretary of Education* and the Department of Health, shall develop and implement education programs for college students on the etiology, effects and prevention of infection with human immunodeficiency virus. The ~~Council~~ *Secretary* shall also encourage private colleges and universities to develop such programs.

§ 23-9.2:3.5. Education programs on economic education and financial literacy.

Virginia public colleges and universities shall make provisions for the promotion of the development of student life skills through the inclusion of the principles of economics education and financial literacy within an existing general education course, the freshman orientation process or other appropriate venue. These principles may include, but need not be limited to, instruction concerning personal finance, such as credit card use, opening and managing an account in a financial institution, completing a loan

1289 application, managing student loans, savings and investments, consumer rights and responsibilities,  
1290 predatory lending practices and interest rates, consumer fraud, identity theft and protection, and debt  
1291 management.

1292 The *State Council of Higher Education for Virginia Secretary of Education* shall also encourage  
1293 private colleges and universities to include such principles as part of their student orientation programs.

1294 § 23-9.2:4.1. Faculty representatives to local community college boards and boards of visitors.

1295 A. The *State Board for Community Colleges*, local community college boards, and the boards of  
1296 visitors of any four-year state institution of higher education may appoint one or more nonvoting,  
1297 advisory faculty representatives to their respective boards. In the case of local community college boards  
1298 and boards of visitors, the representatives appointed by the boards shall be chosen from individuals  
1299 elected by the faculty or the institution's faculty senate or other equivalent group of the relevant  
1300 institution. In the case of the *State Board for Community Colleges*, representatives appointed by the  
1301 Board shall be chosen from individuals elected by the Chancellor's Faculty Advisory Committee. Such  
1302 representatives shall be appointed to serve terms of not less than one 12-month period, which shall be  
1303 coterminous with the institution's fiscal year, or for such terms as may be mutually agreed to by the  
1304 State Board for Community Colleges and the Chancellor's Faculty Advisory Committee, or by the local  
1305 community college board or the board of visitors, as the case may be, and the institution's faculty senate  
1306 or other equivalent group.

1307 B. Nothing in this section shall prohibit the *State Board for Community Colleges*, local community  
1308 college boards, or any boards of visitors from excluding such representatives from discussions of faculty  
1309 grievances, faculty or staff disciplinary matters, or salaries, or other matters, at the discretion of the  
1310 relevant board.

1311 § 23-9.2:7. Distance learning.

1312 Effective January 1, 2005, each public institution of higher education shall include in its strategic  
1313 plan information indicating to what extent, if any, it will use distance learning to expand access,  
1314 improve quality, and minimize the cost of education. For institutions using or planning to use distance  
1315 learning in the future, such information shall include the degree to which distance learning will be  
1316 integrated into the curriculum, benchmarks for measuring such integration, and a schedule for the  
1317 evaluation of such courses.

1318 The *State Council Secretary of Education* shall assist the governing boards in the development of  
1319 such information.

1320 *Chapter 1.1:1*

1321 *Administration of Higher Education.*

1322 § 23-9.14:3. Coordination for state-supported institutions of higher education.

1323 The *Office of the Secretary of Education* shall be designated as the coordinating agency for the  
1324 College of William and Mary in Virginia, George Mason University, Longwood University, James  
1325 Madison University, the University of Mary Washington, Norfolk State University, Old Dominion  
1326 University, Radford University, the University of Virginia, Virginia Commonwealth University, Virginia  
1327 Military Institute, Virginia Polytechnic Institute and State University, Virginia State University,  
1328 Christopher Newport University and the Virginia Community College System, branches, divisions or  
1329 colleges of any of the foregoing, and such other state-supported institutions of higher education as may  
1330 in the future be established.

1331 § 23-9.14:4. Assessments of institutional performance.

1332 A. 1. The *Secretary of Education* shall develop and revise from time to time, in consultation with the  
1333 respective chairmen of the House Committees on Education and Appropriations and the Senate  
1334 Committees on Finance and Education and Health or their designees, representatives of public  
1335 institutions of higher education, and such other state officials as may be designated by the Governor,  
1336 objective measures of educational-related performance and institutional performance benchmarks for  
1337 such objective measures. At a minimum, the Secretary shall develop objective measures and institutional  
1338 performance benchmarks for the goals and objectives set forth in subdivisions B 1 through B 10 and  
1339 subdivision B 12 of § 23-38.88.

1340 The Secretary shall develop the initial objective measures and performance benchmarks for  
1341 consideration by the Governor and the General Assembly no later than October 1, 2005.

1342 2. The Governor shall develop and revise from time to time objective measures of financial and  
1343 administrative management performance and related institutional performance benchmarks for the goals  
1344 and objectives set forth in subdivision B 11 of § 23-38.88. The Governor shall develop the initial  
1345 measures and performance benchmarks and report his recommendations to the General Assembly prior  
1346 to November 15, 2005.

1347 B. The Governor shall include objective measures of financial and administrative management and  
1348 educational-related performance and related institutional performance benchmarks as described in  
1349 subsection A in "The Budget Bill" submitted as required by subsection A of § 2.2-1509 or in his  
1350 proposed gubernatorial amendments to the general appropriation act pursuant to subsection E of

§ 2.2-1509.

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

No later than June 1 of every fiscal year beginning with the fiscal year that immediately follows the fiscal year of implementation as defined in § 2.2-5005, the Secretary 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.

Those institutions that are certified by the Secretary as having met the financial and administrative management and educational-related performance benchmarks in effect for the fiscal year as set forth in the general appropriation act shall be entitled to the financial benefits set forth in § 2.2-5005. Such benefits shall first be provided as determined under such section.

§ 23-9.14:5. Tuition relief, refunds, and reinstatement for certain students.

The Secretary of Education shall issue and from time to time revise guidelines for tuition relief, refunds, and reinstatement for students whose active military duty during a defense crisis 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.

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

The first set of guidelines shall be issued by July 1, 1991, and shall be immediately incorporated by all public institutions of higher education in their tuition and enrollment policies. These guidelines shall be applied to all persons whose active military duty during a defense crisis required their sudden withdrawal or prolonged absence after January 1, 1990.

The guidelines shall include procedures for the required reenrollment of students whose call to active duty military service precluded their completion of a semester or equivalent term and policies for the required reenrollment of such military students.

§ 23-9.14:6. Preparation of budget requests; submission of budget requests to the Secretary of Education; coordinating requests; submission of recommendations to Governor and General Assembly.

The Secretary of Education shall develop policies, formulae and guidelines for the fair and equitable distribution and use of public funds among the public institutions of higher education, taking into account enrollment projections and recognizing differences as well as similarities in institutional missions. Such policies, formulae and guidelines as are developed by the Secretary 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 Secretary 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.

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 Secretary such selected budgetary information relating to its budget request for maintenance and operation and for capital outlay as the Secretary shall reasonably require. The Secretary shall analyze such information in light of the Secretary'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 Secretary shall make available to the General Assembly its analyses and recommendations concerning institutional budget requests.

Nothing herein shall prevent any institution from appearing through its representatives or otherwise before the Governor and his advisory committee on the budget, the General Assembly, or any committee thereof at any time.

§ 23-9.14:7. Reports of expenditures of state funds.

A. The governing body of each public institution of higher education shall provide the Secretary of Education annual data indicating the apportionment and amounts of expenditures that the relevant

1412 institution expends by category, including academic costs, administration, research, and public service,  
1413 as defined by the Secretary. The Secretary shall compile and submit a report of such data annually to  
1414 the Governor and the General Assembly.

1415 B. The Secretary of Education shall, on or before October 1, 2009, and every two years thereafter,  
1416 solicit from each public institution of higher education that has received restructured financial and  
1417 operational authority a list of procurements that were competed with the private sector that appear on  
1418 the Commonwealth Competition Council's commercial activities list and were, until that time, being  
1419 performed by each public institution of higher education during the previous two years, and the outcome  
1420 of that competition. The Director shall make the lists available to the public on the Secretary of  
1421 Education's website.

1422 § 23-9.14:8. Funds for graduate marine science consortium.

1423 Funds for any consortium created by the College of William and Mary, Old Dominion University, the  
1424 University of Virginia and Virginia Polytechnic Institute and State University for the purpose of  
1425 promoting graduate marine science education may be included in the budget request of and the  
1426 appropriations to the Secretary of Education.

1427 § 23-9.14:9. Coordinating agency for post-secondary educational programs for health professions  
1428 and occupations.

1429 The Office of the Secretary of Education is hereby designated the planning and coordinating agency  
1430 for all post-secondary educational programs for all health professions and occupations. The Secretary  
1431 shall make recommendations, including those relating to financing, whereby adequate and coordinated  
1432 educational programs may be provided to produce an appropriate supply of properly trained personnel.  
1433 The Secretary is authorized to conduct such studies as it deems appropriate. All state departments and  
1434 agencies shall cooperate with the Secretary in the execution of its responsibilities under this section.

1435 § 23-9.14:10. Advisory services to private nonprofit colleges and universities; Private College  
1436 Advisory Board.

1437 A. The Secretary of Education shall provide advisory services to, and with respect to, the private,  
1438 accredited, nonprofit colleges and universities within the Commonwealth on academic and administrative  
1439 matters. The Secretary may also review and advise on joint activities, including contracts for services,  
1440 between private and public colleges and universities and between private colleges and universities and  
1441 any agency of the Commonwealth or political subdivision thereof. The Secretary may collect and analyze  
1442 such data as may be pertinent to such activities.

1443 B. The Private College Advisory Committee established and maintained by the Secretary is continued  
1444 and shall hereafter be known as the Private College Advisory Board. The Secretary shall seek the  
1445 advice of the Private College Advisory Board and the Advisory Board shall assist the Secretary in the  
1446 performance of his duties as required by subsection A. The Private College Advisory Board shall be  
1447 composed of college and university representatives and such other members as the Secretary may select.

1448 C. The Private College Advisory Board shall be broadly representative of the private sector of  
1449 nonprofit higher education in the Commonwealth. The Private College Advisory Board shall meet at  
1450 least twice each year and shall advise the Secretary of Education and the private accredited nonprofit  
1451 colleges and universities in the Commonwealth with respect to such matters as may come before it. The  
1452 Secretary may employ such qualified personnel as may be required to assist the Private College  
1453 Advisory Board in the performance of its duties.

1454 § 23-9.14:11. Authorization for Commonwealth or any political subdivision thereof to contract to  
1455 furnish or to obtain educational or other related services to or from certain nonprofit institutions of  
1456 higher education.

1457 A. For the purposes of this section:

1458 "Private college" means a private, nonprofit institution of higher education in the Commonwealth  
1459 approved to confer degrees pursuant to Chapter 21.1 (§ 23-276.1 et seq.) whose primary purpose is to  
1460 provide collegiate or graduate education and not to provide religious training or theological education.

1461 "Public college" means any of the institutions of higher education listed in § 23-9.2:12.

1462 "Services" includes but is not limited to a program or course of study offered, or approved for offer,  
1463 by a private college or by a public college; use of professional personnel; use of any real or personal  
1464 property owned, controlled, or leased for educational or educationally related purposes by such private  
1465 and public colleges; a study, research or investigation or the like by employees or students or both of  
1466 such colleges; any other activity dealing with scientific, technological, humanistic, or other educational  
1467 or related subjects, or providing public service or student service activities.

1468 B. The Commonwealth and any of its political subdivisions may contract to obtain or furnish  
1469 educational or related services from or to private colleges.

1470 1. No contract for services between private colleges on the one hand and public colleges or  
1471 educational agencies of the Commonwealth, including but not limited to the State Board of Education,  
1472 on the other, shall be valid unless approved by the Secretary of Education.

1473 2. Except as provided in subdivision 1, contracts for services between private colleges on the one



hand and the Commonwealth or any of its political subdivisions on the other may be entered into in any circumstances where the Commonwealth or its political subdivisions would, by virtue of law, have authority to contract with private contractors for educational or related services and with public institutions of higher education in Virginia.

C. When contracts covered by subdivision B 2 are made by private colleges, such colleges shall report the contracts to the Secretary of Education for informational purposes.

D. The Secretary of Education shall provide continuing evaluation of the effectiveness of such contracts, whether made under subdivision B 1 or B 2, and shall make recommendations regarding such contracts.

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

F. Unless an appropriations 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. Nothing in this chapter 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.

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

§ 23-9.14:12. Cooperating with and utilizing facilities of existing state departments, etc.

In conducting studies and in the performance of his duties, the Secretary of Education shall, insofar as possible, seek the cooperation and utilize the facilities of existing state departments, institutions, and agencies.

§ 23-9.14:13. Institutes for training teachers, administrators and librarians; guidelines to be developed by the Secretary of Education.

A. From such funds as may be appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, the Secretary shall establish institutes providing in-service training in the effective use of educational technology for teachers, administrators and librarians in the elementary and secondary schools and equivalent adult education and literacy programs in the Commonwealth.

B. The institutes shall be established at sites that may include two-year and four-year public institutions of higher education.

C. The Secretary of Education shall, in consultation with the Virginia Department of Education and the accredited teacher education programs of the Commonwealth's institutions of higher education, develop guidelines to seek to ensure that all students matriculating in teacher-training programs meet the standards embodied in Virginia's Technology Standards for Instructional Personnel and have the requisite skills for the implementation of the Board of Education's Six-Year Educational Technology Plan for Virginia.

§ 23-9.14:14. Effect upon powers of governing boards of institutions; endowment funds.

The powers of the governing boards of the several institutions over the affairs of such institutions shall not be impaired by the provisions of this chapter except to the extent that powers and duties are herein specifically conferred upon the Secretary of Education. The Secretary shall have no authority over the solicitation, investment or expenditure of endowment funds now held or in the future received by any of the public institutions of higher education.

§ 23-9.14:15. Educational programs for governing boards.

From such funds as are appropriated for such purpose, the Secretary of Education shall develop, in consultation with public institutions of higher education and members of their governing boards, educational programs for the governing boards of such institutions. New members of such governing boards may participate 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 Secretary may consider similar educational programs for institutional governing boards in other states.

§ 23-9.14:16. State Transfer Module.

A. The Secretary of Education shall develop, in cooperation with the governing boards of the public two-year and four-year institutions of higher education, a State Transfer Module that designates those general education courses that are offered within various associate degree programs at the public two-year institutions that are transferable for credit or admission with standing as a junior (third year) to the public four-year institutions.

In developing such Module, the Secretary shall also seek the participation of private institutions of higher education in the Commonwealth.

B. The Secretary shall also require the development and implementation of articulation, transfer, and

dual enrollment and admissions agreements between the Commonwealth's public two-year and four-year institutions of higher education, including agreements to establish dual admissions programs for qualified students to be simultaneously accepted by a community college and a four-year public institution of higher education and, upon successful completion of an associate degree program from the community college, to be automatically enrolled in the four-year institution of higher education. Dual admissions agreements shall set forth (i) the obligations of the students accepted in such programs, including grade point average requirements, acceptable associate degree majors, and completion timetables, and (ii) the student's access to the privileges of enrollment in both institutions during the time enrolled in either institution. Such agreements shall be subject to the admissions requirements of the four-year institutions. The Secretary shall require the public two-year and four-year institutions of higher education to develop and implement such agreements, in accordance with the guidelines for articulation, transfer, and dual enrollment and admissions agreements required by § 23-9.2:3.02.

C. The Secretary shall develop and make available to the public information identifying (i) all general education courses offered at public two-year institutions and designating those that are accepted for purposes of transfer for course credit at four-year public and private institutions of higher education in Virginia and (ii) those two-year and four-year public institutions that have entered into articulation, transfer, and dual enrollment and admissions agreements as required by § 23-9.2:3.02.

§ 23-914:17. Duties of the Secretary of Education generally.

In addition to such other duties as may be prescribed elsewhere, the Secretary of Education shall:

1. Develop a statewide strategic plan that reflects the goals set forth in subsection B of § 23-38.88 for higher education in the Commonwealth, identifies a coordinated approach to such state and regional goals, and emphasizes the future needs for higher education in Virginia 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, each public institution's six-year plan, and such other matters as the Secretary deems appropriate. The Secretary shall revise such plans at least once every six years and shall submit such recommendations as are necessary for the implementation of the plan to the Governor and the General Assembly.

2. Review and approve or disapprove any proposed change in the statement of mission of any presently existing public institution of higher education and to define the mission of all public institutions of higher education created after the effective date of this provision. The Secretary 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 Secretary to modify any mission statement adopted by the General Assembly, nor to empower the Secretary 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. 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 Secretary'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 Secretary's projections shall be in numerical terms by level of enrollment and shall be used for budgetary and fiscal planning purposes only. The Secretary 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; however, all four-year institutions shall adopt dual admissions policies with the community colleges, as required by § 23-9.2:3.02.

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

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

7. Develop in cooperation with institutions of higher education guidelines for the assessment of student achievement. An institution shall use an approved program that complies with the guidelines of the Secretary and is consistent with the institution's mission and educational objectives in the

development of such assessment. The Secretary shall report the institutions' assessments of student achievement in the biennial revisions to the state's master plan for higher education.

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

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

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

11. Provide advisory services to private, accredited and nonprofit institutions 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 Secretary may also review and advise on joint activities, including contracts for services between such public and private institutions of higher education or between such private institutions and any agency of the Commonwealth or political subdivision thereof.

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

13. Require that each institution of higher education formed, chartered, or established in the Commonwealth after July 1, 1980, shall ensure the preservation of student transcripts in the event of institutional closure or revocation of approval to operate in the Commonwealth of Virginia. An institution may provide for 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 Secretary may authorize by regulation. In the event an institution closes, or has its approval to operate in the Commonwealth revoked, the Secretary may take such action as is necessary to secure and preserve the student transcripts until such time as an appropriate institution accepts all or some of the transcripts. Nothing in this section shall be deemed to interfere with the right of a student to his own transcripts; nor shall this section authorize disclosure of student records except as may otherwise be authorized by law.

14. Require the development and submission of articulation, transfer, and dual enrollment and admissions agreements between two- and four-year public institutions of higher education in Virginia, including programs for qualified students to be simultaneously accepted by a community college and a four-year public institution of higher education and, upon successful completion of an associate degree program from the community college, to be automatically enrolled in the four-year institution of higher education. Dual admissions agreements shall set forth (i) the obligations of the students accepted in such programs, including grade point average requirements, acceptable associate degree majors, and completion timetables; and (ii) the student's access to the privileges of enrollment in both institutions during the time enrolled in either institution. Such agreements shall be subject to the admissions requirements of the four-year institutions, except as provided in § 23-9.2:3.02.

15. Provide periodic updates of base adequacy funding guidelines adopted by the Joint Subcommittee Studying Higher Education Funding Policies for the various public institutions.

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

§ 23-31. Unfunded scholarships.

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

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

2. The respective corporate authorities shall determine the number of such scholarships annually

1658 awarded to undergraduate Virginia and non-Virginia students.

1659 The total value of all such scholarships annually awarded by an institution to undergraduate Virginia  
1660 students shall not exceed in any year the amount arrived at by multiplying the applicable figure for  
1661 undergraduate tuition and required fees by 20 percent of the enrollment of Virginia students in  
1662 undergraduate studies in the institution during the preceding academic year. The total value of all such  
1663 scholarships annually awarded by an institution to non-Virginia undergraduate students shall not exceed  
1664 in any year the amount of the applicable, per capita out-of-state differential paid by non-Virginia  
1665 undergraduate students for tuition and required fees multiplied by 20 percent of the enrollment of  
1666 non-Virginia students in undergraduate studies in the institution during the preceding academic year.

1667 All such scholarships awarded to undergraduate students shall be awarded only to undergraduate  
1668 students in the first four years of undergraduate work and shall be awarded and renewed on a selective  
1669 basis to students of character and ability who are in need of financial assistance. For purposes of  
1670 determining need under this section, a nationally recognized needs-analysis system approved by the State  
1671 Council of Higher Secretary of Education shall be used.

1672 3. The respective corporate authorities shall determine the number of such scholarships annually  
1673 awarded to graduate students or teachers serving as clinical faculty pursuant to § 22.1-290.1. The total  
1674 value of all such scholarships annually awarded to such graduate students and clinical faculty shall not  
1675 exceed in any year the amount arrived at by multiplying the applicable figure for graduate tuition and  
1676 required fees by the number of graduate students who are employed as teaching or research assistants  
1677 with significant academic responsibilities and who are paid a stipend of at least \$2,000 in the particular  
1678 academic year and such clinical faculty. All graduate scholarships shall be awarded and renewed on a  
1679 selective basis to such graduate students and clinical faculty of character and ability.

1680 4. A scholarship awarded under this program shall entitle the holder to the following award, as  
1681 appropriate:

1682 a. A Virginia undergraduate student may receive an annual remission of an amount not to exceed the  
1683 cost of tuition and fees required to be paid by the student;

1684 b. A non-Virginia undergraduate student may receive an annual remission not to exceed the amount  
1685 of the out-of-state differential required to be paid by the student for tuition and fees;

1686 c. A qualified graduate student may receive an annual remission of an amount not to exceed the cost  
1687 of tuition and fees required to be paid by the student;

1688 d. A clinical faculty member may receive an award as determined by the governing body of the  
1689 institution.

1690 5. Notwithstanding the limitations on the awards of unfunded scholarships to undergraduate students  
1691 pursuant to subdivision A 4 of this section, an institution may award additional unfunded scholarships to  
1692 visiting foreign exchange students; however, the number of such awards in any fiscal year shall not  
1693 exceed one quarter of one percent of the total institutional headcount enrollment.

1694 B. No institution named herein shall remit any tuition or required fees or any special fees or charges  
1695 to any student at such institution except as authorized in this section. Each institution named herein shall  
1696 make a report to the State Council of Higher Secretary of Education, upon request, showing the number  
1697 and value of scholarships awarded under this section according to each student classification.

1698 C. Nothing in this section shall be construed to prevent or limit in any way the admission of certain  
1699 students, known as state cadets, at the Virginia Military Institute or to affect the remission of tuition or  
1700 required fees or other charges to such state cadets as permitted under existing law.

1701 D. Nothing in this section shall be construed to affect or limit in any way the control of the  
1702 governing bodies of the respective institutions over any other scholarships; or over any gifts or  
1703 donations made to such institutions for scholarships or other special purposes; or over any funds  
1704 provided by the federal government or otherwise for the purpose of career and technical education or  
1705 vocational rehabilitation in this Commonwealth; or over any funds derived from endowment or  
1706 appropriations from the federal government for instruction in agriculture and mechanic arts in land grant  
1707 colleges.

1708 E. Nothing in this section shall be construed to prevent the governing bodies of the respective  
1709 institutions from fixing a reasonably lower tuition charge for Virginia students than for non-Virginia  
1710 students.

1711 F. Nothing in this section or any other provision of law shall prohibit the awarding of 10 full tuition  
1712 unfunded scholarships each year by Old Dominion University under the terms and conditions provided  
1713 for in a deed conveying certain property in Norfolk known as the Old Larchmont School made July 5,  
1714 1930, between the City of Norfolk and The College of William and Mary.

1715 § 23-38.10:1. Traineeships for education of special education personnel; collaboration and  
1716 consultation with Board of Education in the development and implementation of the Virginia Teaching  
1717 Scholarship Loan Program.

1718 A. There are hereby established traineeships which shall be awarded to persons who are interested in  
1719 working in programs for the education of handicapped children for either part-time or full-time study in

programs designed to qualify them as special education personnel in the public schools. Applicants for such traineeships shall be graduates of a recognized college or university.

The award of such traineeships shall be made by the State Board of Education and the number of awards during any one year shall depend upon the amounts appropriated by the General Assembly for this purpose. The amount of each traineeship shall be \$450 for a minimum of six semester hours of course work in areas relating to special education to be taken by the applicant during a single semester or summer session.

This program shall be administered by the State Department of Education under rules and regulations promulgated by the State Board of Education.

B. To increase the number of students pursuing careers in teaching and to ensure a more diverse representation among classroom teachers, particularly at the elementary and middle school grade levels, the ~~State Council of Higher~~ *Secretary of Education* shall work collaboratively with the Board of Education in the development and implementation of the Virginia Teaching Scholarship Loan Program, pursuant to § 22.1-290.01. The Diversity in Teaching Initiative component of the Program shall be developed in accordance with the provisions of the appropriation act governing the administration of the Better Information Project within the Pre-Collegiate Program under the Virginia Plan for Equal Educational Opportunity in Higher Education, and shall be designed to attract and encourage elementary and secondary school students, particularly students of diverse backgrounds, to pursue careers in teaching. The pilot projects of the Diversity in Teaching Initiative may include outreach activities such as mentorship programs, linkages between public schools and institutions of higher education, and other programs and activities designed to generate interest in the teaching profession.

In addition, the ~~State Council of Higher~~ *Secretary of Education* and the Board of Education shall make available to parents, students, teachers, high school guidance counselors, and academic advisors and financial aid administrators at public and private institutions of higher education information concerning the Virginia Teaching Scholarship Loan Program, including the Diversity in Teaching Initiative, eligibility for the loans, and the terms and conditions under which such loans are awarded, in order that students interested in pursuing careers in the teaching profession may be advised of the availability of such financial assistance.

§ 23-38.10:2. Definitions.

As used in this chapter:

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

2. "Fund" means a student loan fund.

3. "Institution" means a state institution of higher education which has established a student loan fund from appropriations from the general fund of the state treasury for fellowships, scholarships and loans.

4. "Student" means a medical student, dental student, intern, resident or undergraduate student who is entitled to reduced tuition charges pursuant to the provisions of § 23-7.4.

§ 23-38.12. Program of tuition assistance established.

There is hereby established, from funds provided by law, a program of tuition assistance in the form of grants, as hereinafter provided, to or on behalf of bona fide residents of Virginia who attend private, accredited and nonprofit institutions of collegiate education in the Commonwealth whose primary purpose is to provide collegiate, graduate, or professional education and not to provide religious training or theological education. Individuals who have failed to meet the federal requirement to register for the Selective Service shall not be eligible to receive these grants. However, a person who has failed to register for the Selective Service shall not be denied a right, privilege, or benefit under this section if: (i) the requirement to so register has terminated or become inapplicable to the person and (ii) the person shows by a preponderance of the evidence that the failure to register was not a knowing and willful failure to register. The ~~State Council of Higher~~ *Secretary of Education* shall be assisted in enforcing this provision by the private institutions of higher education whose students benefit from this program. Unless otherwise indicated, as used in this chapter "accredited" means any institution approved to confer degrees pursuant to Chapter 21.1 (§ 23-276.1 et seq.) of this title.

§ 23-38.13. Office of the Secretary of Education designated as administering agency; power to define certain terms.

The ~~State Council of Higher~~ *Office of the Secretary of Education* is hereby designated as the administering agency for the program established by this chapter, and authorized to promulgate regulations consistent therewith and appropriate to the administration of the program. The administering agency shall have the power to define by regulation such terms as, but not limited to, "full-time," "undergraduate," "graduate," "professional," "successful academic year," "financial aid," "meritorious extenuating circumstances," and "incapacity" as used in this chapter.

§ 23-38.18. Determination of bona fide residence.

For the purposes of determining the eligibility of a student for a tuition assistance grant, domicile

shall be determined by the enrolling institution, as provided in § 23-7.4, and the ~~State Council of Higher~~ *Secretary of Education's* guidelines for domiciliary status determinations. In addition, in order to ensure consistency and fairness, the ~~State Council of Higher~~ *Secretary of Education* shall require all participating institutions to file student specific data, shall monitor the domiciliary status decisions of these institutions, and shall make final decisions on any disputes between the institutions and the grant recipients. The ~~Council Secretary~~ shall report to the Governor and the General Assembly, as the ~~Council Secretary~~ deems necessary, on issues related to domiciliary status determinations for students receiving tuition assistance grants.

§ 23-38.19:1. Virginia Graduate and Undergraduate Assistance Program.

A. From such funds as may be appropriated and from other funds as might be received on its behalf, a program of tuition assistance is hereby established in the form of grants and fellowships awarded on a competitive basis to outstanding graduate and undergraduate students who are enrolled in or accepted for enrollment in any accredited, degree-granting public institution of higher education in Virginia. The program shall be administered by the ~~State Council on Higher~~ *Secretary of Education* for Virginia through such regulations as the ~~Council Secretary~~ may deem necessary and appropriate.

B. The full amount of each scholarship awarded to each recipient shall be used only for payment of charges for tuition, fees, room, board, or other educational expenses.

§ 23-38.19:2. Amount and use of awards; terms and conditions.

A. Funds for these grants and fellowships shall be apportioned to institutions of higher education to equal interest earned by institutional endowment funds created specifically for this purpose after June 30, 1991. The Virginia Graduate and Undergraduate Assistance Program shall be developed by the ~~Council Secretary~~ to be phased in over a four-year period, the first awards to be made after July 1, 1992.

B. Only students who are enrolled or accepted as full-time graduate or undergraduate students in an eligible institution and have demonstrated scholarship and achievements in a postsecondary institution shall be eligible to compete for and receive such awards.

§ 23-38.45. Program created; to be administered by Secretary of Education.

There is hereby created a scholarship assistance program to be administered by the ~~State Council of Higher~~ *Secretary of Education*. The program shall assist certain students attending certain public and private colleges whose principal campuses are located in Virginia.

§ 23-38.46. Secretary of Education to develop program; what students eligible.

A. The ~~State Council of Higher~~ *Secretary of Education* shall develop and administer a statewide program of financial aid to eligible undergraduate students at eligible institutions of higher education in Virginia. Such aid shall be made in the form of grants to students who wish to enroll, or are enrolled, at any accredited, degree-granting public or private, nonprofit, institution of higher education in Virginia, excepting those institutions whose primary purpose is to provide religious training or theological education.

B. Only students who are bona fide domiciliaries of Virginia as defined by § 23-7.4, who are undergraduate students enrolled at least half time and who have not previously earned an undergraduate degree at the same level shall be eligible to receive such grants.

C. Grants shall be made for one year, but may be renewed annually by the ~~State Council of Higher~~ *Secretary of Education* for a period not to exceed the normal length of time required to complete the particular undergraduate degree program in which the recipient is enrolled.

§ 23-38.47. Criteria for making grants.

All grants made pursuant to this chapter shall be based on such criteria as shall be established by the ~~State Council of Higher~~ *Secretary of Education*, which criteria shall include the student's financial need. Need is defined as the difference between (i) the amount required to meet the student's actual cost of attendance at the institution of his choice, and (ii) the amount computed by the participating institution which the student attends to be available to such student from his own resources, those of his family and other available aid sources, including but not limited to, work and loan self-help programs. In determining the amount a student and his family can contribute to the total cost of his education, the participating institution shall take into consideration factors such as family income; any unusual circumstances or extraordinary expenses of the student or his family, including family size and number of students attending college; any assets which may be available to the student or his family to help defray the cost of his attendance; and any other nationally accepted criteria for determination of financial need. An award under this section normally shall be made only to a student who has an exceptional need, as defined by the criteria established by the ~~State Council of Higher~~ *Secretary of Education*.

§ 23-38.48. Amount of grants.

The participating institution, under regulations issued by the ~~State Council of Higher~~ *Secretary of Education*, shall determine the amount of the grant to be awarded each qualified applicant based on criteria established pursuant to § 23-38.47, but no grant shall exceed the amount authorized for such purposes by the appropriation act for full-time attendance in an academic year.

§ 23-38.49. Terms and conditions of grants.

The ~~State Council of Higher~~ *Secretary of Education* shall make grants to eligible students attending public and private institutions in Virginia on the basis of such terms and conditions, not inconsistent with the provisions of this chapter, as the ~~State Council of Higher~~ *Secretary of Education* deems appropriate.

§ 23-38.50. Use of grants.

The full amount of each grant awarded to each applicant shall be used only for payment of charges for tuition, fees, room, board or other educational expenditures approved by the ~~State Council of Higher~~ *Secretary of Education* which the applicant is obligated to pay for the academic year for which the grant is awarded.

§ 23-38.52. Employment of staff; acceptance of gifts; student financial assistance programs.

The ~~State Council of Higher~~ *Secretary of Education* is authorized, subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, to employ such staff members as it may deem necessary to supervise and administer this program and is further authorized to accept and expend gifts and donations from public and private sources to enable it better to carry out this program and its objectives. Further, subject to applicable constitutional restrictions, the ~~Council~~ *Secretary* is authorized to administer student financial assistance programs established by restricted endowment and gifts in accordance with the stipulations of the donor. The ~~Council~~ *Secretary* shall issue guidelines for each restricted program and shall recover the full cost of administration from the funds available.

§ 23-38.53:4. Secretary of Education to administer; promulgation of regulations.

There is hereby created the Virginia Guaranteed Assistance Program to provide financial assistance to eligible students for the costs of attending a public institution of higher education in Virginia. Funds may be paid to any public institution of higher education on behalf of students who have been awarded financial assistance pursuant to § 23-38.53:6. The ~~Council~~ *Secretary* shall promulgate regulations for the implementation of the provisions of this chapter.

§ 23-38.53:6. Eligible students; criteria for awarding grants; renewals.

A. Only students who (i) are domiciled residents of Virginia as defined by § 23-7.4 and who are graduates of a high school in the Commonwealth with a cumulative secondary school grade point average of at least 2.5 on a scale of 4.0 or its equivalent, or (ii) are dependent children of active duty military personnel residing outside the Commonwealth pursuant to military orders and claiming Virginia on their State of Legal Residence Certificate and satisfying the domicile requirements for such active duty military personnel pursuant to subsection B of § 23-7.4, and who are graduates of a high school inside or outside the Commonwealth with a cumulative secondary school grade point average of at least 2.5 on a scale of 4.0 or its equivalent, and who (iii) are accepted for enrollment as dependent students in any public institution of higher education in Virginia, and (iv) are not receiving state discretionary aid and demonstrate financial need as defined by the ~~State Council of Higher~~ *Secretary of Education* shall be eligible to receive such awards.

B. The amount of the Guaranteed Assistance Program grant awarded students shall be determined annually by the ~~State Council of Higher~~ *Secretary of Education*. Eligibility for such awards shall be determined according to the Congressional methodology for determining financial need and eligibility for financial aid.

C. All grants shall be awarded for one year, but may be renewed annually for no more than three subsequent years of study if the recipient:

1. Maintains at least a 2.0 grade point average on a scale of 4.0 or its equivalent;
2. Demonstrates continued financial need;
3. Makes satisfactory academic progress toward a degree, earning not less than the minimum number of hours of credit required for full-time standing in each academic period during enrollment at a public institution of higher education in Virginia; and
4. Maintains continuous enrollment for not less than two semesters or three quarters in each successive academic year, unless granted an exception for cause by the ~~State Council of Higher~~ *Secretary of Education*.

§ 23-38.56. Attendance at state institutions; conditions.

A senior citizen shall be permitted, under regulations as may be prescribed by the ~~State Council of Higher~~ *Secretary of Education*:

- (i) 1. To register for and enroll in courses as a full-time or part-time student for academic credit if such senior citizen had a taxable individual income not exceeding \$15,000 for Virginia income tax purposes for the year preceding the year in which enrollment is sought;
- (ii) 2. To register for and audit courses offered for academic credit; and
- (iii) 3. To register for and enroll in courses not offered for academic credit in any state institution of higher education in this Commonwealth.

Such senior citizen shall pay no tuition or fees except fees established for the purpose of paying for course materials, such as laboratory fees, but shall be subject to the admission requirements of the

1904 institution and a determination by the institution of its ability to offer the course or courses for which  
1905 the senior citizen registers. The ~~State Council of Higher~~ *Secretary of Education* shall establish  
1906 procedures to ensure that tuition-paying students are accommodated in courses before senior citizens  
1907 participating in this program are enrolled. However, the state institutions of higher education may make  
1908 individual exceptions to these procedures when the senior citizen has completed seventy-five percent of  
1909 the requirements for a degree.

1910 § 23-38.72. Purpose; program established; Secretary of Education's authority; program to be  
1911 advertised; estimate of family savings; report.

1912 In order to encourage families to save for their children's higher education expenses and to provide a  
1913 convenient method for such savings, there is hereby established the Virginia College Savings Program.

1914 The ~~State Council of Higher~~ *Secretary of Education* and the Department of the Treasury shall adopt  
1915 such regulations and procedures as may be necessary to implement this program. The ~~Council~~ *Secretary*  
1916 shall develop strategies to inform the public of the availability and desirability of the program. In  
1917 developing this information, the ~~Council~~ *Secretary* shall seek the assistance of the Treasury and such  
1918 other agencies as may be designated by the Governor. This information shall be designed to inform  
1919 parents of the need to accumulate financial resources and the available options for financing higher  
1920 education.

1921 The ~~Council of Higher~~ *Secretary of Education* shall prepare, and the Department of Taxation shall  
1922 distribute to each person receiving state income tax information, a financial analysis of future higher  
1923 education expenses. Such analysis shall inform persons of the amount of expected savings, based on  
1924 national data, needed to pay for higher education.

1925 The ~~Council~~ *Secretary* shall annually report to the Governor and the General Assembly on this  
1926 program prior to December 1. The first report shall be issued in 1988.

1927 § 23-38.76. Virginia College Savings Plan established; governing board; terms.

1928 A. To enhance the accessibility and affordability of higher education for all citizens of the  
1929 Commonwealth, there is hereby established as an independent agency of the Commonwealth, the  
1930 Virginia College Savings Plan (the Plan). Moneys of the Plan shall be held in the state treasury in a  
1931 special nonreverting fund (the Fund), which shall consist of payments received pursuant to prepaid  
1932 tuition contracts or contributions to savings trust accounts made pursuant to this chapter, bequests,  
1933 endowments or grants from the United States government, its agencies and instrumentalities, and any  
1934 other available sources of funds, public or private. Any moneys remaining in the Fund at the end of a  
1935 biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned  
1936 from the investment of such funds shall remain in the Fund and be credited to it.

1937 B. The Plan shall be administered by ~~an 11~~ *a 10-member Board*, as follows: the ~~Director of the State~~  
1938 ~~Council of Higher Education for Virginia or his designee; the Chancellor of the Virginia Community~~  
1939 ~~College System or his designee~~ *Secretary of Education or his designee*; the State Treasurer or his  
1940 designee; the State Comptroller or his designee; and seven non-legislative citizens, four to be appointed  
1941 by the Governor, one to be appointed by the Senate Committee on Rules and two to be appointed by  
1942 the Speaker of the House of Delegates, with significant experience in finance, accounting, law, or  
1943 investment management.

1944 Appointments shall be for terms of four years, except that appointments to fill vacancies shall be for  
1945 the unexpired terms. No person shall be appointed to serve for or during more than two successive  
1946 four-year terms, but after the expiration of a term of three years or less, or after the expiration of the  
1947 remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such  
1948 member if appointed thereto. Should a noncitizen member cease to hold his public office, the vacancy  
1949 shall be filled for the remainder of the term by his successor.

1950 C. Members of the Board shall receive no compensation, but shall be reimbursed for actual expenses  
1951 incurred in the performance of their duties. The Board shall elect from its membership a chairman,  
1952 vice-chairman, and a secretary for each calendar year. A majority of the members of the Board shall  
1953 constitute a quorum.

1954 § 23-38.88. Eligibility for restructured financial and administrative operational authority.

1955 A. Public institutions of higher education shall be eligible for the following restructured financial and  
1956 operational authority:

1957 1. To dispose of their surplus materials at the location where the surplus materials are held and to  
1958 retain any proceeds from such disposal as provided in subdivision B 14 of § 2.2-1124;

1959 2. To have the option, as provided in subsection C of § 2.2-1132 and pursuant to the conditions and  
1960 provisions under such subsection, to contract with a building official of the locality in which  
1961 construction is taking place and for such official to perform any inspection and certifications required for  
1962 the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) pursuant to  
1963 subsection C of § 36-98.1;

1964 3. For those public institutions of higher education that have in effect a signed memorandum of  
1965 understanding with the Secretary of Administration regarding participation in the nongeneral fund



1966 decentralization program as set forth in the appropriation act, as provided in subsection C of § 2.2-1132,  
 1967 to enter into contracts for specific construction projects without the preliminary review and approval of  
 1968 the Division of Engineering and Buildings of the Department of General Services, provided such  
 1969 institutions are in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300  
 1970 et seq.) and utilize the general terms and conditions for those forms of procurement approved by the  
 1971 Division and the Office of the Attorney General;

1972 4. To acquire easements as provided in subdivision 4 of § 2.2-1149;

1973 5. To enter into an and/or lease or capital lease pursuant to the conditions and provisions provided in  
 1974 subdivision 5 of § 2.2-1149;

1975 6. To convey an easement pertaining to any property such institution owns or controls as provided in  
 1976 subsection C of § 2.2-1150;

1977 7. In accordance with the conditions and provisions of subdivision C 2 of § 2.2-1153, to sell surplus  
 1978 real property valued at less than \$5 million, which is possessed and controlled by the institution;

1979 8. For purposes of compliance with § 2.2-4310, to procure goods, services, and construction from a  
 1980 vendor that the institution has certified as a small, women-, and minority-owned business enterprise  
 1981 pursuant to the conditions and provisions provided in § 2.2-1404.1;

1982 9. To be exempt from review of their budget request for information technology by the CIO as  
 1983 provided in subdivision A 4 of § 2.2-2007;

1984 10. To be allowed to establish policies for the designation of administrative and professional faculty  
 1985 positions at the institution pursuant to the conditions and provisions provided in subsection E of  
 1986 § 2.2-2901;

1987 11. To receive the financial benefits described under § 2.2-5005 pursuant to the conditions and  
 1988 provisions of such section;

1989 12. To be exempt from reporting its purchases to the Secretary of Education, provided that all  
 1990 purchases, including sole source purchases, are placed through the Commonwealth's electronic  
 1991 procurement system using proper system codes for the methods of procurement;

1992 13. To utilize as methods of procurement a fixed price, design-build or construction management  
 1993 contract notwithstanding the provisions of § 2.2-4306; and

1994 14. The restructured financial and operational authority set forth in Subchapter 2 (§ 23-38.90) and  
 1995 Subchapter 3 (§ 23-38.91 et seq.) of this chapter.

1996 No such authority shall be granted unless the institution meets the conditions set forth in this chapter.

1997 B. The Board of Visitors of a public institution of higher education shall commit to the Governor  
 1998 and the General Assembly by August 1, 2005, through formal resolution adopted according to its own  
 1999 bylaws, to meeting the state goals specified below, and shall be responsible for ensuring that such goals  
 2000 are met, in addition to such other responsibilities as may be prescribed by law. Each such institution  
 2001 shall commit to the Governor and the General Assembly to:

2002 1. Consistent with its institutional mission, provide access to higher education for all citizens  
 2003 throughout the Commonwealth, including underrepresented populations, and, consistent with subdivision  
 2004 4 of § ~~23-9.6~~ 23-9.14:17 and in accordance with anticipated demand analysis, meet enrollment  
 2005 projections and degree estimates as agreed upon with the ~~State Council of Higher~~ Secretary of Education  
 2006 for Virginia. Each such institution shall bear a measure of responsibility for ensuring that the statewide  
 2007 demand for enrollment is met;

2008 2. Consistent with § 23-9.2:3.03, ensure that higher education remains affordable, regardless of  
 2009 individual or family income, and through a periodic assessment, determine the impact of tuition and fee  
 2010 levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment  
 2011 of tuition and fees;

2012 3. Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with  
 2013 its mission and assess regularly the extent to which the institution's curricula and degree programs  
 2014 address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific  
 2015 academic disciplines, professions, and geographic regions;

2016 4. Ensure that the institution's academic programs and course offerings maintain high academic  
 2017 standards, by undertaking a continuous review and improvement of academic programs, course  
 2018 availability, faculty productivity, and other relevant factors;

2019 5. Improve student retention such that students progress from initial enrollment to a timely  
 2020 graduation, and that the number of degrees conferred increases as enrollment increases;

2021 6. Consistent with its institutional mission, develop articulation agreements that have uniform  
 2022 application to all Virginia community colleges and meet appropriate general education and program  
 2023 requirements at the four-year institution, provide additional opportunities for associate degree graduates  
 2024 to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools;

2025 7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and  
 2026 the area in which the institution is located, and for those institutions subject to a management agreement

set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter, in areas that lag the Commonwealth in terms of income, employment, and other factors;

8. Consistent with its institutional mission, increase the level of externally funded research conducted at the institution and facilitate the transfer of technology from university research centers to private sector companies;

9. Work actively and cooperatively with elementary and secondary school administrators, teachers, and students in public schools and school divisions to improve student achievement, upgrade the knowledge and skills of teachers, and strengthen leadership skills of school administrators;

10. Prepare a six-year financial plan consistent with § 23-9.2:3.03;

11. Conduct the institution's business affairs in a manner that maximizes operational efficiencies and economies for the institution, contributes to maximum efficiencies and economies of state government as a whole, and meets the financial and administrative management standards as specified by the Governor pursuant to § 2.2-5004 and included in the appropriation act that is in effect, which shall include best practices for electronic procurement and leveraged purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair and reasonable consideration of small, women-, and minority-owned business enterprises; and

12. Seek to ensure the safety and security of the Commonwealth's students on college and university campuses.

Upon making such commitments to the Governor and the General Assembly by August 1, 2005, the public institution of higher education shall be allowed to exercise the restructured financial and operational authority set forth in subdivisions A 1 through A 13 of § 23-38.88, subject to such conditions as may be provided under the enabling statutes granting the additional authority.

C. As provided in ~~§ 23-9.6:1.01~~ ~~23-9.14:4~~, the ~~State Council of Higher Education~~ *Secretary of Education* shall in consultation with the respective chairmen of the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health or their designees, representatives of public institutions of higher education, and such other state officials as may be designated by the Governor, develop objective measures of educational-related performance and institutional performance benchmarks for such objective measures. At a minimum, the ~~State Council~~ *Secretary* shall develop such objective measures and institutional performance benchmarks for the goals and objectives set forth in subdivisions B 1 through B 10 and B 12. In addition, the Governor shall develop objective measures of financial and administrative management performance and related institutional performance benchmarks for the goals and objectives set forth in subdivision B 11.

As provided in ~~subsection C of § 23-9.6:1.01~~ ~~23-9.14:4~~, any public institution of higher education that has been certified during the fiscal year by the ~~State Council of Higher Education for Virginia~~ *Secretary of Education* as meeting the institutional performance benchmarks in effect for the fiscal year as set forth in the general appropriation act shall be provided the financial benefits under § 2.2-5005. Such benefits shall first be provided as determined under such section.

D. 1. The restructured financial and operational authority set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter shall only be granted in accordance with the expressed terms of a management agreement between the public institution of higher education and the Commonwealth.

No restructured financial or operational authority set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter shall be granted to a public institution of higher education unless such authority is expressly included in the management agreement. In addition, the only implied authority that shall be granted from entering into a management agreement is that implied authority that is actually necessary to carry out the expressed grant of restructured financial or operational authority. As a matter of law, the initial presumption shall be that any restructured financial or operational authority set forth in Subchapter 3 is not included in the management agreement. These requirements shall also apply to any other provision included in Subchapter 3.

2. No public institution of higher education shall enter into a management agreement unless:

a. (i) Its most current and unenhanced bond rating received from (a) Moody's Investors Service, Inc., (b) Standard & Poor's, Inc., or (c) Fitch Investor's Services, Inc. is at least AA- (i.e., AA minus) or its equivalent, provided that such bond rating has been received within the last three years of the date that the initial agreement is entered into or (ii) the institution has (a) participated in decentralization pilot programs in the areas of finance and capital outlay, (b) demonstrated management competency in those two areas as evidenced by a written certification from the Cabinet Secretary or Secretaries designated by the Governor, (c) received additional operational authority under a memorandum of understanding pursuant to § 23-38.90 in at least one functional area, and (d) demonstrated management competency in that area for a period of at least two years. In submitting "The Budget Bill" for calendar year 2005 pursuant to subsection A of § 2.2-1509, the Governor shall include criteria for determining whether or not an institution has demonstrated the management competency required by clause (ii) of this subdivision;

b. An absolute two-thirds, or more, of the institution's governing body shall have voted in the

affirmative for a resolution expressing the sense of the body that the institution is qualified to be, and should be, governed by the provisions of Subchapter 3 (§ 23-38.91 et seq.) of this chapter, which resolution shall be included in the initial management agreement;

c. The institution agrees to reimburse the Commonwealth for any additional costs to the Commonwealth in providing health or other group insurance benefits to employees, and in undertaking any risk management program, that are attributable to the institution's exercise of any restructured financial or operational authority set forth in Subchapter 3. The institution's agreement to reimburse the Commonwealth for such additional costs shall be expressly included in each management agreement with the institution. The Secretary of Finance and the Secretary of Administration, in consultation with the Virginia Retirement System and the affected institutions, shall establish procedures for determining any amounts to be paid by each institution and a mechanism for transferring the appropriate amounts directly and solely to the programs whose costs have been affected.

In developing management agreements, public institutions of higher education shall give consideration to potential future impacts of tuition increases on the Virginia College Savings Plan (§ 23-38.75) and shall discuss such potential impacts with parties participating in development of such agreements. The chief executive officer of the Virginia College Savings Plan shall provide to the institution and such parties the Plan's assumptions underlying the contract pricing of the program; and

d. Before executing a management agreement with the Commonwealth that affects insurance or benefit programs administered by the Virginia Retirement System, the Governor shall transmit a draft of the relevant provisions to the Board of Trustees of the Virginia Retirement System, which shall review the relevant provisions in order to ensure compliance with the applicable provisions of Title 51.1, administrative policies and procedures and federal regulations governing retirement plans. The Board shall advise the Governor and appropriate Cabinet Secretaries of any conflicts.

3. Each initial management agreement with an institution shall remain in effect for a period of three years. Subsequent management agreements with the institution shall remain in effect for a period of five years.

If an existing agreement is not renewed or a new agreement executed prior to the expiration of the three-year or five-year term, as applicable, the existing agreement shall remain in effect on a provisional basis for a period not to exceed one year. If, after the expiration of the provisional one-year period, the management agreement has not been renewed or a new agreement executed, the institution shall no longer be granted any of the financial or operational authority set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter, unless and until such time as a new management agreement is entered into between the institution and the Commonwealth.

The Joint Legislative Audit and Review Commission, in cooperation with the Auditor of Public Accounts, shall conduct a review relating to the initial management agreement with each public institution of higher education. The review shall cover a period of at least the first 24 months from the effective date of the management agreement. The review shall include, but shall not be limited to, the degree of compliance with the expressed terms of the management agreement, the degree to which the institution has demonstrated its ability to manage successfully the administrative and financial operations of the institution without jeopardizing the financial integrity and stability of the institution, the degree to which the institution is meeting the objectives described in subsection B, and any related impact on students and employees of the institution from execution of the management agreement. The Joint Legislative Audit and Review Commission shall make a written report of its review no later than June 30 of the third year of the management agreement. The Joint Legislative Audit and Review Commission is authorized, but not required, to conduct a similar review of any management agreement entered into subsequent to the initial agreement.

4. The right and power by the Governor to void a management agreement shall be expressly included in each management agreement. The management agreement shall provide that if the Governor makes a written determination that a public institution of higher education that has entered into a management agreement with the Commonwealth is not in substantial compliance with the terms of the agreement or with the requirements of this chapter in general, (i) the Governor shall provide a copy of that written determination to the chairmen of the Board of Visitors or other governing body of the public institution of higher education and to the members of the General Assembly, and (ii) the institution shall develop and implement a plan of corrective action, satisfactory to the Governor, for purposes of coming into substantial compliance with the terms of the management agreement and with the requirements of this chapter, as soon as practicable, and shall provide a copy of such corrective action plan to the members of the General Assembly. If after a reasonable period of time after the corrective action plan has been implemented by the institution, the Governor determines that the institution is not yet in substantial compliance with the management agreement or the requirements of this chapter, the Governor may void the management agreement. Upon the Governor voiding a management agreement, the affected public institution of higher education shall not be allowed to exercise any restructured financial or operational

2150 authority pursuant to the provisions of Subchapter 3 (§ 23-38.91 et seq.) unless and until the institution  
 2151 enters into a subsequent management agreement with the Secretary or Secretaries designated by the  
 2152 Governor or the void management agreement is reinstated by the General Assembly.

2153 5. A management agreement with a public institution of higher education shall not grant any of the  
 2154 restructured financial or operational authority set forth in Subchapter 3 (§ 23-38.91 et seq.) of this  
 2155 chapter to the Virginia Cooperative Extension and Agricultural Experiment Station, the University of  
 2156 Virginia College at Wise, or the Virginia Institute of Marine Sciences or to an affiliated entity of the  
 2157 institution unless such intent, as well as the degree of the restructured financial or operational authority  
 2158 to be granted, is expressly included in the management agreement.

2159 6. Following the execution of each management agreement with a public institution of higher  
 2160 education and submission of that management agreement to the Chairmen of the House Committee on  
 2161 Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate  
 2162 Committee on Education and Health pursuant to § 23-38.97, the Governor shall include a  
 2163 recommendation for approval of the management agreement in "The Budget Bill" submitted pursuant to  
 2164 subsection A of § 2.2-1509 or in his gubernatorial amendments submitted pursuant to subsection E of  
 2165 § 2.2-1509 due by the December 20 that immediately follows the date of submission of the management  
 2166 agreement to such Committees. Following the General Assembly's consideration of whether to approve  
 2167 or disapprove the management agreement as recommended, if the management agreement is approved as  
 2168 part of the general appropriation act, it shall become effective on the effective date of such general  
 2169 appropriation act. However, no management agreement shall be entered into by a public institution of  
 2170 higher education and the Secretary or Secretaries designated by the Governor after November 15 of a  
 2171 calendar year.

2172 E. A covered institution and the members of its governing body, officers, directors, employees, and  
 2173 agents shall be entitled to the same sovereign immunity to which they would be entitled if the institution  
 2174 were not governed by this chapter; provided further, that the Virginia Tort Claims Act (§ 8.01-195.1 et  
 2175 seq.) and its limitations on recoveries shall remain applicable with respect to institutions governed by  
 2176 this chapter.

2177 § 23-38.90. Memoranda of understanding.

2178 Effective July 1, 2008, any public institution of higher education may enter into a memorandum of  
 2179 understanding with the appropriate Cabinet Secretary or Secretaries, as designated by the Governor, for  
 2180 additional operational authority in any operational area or areas adopted by the General Assembly in  
 2181 accordance with law provided that the authority granted in the memorandum of understanding is  
 2182 consistent with that institution's ability to manage its operations in the particular area or areas and  
 2183 provided that the following general criteria are met:

2184 1. The institution has received and maintained ~~Council~~ the Secretary's certification pursuant to  
 2185 ~~§ 23-9.6-1.01~~ 23-9.14:4 for the most recent year that the ~~Council~~ Secretary has completed certification;

2186 2. An absolute two-thirds or more of the institution's governing body shall have voted in the  
 2187 affirmative for a resolution expressing the sense of the body that the institution is qualified to be, and  
 2188 should be, governed by memoranda of understanding as provided in this chapter; and

2189 3. The institution must adopt at least one new education-related measure for each area of operational  
 2190 authority for which a memorandum of understanding is requested. Each education-related measure and  
 2191 its respective target shall be developed in consultation with the Secretary of Finance, Secretary of  
 2192 Education, *and* the appropriate Cabinet Secretary; ~~and the Council~~. Each education-related measure and  
 2193 its respective target must be approved by the ~~Council~~ Secretary of Education and shall become part of  
 2194 the certification required by ~~§ 23-9.6-1.01~~ 23-9.14:4.

2195 Within 15 days of receipt of a request from a public institution of higher education to enter into a  
 2196 memorandum of understanding as provided herein, the Cabinet Secretary or Secretaries receiving that  
 2197 request shall notify the Chairmen of the House Committee on Appropriations and the Senate Committee  
 2198 on Finance of the request. The Cabinet Secretary or Secretaries shall determine within 90 calendar days  
 2199 whether or not to enter into the requested memorandum of understanding, or some variation thereof. If  
 2200 the determination is to enter into a memorandum of understanding with the institution, the Cabinet  
 2201 Secretary or Secretaries shall forward a copy of the governing body's resolution and a copy of the  
 2202 memorandum of understanding to the Chairmen of the House Committee on Appropriations and the  
 2203 Senate Committee on Finance. Each initial memorandum of understanding shall remain in effect for a  
 2204 period of three years. Subsequent memoranda of understanding shall remain in effect for a period of five  
 2205 years. If the determination is not to enter into a memorandum of understanding with the institution, the  
 2206 Cabinet Secretary or Secretaries shall notify the Chairmen of the House Committee on Appropriations  
 2207 and the Senate Committee on Finance of the reasons for denying the institution's request. If an  
 2208 institution's request is denied, nothing in this section shall prohibit the institution from submitting a  
 2209 future request to enter into a memorandum of understanding pursuant to this section.

2210 § 23-38.93. Educational policies of the Commonwealth; other requirements.

2211 A. For purposes of §§ 2.2-5004, 23-1.01, 23-1.1, 23-2, 23-2.1, 23-2.1:1, 23-3, 23-4.2, 23-4.3, 23-4.4,

23-7.1:02, 23-7.4, 23-7.4:1, 23-7.4:2, 23-7.4:3, 23-7.5, 23-8.2:1, 23-9.1, 23-9.2, 23-9.2:3, 23-9.2:3.03, 23-9.2:3.1 through 23-9.2:5, ~~23-9.6:1.04~~ 23-9.14:4, and Chapter 4.9 (§ 23-38.75 et seq.), each covered institution shall remain a public institution of higher education of the Commonwealth following its conversion to a covered institution governed by this chapter, and shall retain the authority granted and any obligations required by such provisions. In addition, each covered institution shall retain the authority, and any obligations related to the exercise of such authority, that is granted to institutions of higher education pursuant to ~~Chapter 1.1 (§ 23-9.3 et seq.); Chapter 1.1:1 (§ 23-9.14:3 et seq.);~~ Chapter 3 (§ 23-14 et seq.); Chapter 3.2 (§ 23-30.23 et seq.); Chapter 3.3 (§ 23-30.39 et seq.); Chapter 4 (§ 23-31 et seq.); Chapter 4.01 (§ 23-38.10:2 et seq.); Chapter 4.1 (§ 23-38.11 et seq.); Chapter 4.4 (§ 23-38.45 et seq.); Chapter 4.4:1 (§ 23-38.53:1 et seq.); Chapter 4.4:2 (§ 23-38.53:4 et seq.); Chapter 4.4:3 (§ 23-38.53:11); Chapter 4.4:4 (§ 23-38.53:12 et seq.); Chapter 4.5 (§ 23-38.54 et seq.); Chapter 4.7 (§ 23-38.70 et seq.); Chapter 4.8 (§ 23-38.72 et seq.); and Chapter 4.9 (§ 23-38.75 et seq.).

B. State government-owned or operated and state-owned teaching hospitals that are a part of a covered institution as of the institution's effective date of the 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 Medicaid Services adopted pursuant to § 32.1-325 et seq., provided that the covered institution commits to serve indigent and medically indigent patients, in which event the Commonwealth, through the Department of Medical Assistance Services, shall, subject to the appropriation in the appropriation act in effect, continue to reimburse the full cost of the provision of care, treatment, health-related and educational services to indigent and medically indigent patients and continue to treat hospitals that were part of a covered institution and that were Type One Hospitals prior to the institution's effective date of the initial Management Agreement as Type One Hospitals for purposes of such reimbursement.

§ 23-50.16:01. Virginia Commonwealth University School of Medicine-Northern Virginia Division; authority to create.

The board of visitors of Virginia Commonwealth University is authorized to establish the Virginia Commonwealth University School of Medicine-Northern Virginia Division, hereinafter referred to as the Division. If established, the Division shall be operated with areas of program and service emphasis as may be approved by the ~~State Council of Higher Education for Virginia~~ *Secretary of Education* pursuant to ~~subdivision 7 of § 23-9.6:1~~ 23-9.14:17.

The board of visitors shall have the same powers with respect to the operation of the Division as are vested in the board regarding Virginia Commonwealth University pursuant to this chapter.

§ 23-214. Definitions.

As used in this chapter:

(a) "Comprehensive community college" means an institution of higher education ~~which~~ *that* offers instruction in one or more of the following fields:

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

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

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

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

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

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

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

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

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

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

§ 23-218. Plan for comprehensive community colleges; appropriations; tuition fees and charges; grants or contributions; apprenticeships.

A. The ~~Board~~ *Secretary of Education* is authorized and directed to 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, develop a statewide plan for their location and a time schedule for their establishment. In the development of such plan, a principal objective shall be to provide and maintain a system of comprehensive community colleges through which appropriate educational opportunities and programs to accomplish the purposes set forth in ~~subdivision (a) of the definition of comprehensive community college in § 23-214~~ shall be made available throughout the Commonwealth. In providing these offerings, the ~~Board Secretary~~ shall recognize the need for excellence in all curricula and shall endeavor to establish and maintain standards appropriate to the various purposes the respective programs are designed to serve.

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

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

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

§ 23-219. Diplomas, certificates and associate degrees.

The ~~Board Secretary of Education~~ shall have the right to confer diplomas, certificates and associate degrees.

§ 23-220. Local community college boards.

The State Board shall establish policies providing for the creation of a local community college board for each institution established under this chapter and the procedures and regulations under which such local boards shall operate. A local community college board as defined in § 23-214 shall be established for each college. These boards shall assist in ascertaining educational needs, enlisting community involvement and support, and shall perform such other duties as may be prescribed by the State Board necessary to facilitate the mission of the college.

§ 23-220.01. Apprenticeship program for employees of ship manufacturing and ship repair companies; fund.

A. For purposes of this section:

"Apprenticeship program" means a three-year program combining educational instruction and on-the-job training that is established for the purpose of enhancing the education and skills of shipyard workers.

"College" means the Tidewater Community College.

"Industrial applied sciences" may include applied sciences such as welding, burning, blasting, and other applied sciences.

"Shipyard worker" means any employee employed full time on a salaried or wage basis, whose tenure is not restricted as to temporary or provisional appointment, at a ship manufacturing or ship repair company located in the Commonwealth.

B. Subject to the State Council of Higher Education for Virginia's Secretary of Education's authority to approve or disapprove all new academic programs as provided in ~~subdivision 5 of § 23-9.6:1 23-9.14:17~~, the college may offer a three-year program of educational instruction that incorporates instruction in industrial applied sciences. An Associate in Applied Science Degree shall be conferred on any person successfully completing such academic program. The college may coordinate such academic program with an apprenticeship program offered to shipyard workers by their employers.

C. Beginning in the calendar year that the ~~Council Secretary~~ approves such academic program and for calendar years thereafter, shipyard workers who are (i) domiciled residents of Virginia as described in § 23-7.4 and (ii) enrolled as full- or part-time students in such academic program, shall be eligible for scholarships for such program. Renewal of the scholarships of such shipyard workers shall be contingent upon maintaining (a) enrollment in such academic program, (b) a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent at the completion of each academic year, and (c) full-time employment as a shipyard worker.

D. Before any scholarship is awarded in accordance with the provisions of this section, the scholarship recipient shall sign a promissory note under which he agrees (i) to continue full-time employment as a shipyard worker until his graduation and (ii) upon graduation, to work continuously as a shipyard worker for the same number of years that he was the beneficiary of such scholarship. The ~~State Council Secretary~~ may recover the total amount of funds awarded as a scholarship, or the

appropriate portion thereof, including any accrued interest, if the scholarship recipient fails to honor such requirements.

E. There is hereby created the Virginia Vocational Incentive Scholarship Program for Shipyard Workers to provide scholarships to shipyard workers enrolled at the college in such academic program.

F. From such funds as are appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Vocational Incentive Scholarship Program for Shipyard Workers Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Funds may be paid to the college on behalf of shipyard workers who have been awarded scholarships pursuant to subsection C. Funds may also be used for the administration and implementation of such academic program and/or the apprenticeship program.

Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the ~~Director of the State Council of Higher Education for Virginia~~ *Secretary of Education*.

G. The ~~Council~~ *Secretary* shall promulgate regulations for the implementation of the provisions of this section and shall award scholarships to eligible students for no more than three academic years. Scholarship amounts shall not exceed full tuition and required fees relating to such academic program.

§ 23-220.3. Community College Incentive Scholarship Fund created.

A. From such funds as are appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby created in the state treasury a special nonreverting fund to be known as the Community College Incentive Scholarship Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Funds may be paid to any comprehensive community college on behalf of students who have been awarded scholarships pursuant to § 23-220.4. The first such scholarships shall be awarded after July 1, 1998.

Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the ~~State Board for Community Colleges~~ *president of the relevant local community college board*.

B. ~~The Board~~ *Each local community college board* shall promulgate regulations for the implementation of the provisions of this article and shall award scholarships to eligible students meeting the criteria established pursuant to § 23-220.4.

§ 23-220.4. Eligible students; criteria for award of scholarships.

A. Only students who (i) are domiciled residents of Virginia as defined by § 23-7.4, (ii) are enrolled as second-year students on a full-time basis in a designated technical training program at a comprehensive community college in Virginia, and (iii) have a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent upon the completion of one year as a full-time student at a comprehensive community college in Virginia shall be eligible to receive such scholarships.

B. The ~~Board~~ *Secretary of Education*, in consultation with the Virginia Economic Development Partnership, shall designate those technical training programs for which scholarships may be awarded. The selected programs shall reflect current and projected workforce training needs in the Commonwealth.

C. Scholarships awarded pursuant to this article shall provide for the payment in full of tuition and fees for enrollment for one year as a full-time, second-year student.

§ 23-221. Adherence to state and federal policies; extension programs.

The ~~State Board~~ *Each local community college board* shall adhere to ~~the state policies of the State Council of Higher Education for the coordination enacted to ensure a high quality, seamless, and coordinated system of higher education, and such policies as may be required by federal law.~~

In any area served by a comprehensive community college, no institution of higher ~~learning which education that~~ conducts extension programs shall, after July 1, 1966, offer courses of study similar to those offered by a comprehensive community college, except as authorized by the ~~State Council of Higher~~ *Secretary of Education*. Whenever practicable, ~~the State Board~~ *each local community college board* shall provide facilities to such institutions of higher ~~learning~~ *education* for conducting extension programs not in conflict with the provisions of this chapter.

§ 23-222. Transfer of facilities, assets and programs.

(a) ~~Effective July 1, 1967, all~~ A. All physical facilities, assets and programs of instruction in the fields specified in ~~subdivision (a) of the definition of comprehensive community college in § 23-214 of~~

the following institutions shall be transferred to and placed under the control and administration of the ~~State Board for Community Colleges~~; *local community college board serving the jurisdiction in which the following institutions are located:*

1. Eastern Shore Branch of the School of General Studies of the University of Virginia;
2. Lynchburg Branch of the School of General Studies of the University of Virginia;
3. Patrick Henry College of the University of Virginia;
4. Clifton Forge-Covington Branch of the Virginia Polytechnic Institute and State University;
5. Roanoke Technical Institute of the Virginia Polytechnic Institute and State University;
6. Roanoke Center of the School of General Studies of the University of Virginia; and
7. Wytheville Branch of the Virginia Polytechnic Institute and State University.

~~Provided, however, that no~~ *No* such transfer shall take place with respect to any individual institution specified in the next preceding paragraph *this subsection* until (1) (i) the Advisory Committee on Community Colleges certifies to the ~~State Board Secretary of Education~~ and the Governor that such individual institution has demonstrated the requirements necessary for accreditation by the Southern Association of Colleges and Schools and (2) (ii) the Governor signifies in writing his approval of such transfer. If such certification by the Advisory Committee is not made with respect to any individual institution prior to July 1, 1967, then certification shall only be made between July one and August one of any succeeding year, and such transfer shall take place, if the Governor signifies in writing his approval of such transfer, on July one next following the date on which such certification is made.

The college or university of which any individual institution is a part shall cooperate in obtaining certification for such institution. As soon as practicable, ~~the State Board Secretary of Education~~ shall request individual accreditation of the institutions specified in this section by the Southern Association of Colleges and Schools.

Notwithstanding any provision of this subsection or any other provision of this chapter, it is further provided that by agreement between the ~~State Board~~ *board of the local community college serving the jurisdiction in which the institution is located* and the governing body of the college or university of which any such individual institution is a part, and with the approval of the Governor, such transfer may take place prior to July 1, 1967, or any date subsequent thereto.

(b) *B.* Effective July 1, 1966, the physical facilities, assets and programs of existing technical colleges and all assets of the existing State Board and Department of Technical Education shall be transferred to and placed under the control and administration of the ~~State Board for Community Colleges~~ *boards of the local community colleges*.

(c) *C.* Effective July 1, 1966, all educational programs for post-high school age youth and adults in existing area career and technical schools under the State Board of Education shall be transferred to and placed under the control and government of the ~~State Board for Community Colleges~~ *board of the local community colleges serving the jurisdiction in which the career and technical school is located*.

(d) *D.* All the real estate and personal property now existing and heretofore [before July 1, 1966] standing in the name of institutions or boards included in subsections (a) *A* and (b) *of this section B* shall, on the dates set forth in such subsections, be transferred to and taken as standing in the name of the ~~State Board for Community Colleges~~ *board of the local community colleges serving the jurisdiction in which the career and technical school is located*.

(e) *E.* In effecting the transfers specified in this section, the ~~State Board for Community Colleges~~ *board of the local community colleges serving the jurisdiction in which the career and technical school is located* shall respect any existing financial investment of local communities in these institutions by establishing policies which will insure an equitable method of financing future developments.

§ 23-224. Duties of Secretary of Education generally.

(a) It shall be the duty of the ~~Chancellor of Community Colleges~~ *Secretary of Education* to formulate such rules and regulations, and provide for such assistance in his office as shall be necessary for the proper performance of the duties prescribed by the provisions of this chapter.

(b) ~~The State Board shall prescribe the duties of the Chancellor, in addition to those duties otherwise prescribed for him by law, and, in its discretion, approve the appointment by the Chancellor of such agents and employees as may be needed by the Chancellor in the exercise of the functions, duties and powers conferred and imposed by law and in order to effect a proper organization to carry out his duties.~~

§ 23-225. Agents and employees generally.

The functions, duties, powers and titles of the agents and employees provided for in § 23-224, their salaries and remunerations, not in excess provided therefor by law, shall be fixed by the ~~Chancellor with the approval of the State Board and Secretary of Education~~, subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

§ 23-229. Cooperation with federal agencies; federal grants-in-aid generally.

(a) ~~Subject to the direction of the Board, the Chancellor~~ *A. The Secretary of Education* shall 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.

(b) *B.* Nothing in this chapter shall preclude any other agency, board or officer of the Commonwealth from being designated as the directing or allocating agency, board or officer for the distribution of federal grants-in-aid or the performance of other duties to the extent necessary to qualify for and to receive grants-in-aid for programs and institutions under the administration of the State Board for Community Colleges the Virginia Community College System.

§ 23-230. Secretary of Education authorized to receive grants-in-aid and gifts; payment of funds into state treasury.

The ~~Chancellor~~ *Secretary of Education* is authorized to receive, for and on behalf of the Commonwealth and its subdivisions, from the United States and agencies thereof, and from any and all other sources, grants-in-aid and gifts, made for the purpose of providing, or to assist 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.

§ 23-231. Enforcement of standards for personnel.

The ~~Chancellor~~ *Secretary of Education* shall enforce the standards established by the Board for personnel employed in the administration of this chapter and remove or cause to be removed each employee who does not meet such standards.

§ 23-231.1. Community College Week.

The General Assembly finds that the community colleges in Virginia provide the general public with quality educational services which contribute to maintaining a knowledgeable and skilled citizenry. In recognition of these services, the fourth week in January of every year beginning in 1986 shall be declared "Community College Week." The ~~State Board for Community Colleges~~ *Secretary of Education* may approve such activities in observance of this week as it deems appropriate.

§ 23-231.2. Southwest Virginia Higher Education Center created; duties.

From such funds as may be appropriated, the Southwest Virginia Higher Education Center is hereby established as an educational institution in the Commonwealth and shall be referred to in this chapter as the "Center". The Center shall:

1. Encourage the expansion of higher education, including adult and continuing education, associate degrees to be offered by Virginia Highlands Community College, undergraduate degrees to be offered by the University of Virginia's College at Wise, and graduate degree programs, in the Southwest region of the Commonwealth and foster partnerships between the public and private sectors to enhance higher education in the region;

2. Coordinate the development and delivery of continuing education programs offered by those educational institutions serving the region;

3. Facilitate the delivery of teacher training programs leading to licensure and graduate degrees;

4. Serve as a resource and referral center by maintaining and disseminating information on existing educational programs and resources; and

5. Develop, in coordination with the ~~State Council of Higher Education for Virginia~~ *Secretary of Education*, specific goals for higher education in Southwest Virginia.

§ 23-231.3. Membership of governing board; terms; compensation; officers.

A. The Center shall be governed by a ~~23~~ 22-member Board of Trustees, consisting of the ~~Director of the State Council of Higher Education for Virginia or his designee; the Chancellor of the Virginia Community College System or his designee~~ *Secretary of Education or his designee*; the presidents or chancellors, as appropriate, or their designees of Virginia Polytechnic Institute and State University, Radford University, the University of Virginia, the University of Virginia's College at Wise, Old Dominion University, Emory and Henry College, Virginia Intermont College, and Virginia Highlands Community College; four members of the House of Delegates to be appointed by the Speaker of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; and seven nonlegislative citizen members to be appointed by the Governor, representing Southwest public education and area business and industry, including one school division superintendent, one public school teacher, two business and industry leaders, and three persons, one each representing the technology, tourism, and health care industries, respectively. 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, *the Secretary of Education or his designee*, and the representatives of the ~~State Council, the Virginia Community College System, and~~ the named institutions of higher education shall serve terms coincident with their terms of office. After the initial staggering of terms, all nonlegislative citizen appointments shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

2519 No nonlegislative citizen member of the Board shall be eligible to serve more than two successive  
2520 four-year terms, but after the expiration of the remainder of a term to which appointed to fill a vacancy,  
2521 two additional four-year terms may be served by such member if appointed thereto.

2522 C. Nonlegislative citizen members shall not be entitled to compensation for their services. Legislative  
2523 members of the Board shall be compensated as provided in § 30-19.12, and all members of the Board  
2524 shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties  
2525 in the work of the Center as provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of  
2526 compensation and expenses of the members shall be provided by the Center.

2527 D. The Board shall elect a chairman and a vice-chairman from among its members.

2528 § 23-231.14. Responsibilities of the Authority.

2529 The Authority shall:

2530 1. Expand access to higher education in the Roanoke Valley by providing for adult and continuing  
2531 education and degree-granting programs, including undergraduate, graduate and professional programs,  
2532 through partnerships with the Commonwealth's public and private institutions of higher education;

2533 2. Serve as a resource and referral center on existing educational programs and resources by  
2534 maintaining and disseminating information;

2535 3. Develop, in coordination with the ~~State Council of Higher Education for Virginia~~ *Secretary of*  
2536 *Education*, specific goals for higher education access and availability in the Roanoke Valley; and

2537 4. Accept, administer, and account for any state grant to a nonstate entity which may be provided in  
2538 the name of the Roanoke Higher Education Center or in the name of the Roanoke Higher Education  
2539 Authority.

2540 § 23-231.15. Board of Trustees; appointments; terms; compensation; officers.

2541 A. The Authority shall be governed by a Board of Trustees consisting of 23 22 members as follows:  
2542 the ~~Director of the State Council of Higher Education for Virginia or his designee; the Chancellor of the~~  
2543 ~~Virginia Community College System~~ *Secretary of Education* or his designee; and the presidents or their  
2544 designees of Averett College, Bluefield College, Hampton University, Hollins University, Jefferson  
2545 College of Health Sciences, Mary Baldwin College, Old Dominion University, Radford University,  
2546 Roanoke College, University of Virginia, Virginia Polytechnic Institute and State University, and  
2547 Virginia Western Community College; the Director of TAP This Valley Works; two members of the  
2548 House of Delegates to be appointed by the Speaker of the House of Delegates; one member of the  
2549 Senate to be appointed by the Senate Committee on Rules; and five nonlegislative citizen members  
2550 representing business and industry in the Roanoke Valley to be appointed by the Governor.  
2551 Nonlegislative citizen members of the Board shall be citizens of the Commonwealth and residents of the  
2552 Roanoke region.

2553 B. The legislative members, the ~~Director of the State Council of Higher Education for Virginia, the~~  
2554 ~~Chancellor of the Virginia Community College System~~ *Secretary of Education or his designee*, the  
2555 Director of TAP This Valley Works, and the presidents or their designees of the named institutions of  
2556 higher education shall serve terms coincident with their terms of office. After the initial staggering of  
2557 terms, all nonlegislative citizen members shall be appointed for terms of four years, except that  
2558 appointments to fill vacancies shall be for the unexpired terms. Vacancies shall be filled in the same  
2559 manner as the original appointments. No nonlegislative citizen member of the Board shall be eligible to  
2560 serve more than two successive four-year terms; however, after the expiration of the remainder of a term  
2561 to which appointed to fill a vacancy, two additional four-year terms may be served by such member, if  
2562 appointed thereto.

2563 C. Nonlegislative citizen members shall not be entitled to compensation for their services. Legislative  
2564 members of the Board shall receive such compensation as provided in § 30-19.12, and all members of  
2565 the Board shall be reimbursed for all reasonable and necessary expenses incurred in the performance of  
2566 their duties in the work of the Authority as provided in §§ 2.2-2813 and 2.2-2825. Funding for the  
2567 compensation and expenses of the members shall be provided by the Authority.

2568 D. The Board shall elect a chairman and a vice-chairman from among its members and may establish  
2569 bylaws as necessary.

2570 § 23-231.24. Southern Virginia Higher Education Center created; duties.

2571 From such funds as may be appropriated, the Southern Virginia Higher Education Center, previously  
2572 established as an off-campus center of Longwood University, is hereby continued as an educational  
2573 institution in the Commonwealth and shall be referred to in this chapter as the "Center." The Center  
2574 shall:

2575 1. Encourage the expansion of higher education, including adult and continuing education, associate,  
2576 undergraduate, and graduate degree programs in the region, and foster partnerships between the public  
2577 and private sectors to enhance higher education in the region;

2578 2. Coordinate the development and delivery of continuing education programs offered by those  
2579 educational institutions serving the region;

2580 3. Facilitate the delivery of teacher training programs leading to licensure and graduate degrees;

4. Serve as a resource and referral center by maintaining and disseminating information on existing educational programs and resources; and

5. Develop, in coordination with the ~~State Council of Higher Education for Virginia~~ *Secretary of Education*, specific goals for higher education in Southside Virginia.

§ 23-231.25. Membership of governing board; terms; compensation; officers.

A. The Center shall be governed by a ~~15~~ *14*-member Board of Trustees, consisting of the ~~Director of the State Council of Higher Education for Virginia or his designee; the Chancellor of the Virginia Community College System~~ *Secretary of Education* or his designee; the presidents or chancellors, as appropriate, or their designees of Longwood University, Danville Community College, and Southside Virginia Community College; the division superintendent of Halifax County public schools; two members of the House of Delegates to be appointed by the Speaker of the House of Delegates; one member of the Senate to be appointed by the Senate Committee on Rules; and six nonlegislative citizen members to be appointed by the Governor, including the chairman and two other members of the Halifax Education Foundation, and three representatives of business and industry. The Speaker of the House of Delegates may appoint an alternate for the Delegate appointed to the Center. The alternate shall serve a term coincident with the term of the Delegate and shall have the power to act in his absence. The Senate Committee on Rules may appoint an alternate for the Senator appointed to the Center. The alternate shall serve a term coincident with the term of the Senator and shall have the power to 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.

B. Legislative members, *the Secretary of Education or his designee*, and the representatives of ~~the Council, the Virginia Community College System, and~~ the named institutions of higher education shall serve terms coincident with their terms of office. After the initial staggering of terms, all nonlegislative citizen appointments shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No nonlegislative citizen member of the Board shall be eligible to serve more than two successive four-year terms, but after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional four-year terms may be served by such member if appointed thereto.

C. Nonlegislative citizen members shall not be entitled to compensation for their services. Legislative members of the Board shall be compensated as provided in § 30-19.12, and 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 members.

§ 23-261. Secretary of Education responsible for federal programs.

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

§ 23-276.1. Definitions.

As used in this chapter:

"Academic-Vocational" refers to a noncollege degree school that offers degree and nondegree credit courses.

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

"Certificate" or "diploma" means an award that is given 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 and academic-vocational noncollege degree schools.

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

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

2642 "Council" means the State Council of Higher Education for Virginia.

2643 "Degree" means any earned award at the associate, baccalaureate, graduate, first professional or  
2644 specialist levels that represents satisfactory completion of the requirements of a program or course of  
2645 study or instruction beyond the secondary school level.

2646 "Degree credit course" means any earned credits awarded for successful completion of the  
2647 requirements of a course of study or instruction beyond the secondary school level, which may be used  
2648 toward completion of a certificate or diploma, or an associate, baccalaureate, graduate, first professional  
2649 or specialist level degree.

2650 "Fraudulent academic credential" means a diploma, certification, academic transcript, or other  
2651 document issued by a person or an entity that is not an institution of higher education that provides  
2652 evidence of or demonstrates completion of course work or academic credit that results in the issuance of  
2653 an associate or more advanced degree.

2654 "In-state institution" means an institution of higher education that is formed, chartered, or established  
2655 within Virginia. An out-of-state institution shall be deemed an in-state institution for the purposes of  
2656 certification as a degree-granting institution if (i) it has no instructional campus in the jurisdiction in  
2657 which it was formed, chartered, established, or incorporated and (ii) it produces clear and convincing  
2658 evidence that its main or principal campus is located in Virginia.

2659 "Institution of higher education" or "institution" means any person or entity, other than a Virginia  
2660 state-supported institution of higher education named in § 23-9.5 23-9.2:12 or any public institution of  
2661 higher education established in statute as an authority and declared a governmental instrumentality  
2662 pursuant to § 23-14, that has received approval from the ~~Council~~ Secretary of Education to (i) use the  
2663 term "college" or "university," or words of like meaning, in its name or in any manner in connection  
2664 with its academic affairs or business; (ii) enroll students; or (iii) offer approved courses for degree credit  
2665 or programs of study leading to a degree or to offer degrees either at a site in Virginia or via  
2666 telecommunications equipment located within Virginia.

2667 "Multistate compact" means any agreement involving two or more states to offer jointly  
2668 postsecondary educational opportunities, pursuant to policies and procedures set forth by such agreement  
2669 and approved by the ~~Council~~ Secretary of Education.

2670 "Noncollege degree school" means any postsecondary school that offers courses or programs of study  
2671 that do not lead to an associate or higher level degree. Such schools may be academic-vocational or  
2672 vocational.

2673 "Nondegree credit course" means any earned credits awarded for successful completion of the  
2674 requirements of a course of study or instruction beyond the secondary school level, which may be used  
2675 toward completion of a certificate or diploma, but may not be used to earn an associate or higher level  
2676 degree.

2677 "Out-of-state institution" means an institution of higher education that is formed, chartered,  
2678 established, or incorporated outside the Commonwealth.

2679 "Postsecondary school" or "school" means any entity offering formal instructional programs with a  
2680 curriculum designed primarily for students who have completed the requirements for a high school  
2681 diploma or its equivalent. Such schools include programs of academic, vocational, and continuing  
2682 professional education, and exclude avocational and adult basic education programs. For the purposes of  
2683 this chapter, a "postsecondary school" shall be classified as either an institution of higher education as  
2684 defined in this section or a noncollege degree school, as defined in this section.

2685 "Program" means a curriculum or course of study in a discipline or interdisciplinary area that leads  
2686 to a degree, certificate, or diploma.

2687 "Program area" means a general group of disciplines in which one or more degree programs,  
2688 certificates, or diplomas may be offered.

2689 "Proprietary" means a privately owned and managed, profit-making institution of higher education or  
2690 noncollege degree school.

2691 "Site" means a location in Virginia where a postsecondary school (i) offers one or more courses on  
2692 an established schedule and (ii) enrolls two or more persons who are not members of the same  
2693 household. A site may be a branch of such postsecondary school, and shall not be required to possess  
2694 administrative capability.

2695 "University" means any institution offering programs leading to degrees or degree credit beyond the  
2696 baccalaureate level.

2697 "Vocational" refers to a noncollege degree school that offers only nondegree credit courses.

2698 § 23-276.2. Exemptions.

2699 A. The provisions of this chapter shall not apply to the public state-supported institutions named in  
2700 § 23-9.5 23-9.2:12 or any public institution of higher education established in statute as an authority and  
2701 declared a governmental instrumentality pursuant to § 23-14.

2702 B. In addition, the following activities or programs offered by schools that are otherwise subject to  
2703 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 or curriculum regulated by the Board of Nursing;

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

4. Those courses or programs of instruction given by or approved by any 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;

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

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

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

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

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

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

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

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

§ 23-276.4. Secretary of Education certification required for the conferring of certain degrees and other awards or the offering of certain programs.

A. Without obtaining the certification of the ~~Council~~ *Secretary of Education* or a determination that the activity or program is exempt from such certification requirements, no postsecondary school subject to the provisions of this chapter 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 nondegree credit courses, either at a site in Virginia or via telecommunications equipment located within Virginia; or

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

B. All institutions of higher education and academic-vocational noncollege degree schools subject to the provisions of this chapter shall be fully accredited by an accrediting agency recognized by the United States Department of Education. All out-of-state academic-vocational noncollege degree schools operating in good standing in the Commonwealth prior to July 1, 2006, that have not obtained accreditation by an accrediting agency recognized by the United States Department of Education shall secure accreditation candidacy status by July 1, 2009, and shall secure full accreditation by an accrediting body recognized by the United States Department of Education by July 1, 2012. Further, on and after July 1, 2006, all out-of-state academic-vocational noncollege degree schools, subject to the

provisions of this chapter, shall disclose their accreditation status in all written materials advertising or describing the school that are distributed to prospective or enrolled students or the general public.

C. Institutions of higher education shall not be required to obtain another certification from the ~~Council~~ *Secretary* to operate in Virginia if they (i) were formed, chartered or established in the Commonwealth, or chartered by an Act of Congress; (ii) have maintained a main or branch campus continuously in the Commonwealth for at least 10 calendar years under their current ownership; (iii) were continuously approved or authorized to confer or grant academic or professional degrees by the ~~Council~~ *Secretary*, by the Board of Education or by an act of the General Assembly during those 10 years; and (iv) are fully accredited by an accrediting agency that is recognized by, and has met the criteria for Title IV eligibility of the United States Department of Education. If authorization to confer or grant academic or professional degrees is revoked, the institution must seek recertification and must do so annually until it meets the criteria of this subsection.

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

1. The institution is fully accredited by an accrediting agency recognized by the United States Department of Education;

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

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

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

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

§ 23-276.5. Approval procedures.

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

B. Upon finding that the applicant has fully complied with regulations, the ~~Council~~ *Secretary* shall approve the application.

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

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

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

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

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

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

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

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

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

B. The ~~Council~~ *Secretary* 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~~ *Secretary* to be misleading to consumers, students, or the general public regarding the school's affiliation or association with any public institution or system of higher education in the Commonwealth. The ~~Council~~ *Secretary* shall not, however, add conditions to, revoke, or suspend a prior approval of a name. The ~~Council~~ *Secretary* shall, by regulation, designate the terms deemed to be misleading, which shall include, but shall not be limited to, "public university," "public college," and "community college."

C. The ~~Council~~ *Secretary* shall notify the school by certified mail, return receipt requested, of its intention to deny an application, suspend or revoke a prior approval or certification, as the case may be,

or add conditions to an approval or certification, as the case may be, and shall state in writing the reasons for the denial, suspension, revocation, or conditions. The school may, within 10 days of receipt of the certified mail notice, submit a written request for a proceeding before the *Council Secretary* pursuant to Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of Title 2.2.

D. The *Council Secretary* may issue orders to comply with its regulations or the provisions of this chapter; 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 school aggrieved by a decision of the *Council Secretary* to deny an application or suspend or revoke a prior approval or certification, as the case may be, or add conditions to an approval or certification, or aggrieved by any order to comply with the *Council's Secretary's* regulations or this chapter may appeal such decision. The *Council Secretary* 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 school that has had its approval or certification, as the case may be revoked or suspended by the *Council Secretary* shall file a new application for certification and shall provide clear and convincing evidence that the conditions resulting in the suspension or revocation have been remedied and that the school is in compliance with this chapter and the *Council's Secretary's* regulations.

§ 23-276.7. Emergency actions.

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

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

2. Require the 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 Secretary* shall either ratify the director's action or take such other actions as it may deem necessary.

§ 23-276.8. Preservation of students' records required.

A. Every school approved by the *Council Secretary* to operate in Virginia after July 1, 1980, shall ensure the preservation of students' records by binding agreement with another school or records-maintenance organization with which the school is not corporately connected or in such other manner as the *Council Secretary* may authorize by regulation.

B. In the event of school closure or revocation of its approval or certification, as the case may be, the *Council Secretary* may facilitate, as it deems appropriate, the transfer of the student records to the repository required by subsection A. In the event the repository fails to secure and preserve the students' records, the *Council Secretary*, through its director, shall be authorized to take such actions as may be necessary to secure and preserve the students' records until such time as one or more repositories accept the records.

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

§ 23-276.9. Fees.

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

§ 23-276.10. Prohibited acts.

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

This subsection shall not apply to any person or other entity that (i) used the term "college" or "university" openly and conspicuously in its title within the Commonwealth prior to July 1, 1970; (ii) was granted authority to operate in Virginia by the *Council Secretary* between July 1, 1970, and July 1,

2888 2002, and maintains valid authority to so operate in Virginia after July 1, 2002; (iii) was exempted from  
2889 the provisions of Chapter 21 (§ 23-265 et seq.) of this title, as such law was in effect prior to July 1,  
2890 2002; or (iv) was authorized by the ~~Council~~ Secretary to use a name while its request for approval to  
2891 enroll students is pending before the ~~Council~~ Secretary.

2892 B. No person or other entity shall sell, barter, or exchange for any consideration, or attempt to sell,  
2893 barter, or exchange for any consideration, any degree credit, degree, diploma, or certificate.

2894 C. No person or other entity shall use, or attempt to use, in connection with any business, trade,  
2895 profession, or occupation, any degree or certification of degree or degree credit, including, but not  
2896 limited to, a transcript of coursework that he knows or has reason to know has been fraudulently issued,  
2897 obtained, forged, materially altered, or purchased.

2898 D. No person or other entity shall issue or manufacture a fraudulent academic credential.

2899 E. No person or other entity shall physically present a fraudulent academic credential, knowing it is  
2900 fraudulent, in an attempt to obtain employment, promotion, licensure, or admission to an institution of  
2901 higher education.

2902 F. No person or entity that is not an institution of higher education accredited by an accrediting  
2903 agency recognized by the U.S. Department of Education, or having the foreign equivalent of such  
2904 accreditation, shall in any way represent that the person or entity is so accredited.

2905 G. Unless exempted from the provisions of this chapter or granted approval by the ~~Council~~ Secretary  
2906 in accordance with this chapter and relevant regulations, no person or other entity shall represent that  
2907 credits earned at or granted by any institution of higher education or academic-vocational noncollege  
2908 degree school may be applied for credit toward a degree.

2909 § 23-276.12. Violations; criminal penalty; injunction proceeding; civil penalty.

2910 A. Violations of this chapter or the ~~Council's~~ Secretary's implementing regulations may be punishable  
2911 as a Class 1 misdemeanor. Each degree, diploma, certificate, program, academic transcript or course of  
2912 study offered, conferred, or used in violation of this chapter or the ~~Council's~~ Secretary's regulations shall  
2913 constitute a separate offense.

2914 B. The ~~Council~~ Secretary may also institute a proceeding in equity to enjoin any violation of this  
2915 chapter or its implementing regulations. Further, if no criminal prosecution is instituted against such  
2916 postsecondary school pursuant to subsection A, the ~~Council~~ Secretary shall have the authority to recover  
2917 a civil penalty of at least \$200 but not more than \$1,000 per violation, with each unlawful act  
2918 constituting a separate violation. In no event shall the civil penalties against any one person, corporation,  
2919 or other entity exceed \$25,000 per year.

2920 C. Upon substantially prevailing on the merits of the case and unless special circumstances would  
2921 render such an award unjust, the ~~Council~~ Secretary shall be entitled to an award of reasonable ~~attorney's~~  
2922 attorney fees and costs in any action to enjoin violations of this chapter or its implementing regulations.

2923 § 23-276.13. Establishment of the Career College Advisory Board.

2924 A. The ~~Council~~ Secretary of Education shall establish and seek the advice of the Career College  
2925 Advisory Board, which shall assist the ~~Council~~ Secretary in the performance of ~~its~~ *his* duties and  
2926 provide advisory services in academic and administrative matters related to private proprietary  
2927 institutions of higher education and academic-vocational noncollege degree schools. The Career College  
2928 Advisory Board shall be composed of college and university representatives and such other members as  
2929 the ~~Council~~ Secretary may select and shall be broadly representative of the private proprietary sector of  
2930 institutions of higher education and academic-vocational noncollege degree schools.

2931 B. The Career College Advisory Board shall meet at least twice each year and shall advise the  
2932 ~~Council~~ Secretary and the private proprietary accredited institutions of higher education and  
2933 academic-vocational noncollege degree schools in the Commonwealth regarding such matters as may  
2934 come before it. The ~~Council~~ Secretary may employ such qualified personnel as may be required to assist  
2935 the Career College Advisory Board in the performance of its duties.

2936 § 23-276.14. Certificates generally.

2937 No person shall open, operate or conduct any postsecondary school in ~~this~~ *the* Commonwealth  
2938 without a certificate to operate such postsecondary school issued by the ~~Council~~ Secretary. The ~~Council~~  
2939 Secretary shall issue a certificate to those postsecondary schools in compliance with the ~~Council~~  
2940 Secretary's regulations issued pursuant to this chapter.

2941 Postsecondary schools shall seek such certification from ~~Council~~ *the Secretary* immediately after  
2942 receipt of a valid business license issued by the relevant official of the locality in which it seeks to  
2943 operate.

2944 § 23-276.15. List of postsecondary schools holding valid certificates.

2945 The ~~Council~~ Secretary shall maintain a list of postsecondary schools holding valid certificates under  
2946 the provisions of this chapter, which shall be available for the information of the public.

2947 Upon confirmation of any notification or discovery of any postsecondary school operating without its  
2948 certification or approval, the ~~Council~~ Secretary shall notify in writing the relevant local Commissioner of  
2949 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 school's business license.

§ 23-277. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

"Board" means the Commonwealth Health Research Board.

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

"Fund" means the Commonwealth Health Research Fund.

§ 28.2-245. Fishery Resource Grant Fund established; purpose; Consortium to award grants.

A. There is hereby established within the state treasury a special permanent, nonreverting fund, to be known as the Fishery Resource Grant Fund, which shall hereafter be known as the "Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of sums appropriated to it by the General Assembly as provided for under § ~~23-9.9-1~~ and such other moneys as may be made available from any other source, public or private, including any federal grants solicited or received for the specific purposes of the Fund, and all interest and income from investment of the Fund. Any sums 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 Fishery Resource Grants. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the Chairman of the Graduate Marine Science Consortium at the University of Virginia.

B. The purpose of the Fishery Resource Grant Fund is to protect and enhance the Commonwealth's coastal fishery resources through the awarding of grants in the following areas:

1. New fisheries equipment or gear;
2. Environmental pilot studies on issues including water quality and fisheries habitat;
3. Aquaculture or mariculture of marine-dependent species; and
4. Seafood technology.

C. The Consortium shall advertise the availability of grant funds and shall solicit, receive, and review grant applications. Grants shall be awarded by the Consortium after consideration of the recommendations of the Fishery Resource Grant Advisory Board. The decisions regarding who receives the grant awards shall be the responsibility of the Consortium. In awarding grants for the aquaculture or mariculture of marine dependent species the Consortium shall consider the amount of private investment that has been made for the aquaculture or mariculture of a species, and shall not award grants for the aquaculture or mariculture of a species in which significant private investment has been made, unless such grant is for new technology.

D. The Consortium may establish a peer review panel to assist in determining the relative merits of each proposal.

E. Any general funds for the Fishery Resource Grant Program shall be appropriated to the Consortium, which shall be reimbursed for the reasonable costs incurred in administering and monitoring the grant program. If funds remain at the end of a grant cycle, the Consortium may carry forward such funds to the next funding cycle.

§ 30-198. (Expires July 1, 2012) Advisory Council on Career and Technical Education; purpose; membership; compensation and expenses; quorum.

A. The Advisory Council on Career and Technical Education (Council) is established as an advisory council in the legislative branch of state government to recommend an integrated and coordinated multiagency approach for the delivery of quality career and technical education programs and services in the public schools.

B. The Council shall consist of ~~18~~ 17 members, to be appointed as follows: one member each of the House Committees on Finance, Education, and Appropriations, and two members of the House of Delegates at-large, 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 each of the Senate Committees on Finance and Education and Health, and one member of the Senate at-large, to be appointed by the Senate Committee on Rules; four representatives of business and industry from companies of varying size, geographically distributed from among the eight superintendents' regions of the Commonwealth, to be appointed by the Governor; and the President of the Board of Education, ~~the Chancellor of the Virginia Community College System,~~ the Chairman of the Board of Correctional Education, the Secretary of Commerce and Trade, the Secretary of Education, and the Secretary of Technology or their designees shall serve as ex officio members with full voting privileges. Members appointed by the Governor shall be citizens of the Commonwealth.

C. Legislative members and state government officials shall serve terms coincident with their terms of office. All appointments of nonlegislative citizen members shall be for four-year terms, following the initial staggering of terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative and citizen members may be reappointed; however, no citizen

3011 member shall serve more than two consecutive four-year terms. The remainder of any term to which a  
3012 member is appointed to fill a vacancy shall not constitute a term in determining the member's term limit.  
3013 Vacancies shall be filled in the same manner as the original appointments.

3014 Legislative members of the Council shall receive such compensation as provided in § 30-19.12, and  
3015 nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for their  
3016 services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the  
3017 performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. However, all such compensation  
3018 and expense payments shall be paid from existing appropriations to the Council.

3019 D. The Council shall elect a chairman and vice-chairman annually from among its legislative  
3020 members. A majority of the members of the Council shall constitute a quorum. The Council shall meet  
3021 no more than four times a year, upon the call of the chairman or the majority of the members.

3022 E. No recommendation of the Commission shall be adopted if a majority of the Senate members or a  
3023 majority of the House members appointed to the Commission (i) vote against the recommendation and  
3024 (ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission.

3025 § 30-231.01. Definitions.

3026 As used in this chapter, unless the context indicates otherwise:

3027 "Accredited career and technical education postsecondary school" means (i) a privately owned and  
3028 managed, academic-vocational school, noncollege degree school, postsecondary school, or a vocational  
3029 school, as defined in § 23-276.1; (ii) formed, incorporated, or chartered within the Commonwealth and  
3030 whose administrative office and principal campus is located in Virginia; (iii) accredited by a national or  
3031 regional organization or agency recognized by the United States Secretary of Education for accrediting  
3032 purposes; and (iv) certified by the ~~State Council of Higher~~ *Secretary of Education* to award certificates  
3033 and diplomas or to confer degrees, pursuant to § 23-276.4.

3034 "Approved education program" means an educational agency or transition program or services  
3035 accepted for participation in the Program by the Brown v. Board of Education Awards Committee.

3036 "College-Level Examination Program (CLEP)" means a program consisting of a series of general and  
3037 subject examinations in undergraduate college courses that measures an individual's college level  
3038 knowledge gained through course work, independent study, cultural pursuits, travel, special interests,  
3039 military service, and professional development, for the purpose of earning college credit.

3040 "Dual enrollment" means the concurrent enrollment of a scholarship recipient in an adult education  
3041 program for the high school diploma and a public or private accredited two-year or four-year Virginia  
3042 institution of higher education.

3043 "Educational agency" means any (i) public school in the Commonwealth, (ii) public or private  
3044 accredited two-year or four-year Virginia institution of higher education that is in compliance with the  
3045 Southern Association of Colleges and Schools accreditation standards for institutions and academic  
3046 programs or other national or regional organization or agency recognized by the United States Secretary  
3047 of Education for accrediting purposes, (iii) General Education Development (GED) preparation program  
3048 in compliance with the requirements of the American Council on Education governing GED programs,  
3049 (iv) College-Level Examination Program (CLEP) in compliance with the requirements of the College  
3050 Board governing college level examination programs, or (v) accredited career and technical education  
3051 postsecondary school in the Commonwealth, that accepts for admission recipients of the Brown v. Board  
3052 of Education Scholarship Program.

3053 "General Education Development (GED) program" means a program of preparation and instruction  
3054 for adults who did not complete high school and for youth who have been granted permission by the  
3055 division superintendent of the school in which they are enrolled to take the test for the general  
3056 educational development certificate.

3057 "Graduate degree program" means an accredited academic program of study offered by a Virginia  
3058 institution of higher education that has been accepted for participation in the Program by the Brown v.  
3059 Board of Education Awards Committee, to which recipients of the Brown v. Board of Education  
3060 Scholarship Program are accepted for admission and successful completion of the academic program  
3061 culminates in the awarding of the masters or doctoral degree. "Graduate degree program" does not  
3062 include professional schools or other postgraduate level study.

3063 "Program" means the Brown v. Board of Education Scholarship Program and Fund.

3064 "Required academic fees" means fees assessed by an educational agency as a requirement for  
3065 admission of nonresidential or off-campus students for academic degree programs offered at the  
3066 undergraduate and graduate degree levels, or as may be required to satisfy the requirements for certain  
3067 academic majors or career and technical education programs.

3068 "Transition program and services" means individualized instruction or a compensatory education  
3069 program designed to provide remediation, acceleration, or fundamental basic life skills to assist  
3070 scholarship recipients in overcoming learning problems or to prepare such persons for academic success  
3071 in an approved education program.

3072 § 30-231.3. Amount of scholarships; use of scholarships; disbursement and recovery of scholarship

funds; terms and conditions; penalty.

A. Scholarships shall be awarded from gifts, grants, donations, bequests, or other funds made available to the Program. No scholarship awarded under this Program shall exceed the total annual costs of tuition, textbooks, and required academic fees assessed by the educational agency for the specific program in which the student is enrolled, as determined by the Brown v. Board of Education Scholarship Awards Committee.

B. The full amount of each scholarship awarded to a recipient shall be used solely for the payment of tuition, textbooks, and required academic fees, or for a one-time only payment of the costs of a preparation program, instructional materials, and examination for the General Education Development certificate or the College-Level Examination Program (CLEP) examinations.

C. Awards granted to applicants accepted for enrollment at accredited career and technical education postsecondary schools shall be made in accordance with Article VIII, section 11 of the Constitution of Virginia.

D. No scholarship under this Program shall be used to obtain multiple baccalaureate, masters, or doctoral level degrees.

E. Before any scholarship is awarded, the applicant shall sign an acceptance form under the terms of which the applicant affirms the accuracy of the information he has provided and agrees to pursue the approved education program for which the scholarship is awarded until his graduation or the completion of the program, as appropriate. Following verification of enrollment by the relevant educational agency to the ~~State Council of Higher~~ Board of Education, educational agencies acting as agents for students receiving awards under this chapter shall promptly credit disbursed funds to student accounts. A scholarship award made in accordance with the provisions of this chapter shall not be reduced by the educational agency upon receipt of any other financial assistance on behalf of the student. However, the scholarship award may be reduced by the Committee to ensure that, when such award is added to other financial assistance, the award does not produce a total of financial assistance that exceeds the annual total costs of tuition, textbooks, and required academic fees, pursuant to this section. Beginning on July 1, 2008, every educational agency acting as an agent for students receiving awards under this chapter shall notify the Committee and the ~~State Council of Higher~~ Board of Education upon request concerning the type and total of other financial assistance received by such students. In addition, every educational agency accepting for admission persons awarded a Brown v. Board of Education scholarship shall, upon request, provide the Committee information concerning the accreditation status of the school and academic programs offered, and other relevant information as the Committee may require to evaluate the person's eligibility for the scholarship and to determine the eligibility of the educational agency for participation in the Program. Whenever a student withdraws from an educational agency or otherwise fails, regardless of reason, to complete the program in which he is enrolled, the educational agency shall surrender promptly to the Commonwealth the balance of the scholarship award, in accordance with the tuition refund policy in effect at the time of the student's admission to the educational agency.

F. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a scholarship or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application shall be guilty of a Class 3 misdemeanor.

G. This chapter shall not be construed as creating any legally enforceable right or entitlement on the part of any person or any right or entitlement to participation in the Program. Scholarships shall be awarded to the extent funds are made available to the Program through gifts, grants, donations, bequests, or other funds.

§ 30-231.4. Brown v. Board of Education Scholarship Program Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Brown v. Board of Education Scholarship Program Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller and shall consist of gifts, grants, donations, bequests, or other funds from any source as may be received by the Brown v. Board of Education Scholarship Program or the Brown v. Board of Education Scholarship Awards Committee on behalf of the Program. Moneys 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 purpose of awarding scholarships to eligible students, pursuant to §§ 30-231.2 and 30-231.3. Expenditures and disbursements for scholarships to eligible students from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chairman of the ~~State Council of Higher Education~~ as directed by the Brown v. Board of Education Scholarship Awards Committee.

§ 30-231.8. Powers and duties of the Committee.

The Committee shall have the following powers and duties:

1. Establish criteria for the awarding of scholarships, including, but not limited to, eligibility for and

3134 the renewal of scholarships, evidence of satisfactory academic achievement in accordance with  
3135 § 30-231.2, terms and conditions of scholarships awarded pursuant to § 30-231.3, the cancellation,  
3136 rescindment, and recovery of scholarship awards, and conditions for which repayment of scholarships, or  
3137 any part thereof, may be required;

3138 2. Evaluate applications for and select recipients of the Brown v. Board of Education scholarships, in  
3139 accordance with the provisions of this chapter;

3140 3. Establish standards and determine approved education programs to ensure that the Program is  
3141 implemented and administered in a manner that preserves the purpose for which it was created;

3142 4. Establish, revise as necessary, and implement policies and standards to govern all aspects of the  
3143 Program;

3144 5. Confer with the Board of Education, Virginia Community College System, ~~State Council of~~  
3145 ~~Higher Education~~, and Private College Advisory Board ~~to the State Council of Higher Education~~ to  
3146 establish a protocol to facilitate the dual enrollment of eligible students in two-year and four-year degree  
3147 programs, and the conventional enrollment of such students in public and private two-year and four-year  
3148 accredited institutions of higher education;

3149 6. Develop and implement a system to provide individualized transition programs and services,  
3150 including, but not limited to, remediation, acceleration, and fundamental basic life skills, designed to  
3151 prepare eligible students for academic success in the preparation program for the General Education  
3152 Development certificate, earning college credit through the College-Level Examination Program (CLEP)  
3153 examinations, adult basic education programs, and two-year, four-year, and graduate degree programs;

3154 7. Determine annually the sum of any gifts, grants, donations, bequests, or other funds in the Brown  
3155 v. Board of Education Scholarship Program Fund, and set the annual maximum scholarship award, and  
3156 the maximum number of scholarships that may be awarded each year;

3157 8. Seek, receive, and expend gifts, grants, donations, bequests, or other funds from any source on  
3158 behalf of the Program for its support and to facilitate its purpose;

3159 9. Make the first awards of the Brown v. Board of Education Scholarship Program to eligible  
3160 students between July 1, 2004, and July 1, 2006, but no later than July 1, 2006; and

3161 10. Perform such other duties, functions, and activities as may be necessary to facilitate and  
3162 implement the objectives of this chapter.

3163 § 30-231.9. Staff support; Board of Education to advise and assist Committee.

3164 The Office of the Clerk of the chairman of the Committee shall provide administrative staff support.  
3165 The Division of Legislative Services shall provide legal, research, policy analysis and other services as  
3166 requested by the Committee. The ~~State Council of Higher~~ Board of Education, consistent with its  
3167 statutory responsibilities for higher education in the Commonwealth, shall advise and provide technical  
3168 assistance to the Committee in the implementation and administration of the Program, in accordance  
3169 with the provisions of this chapter and in the manner as may be requested by the Committee. All  
3170 agencies of the Commonwealth shall provide assistance to the Committee, upon request.

3171 § 54.1-3029. Qualifications for a certified massage therapist.

3172 A. In order to be certified as a massage therapist, the applicant shall furnish evidence satisfactory to  
3173 the Board that the applicant:

3174 1. Is at least 18 years old;

3175 2. Has successfully completed a minimum of 500 hours of training from a massage therapy program,  
3176 certified or approved by the ~~State Council of Higher~~ Secretary of Education or an agency in another  
3177 state, the District of Columbia or a United States territory that approves educational programs,  
3178 notwithstanding the provisions of § 23-276.2;

3179 3. Has passed the National Certification Exam for Therapeutic Massage and Bodywork or an exam  
3180 deemed acceptable to the Board of Nursing leading to national certification; and

3181 4. Has not committed any acts or omissions that would be grounds for disciplinary action or denial  
3182 of certification as set forth in this chapter.

3183 B. The Board may certify any applicant who has been practicing massage therapy for up to 10 years  
3184 prior to July 1, 1997, and has completed at least 200 hours of training in an education program. Such  
3185 programs may be, but shall not be required to be, certified or approved by the ~~State Council of Higher~~  
3186 Secretary of Education or an agency in another state, the District of Columbia or a United States  
3187 territory that approves educational programs, or has been in practice for 10 years or more prior to July  
3188 1, 1997, and has completed 20 hours of such training; or has passed the National Certification Exam for  
3189 Therapeutic Massage and Bodywork prior to 1994.

3190 C. The Board may issue a provisional certification to an applicant prior to passing the National  
3191 Certification Exam for Therapeutic Massage and Bodywork for such time and in such manner as  
3192 prescribed by the Board. No more than one provisional certification shall be issued to any applicant.

3193 D. The Board may certify without examination any applicant who is licensed or certified as a  
3194 massage therapist in another state, the District of Columbia, a United States possession or territory, or  
3195 another country, and, in the opinion of the Board, meets the requirements for certified massage

therapists in this Commonwealth.

2. That the third enactment clause of Chapter 939 of the 2006 Acts of Assembly is amended and reenacted as follows:

3. That the Department of Mines, Minerals and Energy, working with the Department of General Services, the State Council on Higher Secretary of Education, and representatives of other agencies and institutions that construct and operate facilities shall analyze current energy performance standards that agencies and institutions use in facility design, make recommendations for changes to the current design and construction practices that will enhance energy performance and efficiency, and research facility energy performance and efficiency benchmarks and metrics that may be used to measure facility performance.

3. That the first and second enactments of Chapters 448 and 615 of the 2009 Acts of Assembly are amended and reenacted as follows:

1. § 1. Open Education Resource Center Grant Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Open Education Resource Center Grant Fund, hereafter referred to as "the Fund." The Fund shall consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of the pilot program shall revert to the general fund. Interest earned on the Fund shall be credited to the Fund. Moneys in the Fund shall be used solely for the purposes of developing and funding a competitive grant pilot program to provide grants to community colleges to establish open education resource centers in the Commonwealth. 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 chairman or vice-chairman of the State Board for Community Colleges Secretary of Education.

2. § 1. "Open education resources" means learning materials or resources whose copyrights have expired, or that have been released with an intellectual property license that permits their free use or re-purposing by others without the permission of the original authors or creators. Open education resources (OER) includes items such as courses, course materials, textbooks, streaming video of classroom lectures, tests, software, and any other tools, materials, or techniques used to transmit knowledge that have an impact on teaching and learning.

§ 2. The State Board for Community Colleges Secretary of Education shall, in consultation with the Virginia Department of Education and the State Council of Higher Education for Virginia local community colleges boards, develop a competitive grant pilot program to provide grants to community colleges to establish open education resource centers in the Commonwealth. To qualify for a grant, community colleges shall be required to demonstrate a partnership with faculty or staff from at least one local school division and one institution of higher education in the Commonwealth.

4. That the terms of persons currently serving as members of the State Council of Higher Education for Virginia and the Board for the Virginia Community College System shall expire on July 1, 2010.

5. That the initial appointments of nonlegislative citizen members of the Virginia Higher Education Advisory Board appointed by the Governor shall be staggered as follows: five members for terms of four years, four members for terms of three years, three members for terms of two years, and three members for terms of one year. Thereafter, all appointments shall be for a term of four years.

6. That Article 7 (§§ 2.2-2518 through 2.2-2522) of Chapter 25 of Title 2.2, Chapter 1.1 of Title 23 (§§ 23-9.3 through 23-9.14:2), and §§ 23-7.4:1, 23-215, 23-216, 23-217, 23-223, 23-227, 23-228, and 23-276.3 of the Code of Virginia are repealed.

7. That, on and after July 1, 2010, the Secretary of Education shall be the successor in interest to matters related to the duties, responsibilities, and functions of the State Council of Higher Education for Virginia, and the Chancellor and Board for the Virginia Community College System, abolished pursuant to this act.

8. That, on and after July 1, 2010, the Department of Veterans Services shall be the successor in interest to the State Council of Higher Education for Virginia on matters relating to the Virginia Military and Law-Enforcement Survivors and Dependents Education Program.

9. That, on and after July 1, 2010, the Board of Education shall be the successor in interest to the State Council of Higher Education for Virginia on matters relating to the Brown v. Board of Education Scholarship Program.