

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact §§ 2.2-1124, 2.2-1132, 2.2-1149, 2.2-1150, 2.2-1153, 2.2-1514, 2.2-2007,
3 2.2-2901, 23-9.6:1, 36-98.1, 51.1-124.3, 51.1-505, and 51.1-506 of the Code of Virginia; to amend
4 the Code of Virginia by adding a section numbered 2.2-1404.1, by adding in Chapter 25 of Title 2.2
5 an article numbered 7, consisting of sections numbered 2.2-2518 through 2.2-2523, by adding in
6 Title 2.2 a chapter numbered 50.1 consisting of sections numbered 2.2-5004 and 2.2-5005, by adding
7 sections numbered 23-9.2:3.02 and 23-9.6:1.01, by adding in Title 23 a chapter numbered 4.10,
8 consisting of Subchapters 1, 2, and 3 and sections numbered 23-38.88 through 23-38.121, and by
9 adding a section numbered 30-133.1; relating to public institutions of higher education.

[S 1327]

10 Approved

11 Be it enacted by the General Assembly of Virginia:

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13 1. That §§ 2.2-1124, 2.2-1132, 2.2-1149, 2.2-1150, 2.2-1153, 2.2-1514, 2.2-2007, 2.2-2901, 23-9.6:1,
14 36-98.1, 51.1-124.3, 51.1-505, and 51.1-506 of the Code of Virginia are amended and reenacted,
15 and that the Code of Virginia is amended by adding a section numbered 2.2-1404.1, by adding in
16 Chapter 25 of Title 2.2 an article numbered 7, consisting of sections numbered 2.2-2518 through
17 2.2-2523, by adding in Title 2.2 a chapter numbered 50.1, consisting of sections numbered 2.2-5004
18 and 2.2-5005, by adding sections numbered 23-9.2:3.02 and 23-9.6:1.01, by adding in Title 23 a
19 chapter numbered 4.10, consisting of Subchapters 1, 2, and 3 and sections numbered 23-38.88
20 through 23-38.121, and by adding a section numbered 30-133.1 as follows:

21 § 2.2-1124. Disposition of surplus materials.

22 A. "Surplus materials" means personal property including, but not limited to, materials, supplies,
23 equipment, and recyclable items, but shall not include property as defined in § 2.2-1147 that is
24 determined to be surplus. Surplus materials shall not include finished products that a mental health or
25 mental retardation facility sells for the benefit of its patients or residents, provided that (i) most of the
26 supplies, equipment, or products have been donated to the facility; (ii) the patients or residents of the
27 facility have substantially altered the supplies, equipment, or products in the course of occupational or
28 other therapy; and (iii) the substantial alterations have resulted in a finished product.

29 B. The Department shall establish procedures for the disposition of surplus materials from
30 departments, divisions, institutions, and agencies of the Commonwealth. Such procedures shall:

31 1. Permit surplus materials to be transferred between or sold to departments, divisions, institutions, or
32 agencies of the Commonwealth;

33 2. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status
34 under § 501 (c) (3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured
35 that are organized for the delivery of primary health care services (i) as federally qualified health centers
36 designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or
37 without charge;

38 3. Permit public sales or auctions, provided that the procedures provide for sale to all political
39 subdivisions and any volunteer rescue squad or volunteer fire department established pursuant to
40 § 15.2-955 any surplus materials prior to the public sale or auction;

41 4. Permit surplus motor vehicles to be sold prior to public sale or auction to local social service
42 departments for the purpose of resale at cost to TANF recipients;

43 5. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status
44 under § 501 (c) (3) of the Internal Revenue Code and operating as children's homes;

45 6. Permit donations to political subdivisions of the Commonwealth under the circumstances specified
46 in this section;

47 7. Permit other methods of disposal when (a) the cost of the sale will exceed the potential revenue to
48 be derived therefrom or (b) the surplus material is not suitable for sale;

49 8. Permit any dog especially trained for police work to be sold at an appropriate price to the handler
50 who last was in control of the dog, which sale shall not be deemed a violation of the State and Local
51 Government Conflict of Interests Act (§ 2.2-3100 et seq.);

52 9. Permit the transfer of surplus clothing to an appropriate department, division, institution, or agency
53 of the Commonwealth for distribution to needy individuals by and through local social services boards;

54 10. Encourage the recycling of paper products, beverage containers, and used motor oil;

55 11. Require the proceeds from any sale or recycling of surplus materials be promptly deposited into
56 the state treasury in accordance with § 2.2-1802 and report the deposit to the State Comptroller;

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58 12. Permit donations of surplus computers and related equipment to public schools in the
 59 Commonwealth and Virginia charitable corporations granted tax-exempt status under § 501 (c) (3) of the
 60 Internal Revenue Code and providing services to persons with disabilities, at-risk youths, or low-income
 61 families. For the purposes of this subdivision, "at-risk youths" means school-age children approved
 62 eligible to receive free or reduced price meals in the federally funded lunch program; and

63 13. Permit surplus materials to be transferred or sold, prior to public sale or auction, to public
 64 television stations located in the state and other nonprofit organizations approved for the distribution of
 65 federal surplus materials; and

66 14. *Permit a public institution of higher education to dispose of its surplus materials at the location
 67 where the surplus materials are held and to retain any proceeds from such disposal, provided that the
 68 institution meets the conditions prescribed in subsection B of § 23-38.88 and § 23-38.112 (regardless of
 69 whether or not the institution has been granted any authority under Subchapter 3 (§ 23-38.91 et seq.) of
 70 Chapter 4.10 of Title 23).*

71 C. The Department shall dispose of surplus materials pursuant to the procedures established in
 72 subsection B or permit any department, division, institution, or agency of the Commonwealth to dispose
 73 of its surplus materials consistent with the procedures so established. No surplus materials shall be
 74 disposed of without prior consent of the head of the department, division, institution, or agency of the
 75 Commonwealth in possession of such surplus materials or the Governor.

76 D. Departments, divisions, institutions, or agencies of the Commonwealth or the Governor may
 77 donate surplus materials only under the following circumstances:

78 1. Emergencies declared in accordance with § 44-146.18:2 or § 44-146.28;

79 2. As set forth in the budget bill as defined by § 2.2-1509, provided that (a) the budget bill contains
 80 a description of the surplus materials, the method by which the surplus materials shall be distributed,
 81 and the anticipated recipients, and (b) such information shall be provided by the Department to the
 82 Department of Planning and Budget in sufficient time for inclusion in the budget bill;

83 3. When the market value of the surplus materials, which shall be donated for a public purpose, is
 84 less than \$500; however, the total market value of all surplus materials so donated by any department,
 85 division, institution, or agency shall not exceed 25 percent of the revenue generated by such
 86 department's, division's, institution's, or agency's sale of surplus materials in the fiscal year, except these
 87 limits shall not apply in the case of surplus computer equipment and related items donated to Virginia
 88 public schools; or

89 4. During a local emergency, upon written request of the head of a local government or a political
 90 subdivision in the Commonwealth to the head of a department, division, institution, or agency.

91 E. On or before October 1 of each year, the Department shall prepare, and file with the Secretary of
 92 the Commonwealth, a plan that describes the expected disposition of surplus materials in the upcoming
 93 fiscal year pursuant to subdivision B 6.

94 § 2.2-1132. Administration of capital outlay construction; exception for certain educational
 95 institutions.

96 A. The Division shall provide assistance in the administration of capital outlay construction projects
 97 set forth in the appropriation act, other than highway construction undertaken by the Department of
 98 Transportation and the acquisition or improvement of specialized cargo-handling equipment and related
 99 port infrastructure including, but not limited to, port construction, renovation, and demolition that is
 100 required in a timely manner to meet market demands to enhance commerce through the Virginia Port
 101 Authority, the review and approval of plans and specifications, and acceptance of completed projects.

102 B. The Division may establish standards, as needed, for construction by the Commonwealth and may,
 103 with the advice of the Attorney General, establish standard contract provisions and procedures for the
 104 procurement and administration of construction and for the procurement and administration of
 105 architectural and engineering services relating to construction, which shall be used by all departments,
 106 agencies and institutions of the Commonwealth. The standards may provide for incentive contracting that
 107 offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the
 108 Commonwealth when project costs are reduced by the contractor, without affecting project quality,
 109 during construction of the project. The fee, if any, charged by the project engineer or architect for
 110 determining the cost savings shall be paid as a separate cost and shall not be calculated as part of any
 111 cost savings.

112 C. *Notwithstanding any standards established by the Division or law to the contrary except as
 113 provided in this subsection, any public institution of higher education that has in effect a signed
 114 memorandum of understanding with the Secretary of Administration regarding participation in the
 115 nongeneral fund decentralization program as set forth in the appropriation act may enter into contracts
 116 for specific construction projects without the preliminary review and approval of the Division, provided
 117 such institutions are in compliance with the requirements of the Virginia Public Procurement Act
 118 (§ 2.2-4300 et seq.) and utilize the general terms and conditions for those forms of procurement*

119 approved by the Division and the Office of the Attorney General. The authority granted in this
120 subsection shall only become effective if the institution meets the conditions prescribed in subsection B
121 of § 23-38.88. The Secretary of Administration shall establish guidelines to assist institutions in
122 evaluating alternative project delivery methods prior to entering into a contract. For projects
123 constructed pursuant to this subsection, the responsibility of the Division of Engineering and Buildings
124 shall be as set forth in subsection B of § 36-98.1.

125 For purposes of this section, "construction" shall include new construction, reconstruction, renovation,
126 restoration, major repair, demolition and all similar work upon buildings and ancillary facilities owned
127 or to be acquired by the Commonwealth. It shall not include buildings or other facilities ancillary to the
128 use of state highways that are located within the right-of-way of any state highway, or assets for use by
129 the Virginia Port Authority within the boundaries of property owned or leased by the Virginia Port
130 Authority.

131 § 2.2-1149. Department to review proposed acquisitions of real property; approval by the Governor;
132 exceptions.

133 Notwithstanding any provision of law to the contrary, no state department, agency or institution shall
134 acquire real property by gift, lease, purchase or any other means without following the guidelines
135 adopted by the Department and obtaining the prior approval of the Governor. The Department shall
136 review every proposed acquisition of real property by gift, lease, purchase or any other means by any
137 department, agency or institution of the Commonwealth and recommend either approval or disapproval
138 of the transactions to the Governor based on cost, demonstrated need, and compliance with the
139 Department's guidelines.

140 The provisions of this section shall not apply to the ~~(i)~~ acquisition:

141 1. Acquisition of real property for open space preservations pursuant to the purposes of § 10.1-1800
142 and subdivision A- 4- of § 10.1-2204, if it does not require as a condition of acceptance, an
143 appropriation of any state funds for the continued maintenance of such property;

144 ~~(ii)~~ 2. Acquisition of easements pursuant to the purposes of §§ 10.1-1020 and 10.1-1021 or
145 §§ 10.1-1700, 10.1-1702, and 10.1-1702;

146 ~~(iii)~~ 3. Acquisition through the temporary lease or donation of real property for a period of six
147 months or less duration;

148 4. Acquisition of easements by public institutions of higher education provided that the particular
149 institution meets the conditions prescribed in subsection B of § 23-38.88;

150 5. Entering into an operating/income lease or a capital lease by a public institution of higher
151 education, for real property to be used for academic purposes, or for real property owned by the
152 institution or a foundation related to the institution to be used for non-academic purposes, in
153 accordance with the institution's land use plan pursuant to § 2.2-1153 provided that (i) the capital lease
154 does not constitute tax-supported debt of the Commonwealth, (ii) the institution meets the conditions
155 prescribed in subsection B of § 23-38.88, and (iii) for purposes of entering into a capital lease, the
156 institution shall have in effect a signed memorandum of understanding with the Secretary of
157 Administration regarding participation in the nongeneral fund decentralization program as set forth in
158 the appropriation act. For the purposes of this subdivision, an operating/income lease or a capital lease
159 shall be determined using generally accepted accounting principles; or

160 ~~(iv)~~ 6. Acquisition of real property for the construction, improvement or maintenance of highways
161 and transportation facilities and purposes incidental thereto by the Department of Transportation;
162 however, acquisitions of real property by the Department of Transportation for office space, district
163 offices, residencies, area headquarters, or correctional facilities shall be subject to the Department's
164 review and the Governor's approval.

165 § 2.2-1150. Conveyance and transfers of real property by state agencies; approval of Governor and
166 Attorney General.

167 A. When it is deemed to be in the public interest,

168 1. Property owned by the Commonwealth may be sold, leased, or other interests therein conveyed to
169 political subdivisions, public authorities, or the federal government, for such consideration as is deemed
170 proper; and

171 2. Property owned by the Commonwealth and held in the possession of a department, agency or
172 institution of the Commonwealth may be transferred to the possession of another department, agency or
173 institution of the Commonwealth by the execution of an agreement between the heads of such
174 departments, agencies or institutions.

175 B. No transaction authorized by this section shall be made without the prior written recommendation
176 of the Department to the Governor, the written approval of the Governor of the transaction itself, and
177 the approval of the Attorney General as to the form of the instruments prior to execution.

178 C. Notwithstanding the provisions of subsection B, a public institution of higher education may
179 convey an easement pertaining to any property such institution owns or controls provided that the

180 *institution meets the conditions prescribed in subsection B of § 23-38.88 and § 23-38.112 (regardless of*
 181 *whether or not the institution has been granted any authority under Subchapter 3 (§ 23-38.91 et seq.) of*
 182 *Chapter 4.10 of Title 23).*

183 § 2.2-1153. State agencies and institutions to notify Division of property not used or required;
 184 criteria.

185 A. Whenever any department, agency or institution of state government possesses or has under its
 186 control state-owned property that is not being used or is not required for the programs of the
 187 department, agency or institution, it shall so notify the Division. Each department, agency and institution
 188 shall submit to the Division a land use plan for property it possesses or has under its control showing
 189 present and planned uses of such property. Such plan shall be approved by the cognizant board or
 190 governing body of the department, agency or institution holding title to or otherwise controlling the
 191 state-owned property or the agency head in the absence of a board or governing body, with a
 192 recommendation on whether any property should be declared surplus by the department, agency or
 193 institution. Development of such land use plans shall be based on guidelines promulgated by the
 194 Division. The guidelines shall provide that each land use plan shall be updated and copies provided to
 195 the Division by September 1 of each year. The Division may exempt properties that are held and used
 196 for conservation purposes from the requirements of this section. The Division shall review the land use
 197 plans and determine whether the property or any portion thereof should be declared surplus to the needs
 198 of the Commonwealth. By October 1 of each year, the Division shall provide a report to the Chairmen
 199 of the House Appropriations and Senate Finance Committees setting forth the Division's findings, the
 200 sale or marketing of properties identified pursuant to this section, and recommending any actions that
 201 may be required by the Governor and the General Assembly to identify and dispose of property not
 202 being efficiently and effectively utilized.

203 Until permanent disposition of the property determined to be surplus is effected, the property shall
 204 continue to be maintained by the department, agency or institution possessing or controlling it, unless
 205 upon the recommendation of the Department, the Governor authorizes the transfer of the property to the
 206 possession or control of the Department. In this event, the department, agency or institution formerly
 207 possessing or controlling the property shall have no further interest in it.

208 B. The Division shall establish criteria for ascertaining whether property under the control of a
 209 department, agency or institution should be classified as "surplus" to its current or proposed needs. Such
 210 criteria shall provide that the cognizant board or governing body, if any, of the department, agency or
 211 institution holding the title to or otherwise controlling the state-owned property, or the agency head in
 212 the absence of a board or governing body, shall approve the designation of the property as surplus.

213 C. Notwithstanding the provisions of subsection A:

214 1. The property known as College Woods, which includes Lake Matoaka and is possessed and
 215 controlled by a college founded in 1693, regardless of whether such property has been declared surplus
 216 pursuant to this section, shall not be transferred or disposed of without the approval of the board of
 217 visitors of such college by a two-thirds vote of all board members at a regularly scheduled board
 218 meeting. The General Assembly shall also approve the disposal or transfer.

219 2. *Surplus real property valued at less than \$5 million that is possessed and controlled by a public*
 220 *institution of higher education may be sold by such institution, provided that (i) at least 45 days prior to*
 221 *executing a contract for the sale of such property, the institution gives written notification to the*
 222 *Governor and the Chairmen of the House Appropriations and Senate Finance Committees; and (ii) the*
 223 *Governor may postpone the sale at any time up to 10 days prior to the proposed date of sale. Such sale*
 224 *may be effected by public auction, sealed bids, or by marketing through one or more Virginia licensed*
 225 *real estate brokers after satisfying the public notice provisions of subsection A of § 2.2-1156. The terms*
 226 *of all negotiations resulting in such sale shall be public information. The public institution of higher*
 227 *education may retain the proceeds from the sale of such property if the property was acquired by*
 228 *nongeneral funds. If the institution originally acquired the property through a mix of general and*
 229 *nongeneral funds, 50 percent of the proceeds shall be distributed to the institution and 50 percent shall*
 230 *be distributed to the State Park Conservation Resources Fund established under subsection A of*
 231 *§ 10.1-202. The authority of a public institution of higher education to sell surplus real property*
 232 *described under this subdivision or to retain any proceeds from the sale of such property shall be*
 233 *subject to the institution meeting the conditions prescribed in subsection B of § 23-38.88 and*
 234 *§ 23-38.112 (regardless of whether or not the institution has been granted any authority under*
 235 *Subchapter 3 (§ 23-38.91 et seq.) of Chapter 4.10 of Title 23).*

236 § 2.2-1404.1. *Use of vendors identified by public institutions of higher education as small, women-,*
 237 *and minority-owned business enterprises.*

238 *For purposes of compliance with § 2.2-4310, a public institution of higher education that meets the*
 239 *conditions prescribed in subsection B of § 23-38.88 may procure goods, services, and construction from*
 240 *vendors identified by such public institutions of higher education as small, women-, and minority-owned*

241 *business enterprises that the institution has certified as such based on criteria approved by the*
 242 *Department. An institution exercising the authority granted by this section shall establish and follow*
 243 *internal procedures and processes designed to verify whether or not a vendor qualifies to be certified as*
 244 *a small, women-, and minority-owned business enterprise under the Department approved criteria and*
 245 *the certification requirements. The institution shall notify the Department promptly of the certification,*
 246 *and shall provide the Department with a copy of its written certification identifying the vendor as a*
 247 *small, women-, and minority-owned business enterprise and all application materials submitted by the*
 248 *vendor to the institution. Such certification shall remain in effect unless and until the Department*
 249 *notifies the institution that the vendor does not meet the certification requirements.*

250 *An institution exercising authority granted under this section shall promptly make available to the*
 251 *Department, upon request, copies of its procurement records, receipts, and transactions in regard to*
 252 *procurement from small, women-, and minority-owned business enterprises in order for the Department*
 253 *to ensure institution compliance with its approved criteria and the certification requirements.*

254 § 2.2-1514. Designation of general fund for nonrecurring expenditures.

255 A. As used in this section:

256 "The Budget Bill" means the "The Budget Bill" submitted pursuant to § 2.2-1509, including any
 257 amendments to a general appropriation act pursuant to such section.

258 "Nonrecurring expenditures" means the acquisition or construction of capital outlay projects as
 259 defined in § 2.2-1503.2, the acquisition or construction of capital improvements, the acquisition of land,
 260 the acquisition of equipment, or other expenditures of a one-time nature as specified in the general
 261 appropriation act.

262 B. At the end of each fiscal year, the Comptroller shall designate within his annual report pursuant to
 263 § 2.2-813 an amount for nonrecurring expenditures, which shall equal the remaining amount of the
 264 general fund balance that is not otherwise reserved or designated. No such designation shall be made
 265 unless the full amounts required for other reserves or designations including, but not limited to, (i) the
 266 Revenue Stabilization Fund deposit pursuant to § 2.2-1829, (ii) the Virginia Water Quality Improvement
 267 Fund deposit pursuant to § 10.1-2128, (iii) capital outlay reappropriations pursuant to the general
 268 appropriation act, (iv) (a) operating expense reappropriations pursuant to the general appropriation act,
 269 and (b) reappropriations of unexpended appropriations to certain public institutions of higher education
 270 pursuant to § 2.2-5005, (v) pro rata rebate payments to certain public institutions of higher education
 271 pursuant to § 2.2-5005, and (vi) the unappropriated balance anticipated in the general appropriation
 272 act for the end of such fiscal year, and (vii) interest payments on deposits of certain public institutions
 273 of higher education pursuant to § 2.2-5005 are set aside. The Comptroller shall set aside amounts
 274 required for clauses (iv) (b), (v), and (vii) beginning with the initial fiscal year as determined under
 275 § 2.2-5005 and for all fiscal years thereafter.

276 C. The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended
 277 appropriations from the general fund or recommended amendments to general fund appropriations in the
 278 general appropriation act in effect at that time an amount for nonrecurring expenditures equal to the
 279 amount designated by the Comptroller for such purpose pursuant to the provisions of subsection B of
 280 this section.

281 § 2.2-2007. Powers of the CIO.

282 A. In addition to such other duties as the Board may assign, the CIO shall:

283 1. Monitor trends and advances in information technology; develop a comprehensive, statewide,
 284 four-year strategic plan for information technology to include specific projects that implement the plan;
 285 and plan for the acquisition, management, and use of information technology by state agencies. The
 286 statewide plan shall be updated annually and submitted to the Board for approval. In developing and
 287 updating the plan, the CIO shall consider the advice and recommendations of the Council on
 288 Technology Services created pursuant to § 2.2-2651.

289 2. Direct the formulation and promulgation of policies, guidelines, standards, and specifications for
 290 the purchase, development, and maintenance of information technology for state agencies, including, but
 291 not limited to, those (i) required to support state and local government exchange, acquisition, storage,
 292 use, sharing, and distribution of geographic or base map data and related technologies, (ii) concerned
 293 with the development of electronic transactions including the use of electronic signatures as provided in
 294 § 59.1-496, and (iii) necessary to support a unified approach to information technology across the
 295 totality of state government, thereby assuring that the citizens and businesses of the Commonwealth
 296 receive the greatest possible security, value, and convenience from investments made in technology.

297 3. Direct the development of policies and procedures, in consultation with the Department of
 298 Planning and Budget, that are integrated into the Commonwealth's strategic planning and performance
 299 budgeting processes, and that state agencies and public institutions of higher education shall follow in
 300 developing information technology plans and technology-related budget requests. Such policies and
 301 procedures shall require consideration of the contribution of current and proposed technology

302 expenditures to the support of agency and institution priority functional activities, as well as current and
 303 future operating expenses, and shall be utilized by all state agencies and public institutions of higher
 304 education in preparing budget requests.

305 4. Review budget requests for information technology from state agencies and public institutions of
 306 higher education and recommend budget priorities to the Information Technology Investment Board.

307 ~~This~~ Review of such budget requests shall include, but not be limited to, all data processing or other
 308 related projects for amounts exceeding \$100,000 in which the agency or institution has entered into or
 309 plans to enter into a contract, agreement or other financing agreement or such other arrangement that
 310 requires that the Commonwealth either pay for the contract by foregoing revenue collections, or allows
 311 or assigns to another party the collection on behalf of or for the Commonwealth any fees, charges, or
 312 other assessments or revenues to pay for the project. For each project, the agency or institution, with the
 313 exception of public institutions of higher education that meet the conditions prescribed in subsection B
 314 of § 23-38.88, shall provide the CIO (i) a summary of the terms, (ii) the anticipated duration, and (iii)
 315 the cost or charges to any user, whether a state agency or institution or other party not directly a party
 316 to the project arrangements. The description shall also include any terms or conditions that bind the
 317 Commonwealth or restrict the Commonwealth's operations and the methods of procurement employed to
 318 reach such terms.

319 5. Direct the development of policies and procedures for the effective management of information
 320 technology investments throughout their entire life cycles, including, but not limited to, project
 321 definition, procurement, development, implementation, operation, performance evaluation, and
 322 enhancement or retirement. Such policies and procedures shall include, at a minimum, the periodic
 323 review by the CIO of agency and public institution of higher education information technology projects
 324 estimated to cost \$1 million or more or deemed to be mission-critical or of statewide application by the
 325 CIO.

326 6. Oversee and administer the Virginia Technology Infrastructure Fund created pursuant to
 327 § 2.2-2023.

328 7. Periodically evaluate the feasibility of outsourcing information technology resources and services,
 329 and outsource those resources and services that are feasible and beneficial to the Commonwealth.

330 8. Report annually to the Governor and the Joint Commission on Technology and Science created
 331 pursuant to § 30-85 on the use and application of information technology by state agencies and public
 332 institutions of higher education to increase economic efficiency, citizen convenience, and public access
 333 to state government.

334 9. Direct the development of policies and procedures that require VITA to review information
 335 technology projects proposed by state agencies and institutions exceeding \$100,000, and recommend
 336 whether such projects be approved or disapproved. The CIO shall disapprove projects between \$100,000
 337 and \$1 million that do not conform to the statewide information plan or to the individual plans of state
 338 agencies or institutions of higher education.

339 B. Consistent with § 2.2-2012, the CIO may enter into public-private partnership contracts to finance
 340 or implement information technology programs and projects. The CIO may issue a request for
 341 information to seek out potential private partners interested in providing programs or projects pursuant to
 342 an agreement under this subsection. The compensation for such services shall be computed with
 343 reference to and paid from the increased revenue or cost savings attributable to the successful
 344 implementation of the program or project for the period specified in the contract. The CIO shall be
 345 responsible for reviewing and approving the programs and projects and the terms of contracts for same
 346 under this subsection. The CIO shall determine annually the total amount of increased revenue or cost
 347 savings attributable to the successful implementation of a program or project under this subsection and
 348 such amount shall be deposited in the Virginia Technology Infrastructure Fund created in § 2.2-2023.
 349 The CIO is authorized to use moneys deposited in the Fund to pay private partners pursuant to the terms
 350 of contracts under this subsection. All moneys in excess of that required to be paid to private partners,
 351 as determined by the CIO, shall be reported to the Comptroller and retained in the Fund. The CIO shall
 352 prepare an annual report to the Governor and General Assembly on all contracts under this subsection,
 353 describing each information technology program or project, its progress, revenue impact, and such other
 354 information as may be relevant.

355 Article 7.

356 Virginia Commission on Higher Education Board Appointments.

357 § 2.2-2518. The Virginia Commission on Higher Education Board Appointments; purpose.

358 The Virginia Commission on Higher Education Board Appointments, (the Commission) is established
 359 as an advisory commission in the executive branch of state government.

360 The purpose of the Commission shall be to review and evaluate potential appointees to the governing
 361 bodies of Virginia's public institutions of higher education, the Virginia Community College Board, and
 362 the State Council of Higher Education for Virginia, and to make recommendations to the Governor.

363 § 2.2-2519. *Membership; terms; quorum; meetings.*

364 *The Commission shall have a total membership of seven members that shall consist of five*
 365 *nonlegislative citizen members and two ex officio members. Nonlegislative citizen members shall be*
 366 *appointed as follows: two nonlegislative citizen members who shall be former members of either the*
 367 *board of visitors of a public institution of higher education or the State Board for Community Colleges;*
 368 *one nonlegislative citizen member who shall be either a former president, provost, or executive vice*
 369 *president of a public institution of higher education; and two nonlegislative citizen members who shall*
 370 *be citizens-at-large to be appointed by the Governor. The Secretary of Education or his designee and*
 371 *the Secretary of the Commonwealth or his designee shall serve ex officio with nonvoting privileges.*
 372 *Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth.*

373 *Nonlegislative citizen members shall serve at the pleasure of the Governor, and ex officio members*
 374 *of the Commission shall serve terms coincident with their terms of office.*

375 § 2.2-2520. *Compensation; expenses.*

376 *Members of the Commission shall serve without compensation. All members shall be reimbursed for*
 377 *all reasonable and necessary expenses incurred in the performance of their duties as provided in*
 378 *§§ 2.2-2813 and 2.2-2825. Funding for the expenses of the members shall be provided by the Office of*
 379 *the Secretary of the Commonwealth.*

380 § 2.2-2521. *Powers and duties of the Commission.*

381 *The Commission shall have the following powers and duties:*

382 *1. Develop and implement a process for evaluating potential appointees to higher education*
 383 *governing boards, based on substantive qualifications, including merit and experience.*

384 *2. Make recommendations to the Governor at least 30 days prior to the expiration of terms for*
 385 *which recommendations have been requested to fill vacancies on higher education governing boards.*

386 § 2.2-2522. *Staffing.*

387 *The Office of the Secretary of the Commonwealth shall serve as staff to the Commission, and shall*
 388 *provide to the members copies of resumes and correspondence it receives related to appointments to*
 389 *higher education governing boards. All agencies of the Commonwealth shall provide assistance to the*
 390 *Commission, upon request.*

391 § 2.2-2523. *Sunset.*

392 *This article shall expire on July 1, 2008.*

393 § 2.2-2901. *Appointments, promotions and tenure based upon merit and fitness.*

394 *A. In accordance with the provisions of this chapter all appointments and promotions to and tenure*
 395 *in positions in the service of the Commonwealth shall be based upon merit and fitness, to be*
 396 *ascertained, as far as possible, by the competitive rating of qualifications by the respective appointing*
 397 *authorities.*

398 *Persons holding positions in the service of the Commonwealth on July 1, 1952, shall be deemed to*
 399 *be holding their positions as though they had received appointment under the terms of this chapter.*

400 *B. Persons who leave the service of the Commonwealth for service in any of the armed forces of the*
 401 *United States shall be entitled to be restored to such positions upon the termination of their service with*
 402 *the armed forces, provided such persons, except for good cause shown, have filed an application for*
 403 *restoration to such positions within ~~ninety~~ 90 calendar days following such termination of military*
 404 *service, accompanied by a certificate attesting that the military duty was satisfactorily performed. Such*
 405 *persons shall thereafter hold such positions as though they had received appointment under the terms of*
 406 *this chapter, except as to any such position which, in the meantime, may have been abolished. Any such*
 407 *former employee returning to, or applying for, employment in the state service, as provided by this*
 408 *section, shall be considered as having at least as favorable a status with reference to this chapter as he*
 409 *would have occupied if his service had been continuous.*

410 *C. No establishment of a position or rate of pay, and no change in rate of pay shall become effective*
 411 *except on order of the appointing authority and approval by the Governor. This subsection shall not*
 412 *apply to any position the compensation of which is at a rate of \$1,200 per annum or less.*

413 *D. In order to attract and retain professional auditors, accountants and staff members in the service of*
 414 *the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission may establish*
 415 *scales of pay for such positions notwithstanding the provisions of this chapter. Such scales when*
 416 *established and certified to the Department of Human Resource Management and the Comptroller shall*
 417 *be applicable in the stead of the scales established under the personnel plan.*

418 *E. The Board of Visitors of public institutions of higher education shall establish policies for the*
 419 *designation of administrative and professional faculty positions at institutions of higher education. Those*
 420 *designations shall be reserved for positions that require a high level of administrative independence,*
 421 *responsibility, and oversight within the organization or specialized expertise within a given field as*
 422 *defined by the Board of Visitors. The authority under this subsection to establish policies for the*
 423 *designation of administrative and professional faculty positions shall be granted only to those*

424 institutions that meet the conditions prescribed in subsection B of § 23-38.88.

425 CHAPTER 50.1.

426 MANAGEMENT STANDARDS.

427 § 2.2-5004. Financial and administrative management standards for public institutions of higher
428 education.

429 For purposes of this chapter:

430 "Public institution of higher education" means the same as that term is defined in § 23-38.89.

431 A. Every public institution of higher education in the Commonwealth shall take all appropriate
432 actions to meet the following financial and administrative management standards:

433 1. An unqualified opinion from the Auditor of Public Accounts upon the audit of the public
434 institution's financial statements;

435 2. No significant audit deficiencies attested to by the Auditor of Public Accounts;

436 3. Substantial compliance with all financial reporting standards approved by the State Comptroller;

437 4. Substantial attainment of accounts receivable standards approved by the State Comptroller,
438 including, but not limited to, any standards for outstanding receivables and bad debts;

439 5. Substantial attainment of accounts payable standards approved by the State Comptroller including,
440 but not limited to, any standards for accounts payable past due; and

441 6. Such other financial and administrative management standards as the Governor may establish, or
442 as may be included in the appropriation act currently in effect.

443 B. Any public institution of higher education that does not meet all of the financial management
444 standards in subsection A, including any established by the Governor, and such other financial
445 management standards as may be included in the appropriation act currently in effect as determined in
446 a written certification by the Auditor of Public Accounts pursuant to § 30-133.1 shall develop and
447 implement a plan of corrective action for purposes of meeting such standards as soon as practicable.
448 The Chairman of the Board of Visitors or other governing body of the public institution of higher
449 education shall provide a copy of the written plan to the Auditor of Public Accounts and the Secretaries
450 of Education, Finance, and Administration promptly upon completion of the development of the written
451 plan.

452 C. In addition, any public institution of higher education that does not meet all administrative
453 management standards specified by the Governor, and such standards currently in effect for such
454 institutions as determined in a written certification by the Auditor of Public Accounts pursuant to
455 § 30-133.1 shall develop and implement a plan of corrective action for purposes of meeting such
456 standards as soon as practical. Copies of the corrective action plan shall be provided to the same
457 persons included under subsection B upon completion of the development of the written plan.

458 § 2.2-5005. Incentive performance benefits to certain public institutions of higher education.

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

460 "Fiscal year of implementation" means the first full fiscal year for which the financial and
461 administrative management and educational-related performance benchmarks described under
462 § 23-9.6:1.01 are effective, as provided in a general appropriation act.

463 Beginning with the fiscal year that immediately follows the fiscal year of implementation and for all
464 fiscal years thereafter, each public institution of higher education that (i) has been certified during the
465 fiscal year by the State Council of Higher Education of Virginia pursuant to § 23-9.6:1.01 as having
466 met the institutional performance benchmarks for public institutions of higher education and (ii) meets
467 the conditions prescribed in subsection B of § 23-38.88, shall receive the following financial benefits:

468 1. Interest on the tuition and fees and other nongeneral fund Educational and General Revenues
469 deposited into the State Treasury by the public institution of higher education, as provided in the
470 appropriation act. Such interest shall be paid from the general fund and shall be an appropriate and
471 equitable amount as determined and certified in writing by the Secretary of Finance to the Comptroller
472 by the end of each fiscal year, or as soon thereafter as practicable;

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

476 3. A pro rata amount of the rebate due to the Commonwealth on credit card purchases of \$5,000 or
477 less made during the fiscal year. The amount to be paid to each institution shall equal a pro rata share
478 based upon its total transactions of \$5,000 or less using the credit card that is approved for use by all
479 state agencies as compared to all transactions of \$5,000 or less using such card by all state agencies.
480 The Comptroller shall determine the public institution's pro rata share and, as provided in the
481 appropriation act, shall pay the institution by August 15, or as soon thereafter as practicable, of the
482 fiscal year immediately following the year of certification.

483 The payment to an institution of its pro rata share under this subdivision shall also be applicable to
484 other rebate or refund programs in effect that are similar to that of the credit card rebate program

485 described in this subdivision. The Secretary of Finance shall identify such other rebate or refund
486 programs and shall determine the pro rata share to be paid to the public institution of higher education.

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

493 § 23-9.2:3.02. Six-year institutional plans; annual assessment by State Council.

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

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

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

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

512 D. In developing such plans, each public institution of higher education shall give consideration to
513 potential future impacts of tuition increases on the Virginia College Savings Plan (§ 23-38.75 et seq.)
514 and shall discuss such potential impacts with the Plan. The executive director of the Virginia College
515 Savings Plan shall provide to each institution the Plan's assumptions underlying the contract pricing of
516 the program.

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

523 § 23-9.6:1. Duties of Council generally.

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

526 1. ~~To prepare plans under which the several state-supported institutions of higher education of~~
527 ~~Virginia shall constitute a coordinating system. In developing such plans, the Council shall consider~~
528 ~~Develop a statewide strategic plan that reflects the goals set forth in subsection B of § 23-38.88 for~~
529 ~~higher education in the Commonwealth, identifies a coordinated approach to such state and regional~~
530 ~~goals, and emphasizes the future needs for higher education in Virginia at both the undergraduate and~~
531 ~~the graduate levels, as well as the mission, programs, facilities and location of each of the existing~~
532 ~~institutions of higher education, each public institution's six-year plan, and such other matters as the~~
533 ~~Council deems appropriate. The Council shall revise such plans at least once every four six years and~~
534 ~~shall submit such recommendations as are necessary for the implementation of the plan to the Governor~~
535 ~~and the General Assembly.~~

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

546 selection and student admission policies shall remain a function of the individual institutions.

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

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

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

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

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

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

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

588 10. ☐ Develop in cooperation with institutions of higher education guidelines for the assessment of
589 student achievement. An institution shall use an approved program that complies with the guidelines of
590 the Council and is consistent with the institution's mission and educational objectives in the development
591 of such assessment. The Council shall report the institutions' assessments of student achievement in the
592 biennial revisions to the state's master plan for higher education.

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

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

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

604 14. ☐ Provide advisory services to private, accredited and nonprofit institutions of higher education,
605 whose primary purpose is to provide collegiate or graduate education and not to provide religious
606 training or theological education, on academic, administrative, financial and space utilization matters.

607 The Council may also review and advise on joint activities, including contracts for services between
608 such public and private institutions of higher education or between such private institutions and any
609 agency of the Commonwealth or political subdivision thereof.

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

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

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

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

631 19. To Develop, in cooperation with the institutions of higher education, the Board of Nursing, and
632 the Advisory Council on the Future of Nursing in Virginia, a strategic statewide plan to ensure an
633 adequate supply of nurses. The Council shall recommend to the Governor and the General Assembly
634 such changes in public policy as may be necessary to meet the state's current and future need for
635 essential nursing services.

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

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

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

645 § 23-9.6:1.01. *Assessments of institutional performance.*

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

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

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

661 B. *The Governor shall include objective measures of financial and administrative management and*
662 *educational-related performance and related institutional performance benchmarks as described in*
663 *subsection A in "The Budget Bill" submitted as required by subsection A of § 2.2-1509 or in his*
664 *proposed gubernatorial amendments to the general appropriation act pursuant to subsection E of*
665 *§ 2.2-1509.*

666 C. *The State Council shall annually assess the degree to which each individual public institution of*
667 *higher education has met the financial and administrative management and educational-related*

668 performance benchmarks set forth in the appropriation act in effect. Such annual assessment shall be
 669 based upon the objective measures and institutional performance benchmarks included in the annual
 670 appropriation act in effect. The State Council shall request assistance from the Secretaries of Finance
 671 and Administration, who shall provide such assistance, for purposes of assessing whether or not public
 672 institutions of higher education have met the financial and administrative management performance
 673 benchmarks.

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

679 Those institutions that are certified by the State Council as having met the financial and
 680 administrative management and educational-related performance benchmarks in effect for the fiscal year
 681 as set forth in the general appropriation act shall be entitled to the financial benefits set forth in
 682 § 2.2-5005. Such benefits shall first be provided as determined under such section.

683 CHAPTER 4.10.

684 RESTRUCTURED HIGHER EDUCATION FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT.

685 SUBCHAPTER 1.

686 GENERAL PROVISIONS.

687 § 23-38.88. Eligibility for restructured financial and administrative operational authority.

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

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

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

697 3. For those public institutions of higher education that have in effect a signed memorandum of
 698 understanding with the Secretary of Administration regarding participation in the nongeneral fund
 699 decentralization program as set forth in the appropriation act, as provided in subsection C of
 700 § 2.2-1132, to enter into contracts for specific construction projects without the preliminary review and
 701 approval of the Division of Engineering and Buildings of the Department of General Services, provided
 702 such institutions are in compliance with the requirements of the Virginia Public Procurement Act
 703 (§ 2.2-4300 et seq.) and utilize the general terms and conditions for those forms of procurement
 704 approved by the Division and the Office of the Attorney General;

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

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

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

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

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

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

717 10. To be allowed to establish policies for the designation of administrative and professional faculty
 718 positions at the institution pursuant to the conditions and provisions provided in subsection E of
 719 § 2.2-2901;

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

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

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

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

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

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

736 1. Consistent with its institutional mission, provide access to higher education for all citizens
737 throughout the Commonwealth, including underrepresented populations, and, consistent with subdivision
738 4 of § 23-9.6:1 and in accordance with anticipated demand analysis, meet enrollment projections and
739 degree estimates as agreed upon with the State Council of Higher Education for Virginia. Each such
740 institution shall bear a measure of responsibility for ensuring that the statewide demand for enrollment
741 is met;

742 2. Consistent with § 23-9.2:3.02, ensure that higher education remains affordable, regardless of
743 individual or family income, and through a periodic assessment, determine the impact of tuition and fee
744 levels net of financial aid on applications, enrollment, and student indebtedness incurred for the
745 payment of tuition and fees;

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

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

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

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

759 7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and the
760 area in which the institution is located, and for those institutions subject to a management agreement
761 set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter, in areas that lag the Commonwealth in
762 terms of income, employment, and other factors;

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

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

769 10. Prepare a six-year financial plan consistent with § 23-9.2:3.02; and

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

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

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

790 and objectives set forth in subdivision B 11.

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

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

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

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

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

820 b. An absolute two-thirds, or more, of the institution's governing body shall have voted in the
 821 affirmative for a resolution expressing the sense of the body that the institution is qualified to be, and
 822 should be, governed by the provisions of Subchapter 3 (§ 23-38.91 et seq.) of this chapter, which
 823 resolution shall be included in the initial management agreement;

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

833 In developing management agreements, public institutions of higher education shall give
 834 consideration to potential future impacts of tuition increases on the Virginia College Savings Plan
 835 (§ 23-38.75) and shall discuss such potential impacts with parties participating in development of such
 836 agreements. The executive director of the Virginia College Savings Plan shall provide to the institution
 837 and such parties the Plan's assumptions underlying the contract pricing of the program; and

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

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

847 If an existing agreement is not renewed or a new agreement executed prior to the expiration of the
 848 three-year or five-year term, as applicable, the existing agreement shall remain in effect on a
 849 provisional basis for a period not to exceed one year. If, after the expiration of the provisional one-year
 850 period, the management agreement has not been renewed or a new agreement executed, the institution

851 shall no longer be granted any of the financial or operational authority set forth in Subchapter 3
 852 (§ 23-38.91 et seq.) of this chapter, unless and until such time as a new management agreement is
 853 entered into between the institution and the Commonwealth.

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

867 4. The right and power by the Governor to void a management agreement shall be expressly
 868 included in each management agreement. The management agreement shall provide that if the Governor
 869 makes a written determination that a public institution of higher education that has entered into a
 870 management agreement with the Commonwealth is not in substantial compliance with the terms of the
 871 agreement or with the requirements of this chapter in general, (i) the Governor shall provide a copy of
 872 that written determination to the chairmen of the Board of Visitors or other governing body of the
 873 public institution of higher education and to the members of the General Assembly, and (ii) the
 874 institution shall develop and implement a plan of corrective action, satisfactory to the Governor, for
 875 purposes of coming into substantial compliance with the terms of the management agreement and with
 876 the requirements of this chapter, as soon as practicable, and shall provide a copy of such corrective
 877 action plan to the members of the General Assembly. If after a reasonable period of time after the
 878 corrective action plan has been implemented by the institution, the Governor determines that the
 879 institution is not yet in substantial compliance with the management agreement or the requirements of
 880 this chapter, the Governor may void the management agreement. Upon the Governor voiding a
 881 management agreement, the affected public institution of higher education shall not be allowed to
 882 exercise any restructured financial or operational authority pursuant to the provisions of Subchapter 3
 883 (§ 23-38.91 et seq.) unless and until the institution enters into a subsequent management agreement with
 884 the Secretary or Secretaries designated by the Governor or the void management agreement is
 885 reinstated by the General Assembly.

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

892 6. Following the execution of each management agreement with a public institution of higher
 893 education and submission of that management agreement to the Chairmen of the House Committee on
 894 Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate
 895 Committee on Education and Health pursuant to § 23-38.97, the Governor shall include a
 896 recommendation for approval of the management agreement in "The Budget Bill" submitted pursuant to
 897 subsection A of § 2.2-1509 or in his gubernatorial amendments submitted pursuant to subsection E of
 898 § 2.2-1509 due by the December 20 that immediately follows the date of submission of the management
 899 agreement to such Committees. Following the General Assembly's consideration of whether to approve
 900 or disapprove the management agreement as recommended, if the management agreement is approved
 901 as part of the general appropriation act, it shall become effective on the effective date of such general
 902 appropriation act. However, no management agreement shall be entered into by a public institution of
 903 higher education and the Secretary or Secretaries designated by the Governor after November 15 of a
 904 calendar year.

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

910 § 23-38.89. Definitions.

911 As used in this chapter, the following terms have the following meanings, unless the context requires

912 otherwise:

913 "Bonds, notes or other obligations" means bonds, notes, commercial paper, bond anticipation notes,
914 revenue certificates, capital leases, lease participation certificates or other evidences of indebtedness or
915 deferred purchase financing arrangements.

916 "Capital project" means the acquisition of any interest in land, including improvements on the
917 acquired land, either new construction of 5,000 square feet or more or new construction costing \$1
918 million or more, improvements or renovations costing \$1 million or more, or capital leases.

919 "Covered Employee" means any person who is employed by a covered institution on either a salaried
920 or wage basis.

921 "Covered institution" means, on and after its effective date of the initial Management Agreement, a
922 public institution of higher education of the Commonwealth that has entered into a management
923 agreement with the Commonwealth to be governed by the provisions of Subchapter 3 (§ 23-38.91 et
924 seq.) of this chapter.

925 "Enabling legislation" means those chapters, other than this chapter, of Title 23, as amended,
926 creating, continuing, or otherwise setting forth the powers, purposes, and missions of the individual
927 public institutions of higher education of the Commonwealth, and as provided in §§ 2.2-2817.2,
928 2.2-2905, 51.1-126.3, and 51.1-1100 in the case of the University of Virginia Medical Center, unless
929 otherwise expressly provided in this subchapter.

930 "Facilities" means all property or rights in property, real and personal, tangible and intangible,
931 including but not limited to all facilities and infrastructure suitable for supporting a covered institution's
932 mission and ancillary activities and including any and all structures, buildings, improvements, additions,
933 extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches,
934 roadways, and other related and supporting facilities, now or hereafter held, possessed, owned, leased,
935 operated, or used, in whole or in part, by a covered institution.

936 "Management agreement" means an agreement required by subsection D of § 23-38.88 between the
937 Commonwealth and a public institution of higher education seeking to become governed by Subchapter
938 3 (§ 23-38.91 et seq.) of this chapter.

939 "Project" means any research programs and any research or educational facility of an institution
940 governed by Subchapter 3 (§ 23-38.91 et seq.) of this chapter or equipment necessary or convenient to
941 or consistent with the purposes of such institution, whether or not owned by the institution, including,
942 without limitation, research, training, teaching, dormitory, and classroom facilities; all related and
943 supporting facilities, and equipment necessary or desirable in connection therewith or incidental thereto;
944 or equipment alone; and also including, without limitation, office, parking, kitchen, laundry, laboratory,
945 wellness, pharmaceutical, administrative, communications, computer, and recreational and athletic
946 facilities; hotels and related facilities; power plants and equipment; storage space; hospitals; nursing
947 homes; continuing care facilities; self-care facilities; health maintenance centers; medical office
948 facilities; clinics; outpatient clinics; surgical centers; alcohol, substance abuse, and drug treatment
949 centers; laboratories; sanitariums; hospices; facilities for the residence or care of the elderly, the
950 handicapped, or the chronically ill; residential facilities for nurses, interns, and physicians; other kinds
951 of facilities for the treatment of sick, disturbed, or infirm persons or the prevention of disease or
952 maintenance of health; colleges, schools, or divisions offering undergraduate, graduate, professional, or
953 extension programs, or any combination of such programs, for such branches of learning as may be
954 appropriate; vehicles and other transportation equipment, together with mobile medical facilities; air
955 transport equipment, including equipment necessary or desirable for the transportation of medical
956 equipment, medical personnel or patients; and all lands, buildings, improvements, approaches, and
957 appurtenances necessary or desirable in connection with or incidental to any such program, facility or
958 equipment.

959 "Public institution of higher education" means a two-year or four-year public institution of higher
960 education.

961 "Virginia Retirement System" means that retirement system, or other authorized retirement system,
962 established pursuant to Title 51.1.

963 SUBCHAPTER 2.

964 FINANCIAL AND ADMINISTRATIVE MEMORANDA OF UNDERSTANDING.

965 § 23-38.90. Memoranda of understanding.

966 A. 1. The Governor shall recommend to the General Assembly an operational area or areas in
967 addition to decentralization programs in finance and capital outlay established as of June 30, 2005,
968 under which public institutions of higher education may seek to enter into a memorandum of
969 understanding with the Commonwealth. In submitting "The Budget Bill" for calendar year 2005
970 pursuant to subsection A of § 2.2-1509, the Governor shall include eligibility criteria for each
971 operational area along with the functional authority that could be granted in each area. In each
972 operational area, the functional authority granted through a memorandum of understanding shall not

973 exceed the level of autonomy permitted under Subchapter 3 (§ 23-38.91 et seq.) of this chapter.

974 2. Effective July 1, 2006, any public institution of higher education may enter into a memorandum of
975 understanding with the appropriate Cabinet Secretary or Secretaries, as designated by the Governor, for
976 additional operational authority in any operational area or areas adopted by the General Assembly in
977 accordance with subdivision A 1 provided that the authority granted in the memorandum of
978 understanding is consistent with that institution's ability to manage its operations in the particular area
979 or areas.

980 B. Within 15 days of receipt of a request from a public institution of higher education to enter into a
981 memorandum of understanding pursuant to subsection A, the Cabinet Secretary or Secretaries receiving
982 that request shall notify the Chairmen of the House Committee on Appropriations and the Senate
983 Committee on Finance of the request. The Cabinet Secretary or Secretaries shall determine within 90
984 calendar days whether or not to enter into the requested memorandum of understanding, or some
985 variation thereof. If the determination is to enter into a memorandum of understanding with the
986 institution, the Cabinet Secretary or Secretaries shall forward a copy of the memorandum of
987 understanding to the Chairmen of the House Committee on Appropriations and the Senate Committee on
988 Finance. If the determination is not to enter into a memorandum of understanding with the institution,
989 the Cabinet Secretary or Secretaries shall notify the Chairmen of the House Committee on
990 Appropriations and the Senate Committee on Finance of the reasons for denying the institution's
991 request. If an institution's request is denied, nothing in this subsection shall prohibit the institution from
992 submitting a future request to enter into a memorandum of understanding pursuant to subsection A of
993 this section.

994 SUBCHAPTER 3.
995 ALTERNATIVE AUTHORITY FOR COVERED INSTITUTIONS.

996 Article 1.

997 Governance; Scope of Subchapter; Other Laws.

998 § 23-38.91. Responsibility and accountability for management of institution; governance.

999 A. The Board of Visitors and administration of a public university or college of the Commonwealth
1000 that meets the requirements of this subchapter to demonstrate the ability to manage successfully the
1001 administrative and financial operations of the institution without jeopardizing the financial integrity and
1002 stability of the institution may enter into negotiation with the Governor to develop a management
1003 agreement with the Commonwealth, as provided in this subchapter. Consistent with the terms of the
1004 management agreement, the Board of Visitors shall assume full responsibility for management of the
1005 institution, subject to the requirements and conditions set forth in this subchapter, the general
1006 requirements for management agreements as provided in § 23-38.88, and the specific management
1007 agreement with the Commonwealth. The Board of Visitors shall be fully accountable for (a) the
1008 management of the institution of higher education as provided in this subchapter, (b) meeting the
1009 requirements of §§ 2.2-5004, 23-9.2:3.02, and 23-9.6:1.01, and (c) meeting such other provisions as may
1010 be set forth in the management agreement with the Commonwealth.

1011 B. Each covered institution shall be governed and administered in the manner provided in this
1012 subchapter but subject to the expressed terms of the management agreement entered into pursuant to
1013 § 23-38.88, in the appropriation act, and in each such institution's enabling legislation.

1014 § 23-38.92. Scope of subchapter.

1015 A. Any public institution of higher education that complies with the requirements of this subchapter
1016 shall thereafter have the powers and authority set forth in this subchapter that are expressly included in
1017 the management agreement described in § 23-38.88.

1018 B. Except as specifically made inapplicable under this subchapter and the express terms of a
1019 management agreement described in § 23-38.88, the provisions of Title 2.2 relating generally to the
1020 operation, management, supervision, regulation, and control of public institutions of higher education
1021 shall be applicable to covered institutions as provided by the express terms of the management
1022 agreement described in § 23-38.88.

1023 C. In the event of a conflict between any provision of Title 2.2 and any provision of this subchapter
1024 as expressed by the management agreement, the provisions of the management agreement shall control.
1025 In the event of a conflict between any provision of this subchapter and an institution's enabling
1026 legislation, the enabling legislation shall control.

1027 § 23-38.93. Educational policies of the Commonwealth; other requirements.

1028 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,
1029 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, 23-9.2:3.02,
1030 23-9.2:3.1 through 23-9.2:5, 23-9.6:1.01, and Chapter 4.9 (§ 23-38.75 et seq.), each covered institution
1031 shall remain a public institution of higher education of the Commonwealth following its conversion to a
1032 covered institution governed by this chapter, and shall retain the authority granted and any obligations
1033 required by such provisions. In addition, each covered institution shall retain the authority, and any

1034 obligations related to the exercise of such authority, that is granted to institutions of higher education
 1035 pursuant to Chapter 1.1 (§ 23-9.3 et seq.); Chapter 3 (§ 23-14 et seq.); Chapter 3.2 (§ 23-30.23 et seq.);
 1036 Chapter 3.3 (§ 23-30.39 et seq.); Chapter 4 (§ 23-31 et seq.); Chapter 4.01 (§ 23-38.10:2 et seq.);
 1037 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.);
 1038 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
 1039 seq.); Chapter 4.5 (§ 23-38.54 et seq.); Chapter 4.7 (§ 23-38.70 et seq.); Chapter 4.8 (§ 23-38.72 et
 1040 seq.); and Chapter 4.9 (§ 23-38.75 et seq.).

1041 B. State government-owned or operated and state-owned teaching hospitals that are a part of a
 1042 covered institution as of the institution's effective date of the initial Management Agreement shall
 1043 continue to be characterized as state government-owned or operated and state-owned teaching hospitals
 1044 for purposes of payments under the State Plan for Medicaid Services adopted pursuant to § 32.1-325 et
 1045 seq., provided that the covered institution commits to serve indigent and medically indigent patients, in
 1046 which event the Commonwealth, through the Department of Medical Assistance Services, shall, subject
 1047 to the appropriation in the appropriation act in effect, continue to reimburse the full cost of the
 1048 provision of care, treatment, health-related and educational services to indigent and medically indigent
 1049 patients and continue to treat hospitals that were part of a covered institution and that were Type One
 1050 Hospitals prior to the institution's effective date of the initial Management Agreement as Type One
 1051 Hospitals for purposes of such reimbursement.

1052 § 23-38.94. Audits.

1053 The Auditor of Public Accounts or his legally authorized representatives shall audit annually
 1054 accounts of all covered institutions and shall distribute copies of each annual audit to the Governor and
 1055 to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.
 1056 Pursuant to § 30-133, the Auditor of Public Accounts and his legally authorized representatives shall
 1057 examine annually the accounts and books of each such institution; however, a covered institution shall
 1058 not be deemed to be a state or governmental agency, advisory agency, public body, or agency or
 1059 instrumentality for purposes of Chapter 14 (§ 30-130 et seq.) of Title 30 except for those provisions in
 1060 such chapter that relate to requirements for financial recordkeeping and bookkeeping. Each covered
 1061 institution shall be subject to periodic external review by the Joint Legislative and Audit Review
 1062 Commission and such other reviews and audits as shall be required by law.

1063 § 23-38.95. Public access to information.

1064 A covered institution shall continue to be subject to § 2.2-4342 and to the provisions of the Virginia
 1065 Freedom of Information Act (§ 2.2-3700 et seq.), but shall be entitled to conduct business pursuant to
 1066 § 2.2-3709, in the case of a public institution of higher education to which that section applies, and, in
 1067 all cases, may conduct business as a "state public body" for purposes of subsection B of § 2.2-3708.

1068 § 23-38.96. Conflicts of interests.

1069 The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) that
 1070 are applicable to officers and employees of a state governmental agency shall continue to apply to the
 1071 members of the governing body and the Covered Employees of a covered institution.

1072 Article 2.

1073 Eligibility Requirements and Procedures; Management Agreement.

1074 § 23-38.97. Eligibility requirements and procedures; management agreement.

1075 A. Any public institution of higher education may initiate the process to be governed by this
 1076 subchapter by complying with the following requirements:

1077 1. An absolute two-thirds, or more, of the institution's governing body shall have voted in the
 1078 affirmative for a resolution expressing the sense of the body that the institution is qualified to be, and
 1079 should be, governed by this subchapter.

1080 2. Following such affirmative vote by such governing body, the institution shall submit to the
 1081 Governor a written request for his approval to be governed by this subchapter. A copy of such request
 1082 shall be sent to the Chairmen of the House Committee on Appropriations, the House Committee on
 1083 Education, the Senate Committee on Finance and the Senate Committee on Education and Health. Such
 1084 written request shall provide documentation substantiating that: (i) the institution possesses the
 1085 necessary administrative infrastructure, experience, and expertise to perform successfully its public
 1086 educational mission as a covered institution; (ii) the institution is financially able to operate as a
 1087 covered institution without jeopardizing the financial integrity and stability of the institution; (iii) the
 1088 institution consistently meets the financial and administrative management standards pursuant to
 1089 § 2.2-5004; and (iv) the institution's governing body has adopted performance and accountability
 1090 standards, in addition to any institutional performance benchmarks included in the general
 1091 appropriation act and developed pursuant to § 23-9.6:1.01, against which its implementation of this
 1092 additional authority can be measured.

1093 B. If the Governor finds that the institution meets the criteria set forth in subdivision A 2, he shall
 1094 authorize those Cabinet Secretaries he deems appropriate to enter into a management agreement, as

1095 described in § 23-38.88, with the governing body of that institution addressing such matters as that
1096 institution's in-state undergraduate student enrollment, its financial aid requirements and capabilities,
1097 and its tuition policy for in-state undergraduate students.

1098 C. Any such management agreement, executed by the designated Cabinet Secretaries and governing
1099 body of the institution shall be submitted by no later than November 15 of any given year to the House
1100 Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance,
1101 and the Senate Committee on Education and Health. The Governor shall include a recommendation for
1102 approval of the management agreement with the public institution of higher education in "The Budget
1103 Bill" submitted pursuant to subsection A of § 2.2-1509 or in his gubernatorial amendments submitted
1104 pursuant to subsection E of § 2.2-1509 due by the December 20 that immediately follows the date of
1105 submission of the management agreement to such Committees. Following the General Assembly's
1106 consideration of whether to approve or disapprove the management agreement as recommended, if the
1107 management agreement is approved as part of the general appropriation act, it shall become effective
1108 on the effective date of such general appropriation act.

1109 § 23-38.98. Revocation of management agreement.

1110 An institution's status as a covered institution may be revoked by an act of the General Assembly (i)
1111 if the institution fails to meet the requirements of this subchapter, or (ii) if the institution fails to meet
1112 the requirements of the management agreement as provided in § 23-38.88. An institution's status as a
1113 covered institution shall terminate upon the Governor voiding the management agreement with the
1114 institution as provided under subdivision D 4 of § 23-38.88.

1115 Article 3.

1116 Powers and Authority Generally.

1117 § 23-38.99. Powers and authority generally.

1118 In addition to those powers granted in each covered institution's enabling legislation and in the
1119 appropriation act, a covered institution, subject to the express provisions of the management agreement
1120 as provided in § 23-38.88, shall have all the powers and authority necessary or convenient to carry out
1121 the purposes and provisions of this subchapter. The powers of the Board of Visitors of the institution
1122 shall include:

1123 1. To make and execute contracts, guarantees, or any other instruments and agreements necessary or
1124 convenient for the exercise of its powers, authority, and functions including, without limitation, to make
1125 and execute contracts with persons to operate and manage any or all of the institution's facilities or
1126 operations, and to incur liabilities and secure the obligations of any entity or individual; provided,
1127 however, that no covered institution may pledge the faith and credit of the Commonwealth or enter into
1128 an indemnification agreement or binding arbitration agreement contrary to the law of Virginia
1129 applicable to state agencies.

1130 2. To conduct or engage in any lawful business, activity, effort, or project consistent with the
1131 institution's purposes or necessary or convenient to exercise its powers and authority.

1132 3. To procure such insurance, participate in such insurance plans, provide such self-insurance,
1133 continue participation in the Commonwealth's insurance or self-insurance plans, continue to participate
1134 in the Commonwealth's risk management programs, continue participation in the Virginia Retirement
1135 System or other Commonwealth sponsored retirement plans subject to the conditions and provisions of
1136 Article 6 (§ 23-38.114 et seq.) of this subchapter, or any combination of the foregoing, as provided in
1137 this subchapter. The purchase of insurance, participation in an insurance plan, or creation of a
1138 self-insurance plan by the institution shall not be deemed a waiver or relinquishment of any sovereign
1139 immunity to which the institution or its officers, directors, employees, or agents are otherwise entitled.
1140 The fact that a covered institution is governed by this subchapter shall not disqualify it from
1141 participating in any Commonwealth or Virginia Retirement System insurance, self-insurance, or risk
1142 management program on the same terms and conditions applicable to other state agencies and other
1143 public institutions of higher education.

1144 § 23-38.100. Operation of projects.

1145 A. A covered institution may acquire, plan, design, construct, own, rent as landlord or tenant,
1146 operate, control, remove, renovate, enlarge, equip, and maintain, directly or through stock or nonstock
1147 corporations or other entities, any project as defined in this subchapter. Such projects may be owned or
1148 operated by the institution or other persons, or jointly by such institution and other persons, and may be
1149 operated within or without the Commonwealth, so long as their operations are necessary or desirable to
1150 assist the institution in carrying out its public purposes within the Commonwealth, and so long as any
1151 private benefit resulting to any such other private persons from any such project is merely incidental to
1152 the public benefit of such project.

1153 B. In the operation of any facility, including any veterinary facility or any hospital or other health
1154 care and related facilities owned or operated by a covered institution, such institution may continue in
1155 effect or adopt and enforce all policies necessary or desirable for such operation. Any such policies

1156 *pertaining to the operation of veterinary, hospital, or other health care or related facilities may include,*
 1157 *without limitation, rules relating to the conditions under which the privilege of practicing any health*
 1158 *profession or veterinary medicine may be available therein, the admission and treatment of patients, the*
 1159 *procedures for determining the qualification of patients for indigent care or other programs, and the*
 1160 *protection of patients and employees, provided that such policies shall not discriminate on the basis of*
 1161 *race, religion, color, sex, national origin, or other factor prohibited by law.*

1162 § 23-38.101. *Creation of entities; participation in joint ventures.*

1163 A. *A covered institution may create or assist in the creation of; may own in whole or in part or*
 1164 *otherwise control; may participate in or with any entities, public or private; and may purchase, receive,*
 1165 *subscribe for, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise acquire or dispose*
 1166 *of any (i) shares or obligations of, or other interests in, any entities organized for any purpose within or*
 1167 *without the Commonwealth, and (ii) obligations of any person or corporation. No part of the assets or*
 1168 *net earnings of such institution shall inure to the benefit of, or be distributable to, any private*
 1169 *individual, except that reasonable compensation may be paid for services rendered to or for such*
 1170 *institution in furtherance of its public purposes, and benefits may be conferred that are in conformity*
 1171 *with said purposes.*

1172 B. *A covered institution may participate in joint ventures with individuals, corporations,*
 1173 *governmental bodies or agencies, partnerships, associations, insurers or other entities to facilitate any*
 1174 *activities or programs consistent with the public purposes and intent of this subchapter.*

1175 C. *A covered institution may create or continue the existence of one or more nonprofit entities for*
 1176 *the purpose of soliciting, accepting, managing, and administering grants, gifts and bequests, endowment*
 1177 *gifts and bequests, and gifts and bequests in trust.*

1178 D. *In carrying out any activities authorized by this subchapter, a covered institution may provide*
 1179 *appropriate assistance, including (i) making loans from its funds, other than general fund appropriations*
 1180 *or proceeds of bonds issued under Article X, Section 9(a), 9(b), or 9(c), or 9(d), if such issuance is*
 1181 *Commonwealth general fund supported, of the Constitution of Virginia, and (ii) providing the time of its*
 1182 *employees to corporations, partnerships, associations, joint ventures or other entities, whether or not*
 1183 *such corporations, partnerships, associations, joint ventures or other entities are owned or controlled in*
 1184 *whole or in part, directly or indirectly, by such institution.*

1185 § 23-38.102. *Campus police.*

1186 A *covered institution may continue to operate or establish a campus police department in accordance*
 1187 *with the provisions of Chapter 17 (§ 23-232 et seq.), as those provisions are modified by this*
 1188 *subchapter. Campus police shall possess the powers provided in Chapter 17; provided however, that a*
 1189 *covered institution's employment of campus police shall be governed by the provisions of this subchapter*
 1190 *rather than by Chapter 28 (§ 2.2-2800 et seq.) and Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.*

1191 *Campus police officers of a covered institution shall be eligible to participate in the same*
 1192 *state-sponsored retirement plans, and on the same terms and conditions, that campus police officers of*
 1193 *other public institutions of higher education are eligible to participate in.*

1194 Article 4.

1195 Institutional Management.

1196 § 23-38.103. *Tuition, fees, rentals, and other charges; moneys.*

1197 A *covered institution shall fix, revise from time to time, charge and collect tuition, rates, rentals, fees*
 1198 *and other charges for the services, goods, or facilities furnished by or on behalf of such institution, and*
 1199 *may adopt policies regarding any such service rendered or the use, occupancy, or operation of any such*
 1200 *facility.*

1201 § 23-38.104. *Financial operations of covered institutions.*

1202 A. *Subject to such accountability measures and audits as are provided in this subchapter or as may*
 1203 *otherwise be specifically made applicable by other law to institutions governed by this subchapter and*
 1204 *subject to the expressed terms of the management agreement described in § 23-38.88, a covered*
 1205 *institution may be permitted (i) to independently manage its operations and finances, including holding*
 1206 *and investing its tuition, fees, research funds, auxiliary enterprise funds, and all other public funds; (ii)*
 1207 *to create any and all financial policies deemed necessary to conduct its financial operations; (iii) to*
 1208 *adopt the budget for the institution; and (iv) to control the expenditures of all moneys generated or*
 1209 *received by the institution, including tuition, fees and other nongeneral fund revenue sources.*

1210 B. *Subject to the express terms of the management agreement described in § 23-38.88, in managing*
 1211 *its operations and finances, the Board of Visitors of a covered institution shall have sole authority to*
 1212 *establish tuition, fee, room, board, and other charges consistent with sum sufficient appropriation*
 1213 *authority for all nongeneral funds as provided by the Governor and the General Assembly in the*
 1214 *Commonwealth's biennial appropriations authorization. The Board of Visitors shall include the*
 1215 *institution's commitment to provide need-based grant aid for middle- and lower-income Virginia students*
 1216 *in a manner that encourages student enrollment and progression without respect to potential increases*

1217 in tuition and fees. In the event that any or all of the nongeneral funds are retained by the institution,
 1218 the institution shall invest such funds consistent with an investment policy established by the Board of
 1219 Visitors and retain all income earned on such investments. In the event that any or all of the nongeneral
 1220 funds are held on behalf of the institution by the Commonwealth of Virginia, the institution shall receive
 1221 a share of the income earned by the Commonwealth on the investment of such funds as provided in
 1222 § 2.2-5005.

1223 C. The management agreement described in § 23-38.88 shall include the quantification of cost
 1224 savings realized as a result of the additional operational flexibility provided pursuant to this subchapter.

1225 D. A covered institution may enter into any contract which the institution determines to be necessary
 1226 or appropriate to place any bond or investment of the institution, in whole or in part, on the interest
 1227 rate, cash flow, or other basis desired by the institution, which contract may include, without limitation,
 1228 contracts commonly known as interest rate swap agreements, and futures or contracts providing for
 1229 payments based on levels of, or changes in, interest rates. These contracts or arrangements may be
 1230 entered into by the institution in connection with, incidental to, entering into, or maintaining any (i)
 1231 agreement that secures bonds, notes, or other obligations or (ii) investment or contract providing for
 1232 investment, otherwise authorized by law, including but not limited to § 23-38.105. These contracts and
 1233 arrangements may contain such payment, security, default, remedy, and other terms and conditions as
 1234 determined by the institution, after giving due consideration to the creditworthiness of the counterpart or
 1235 other obligated party, including any rating by any nationally recognized rating agency, and any other
 1236 criteria as may be appropriate. Any money set aside and pledged to secure payments of bonds, notes or
 1237 other obligations or any of the contracts entered into pursuant to this section may be pledged to and
 1238 used to service any of the contracts or agreements entered into pursuant to this section.

1239 § 23-38.105. Investments of operating funds.

1240 A covered institution may invest its operating funds in any obligations or securities that are
 1241 considered legal investments for public funds in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title
 1242 2.2. Such institution's governing body shall adopt written investment guidelines which provide that such
 1243 investments shall be made solely in the interest of the covered institution and shall be undertaken with
 1244 the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person
 1245 acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a
 1246 like character and with like aims.

1247 § 23-38.106. Records of financial transactions.

1248 The governing body of a covered institution shall adopt a system of independent financial
 1249 management that includes bookkeeping and accounting procedures that have been prescribed for
 1250 governmental organizations by the Government Accounting Standards Board.

1251 § 23-38.107. Financing and indebtedness.

1252 A. A covered institution shall have the authority to:

1253 1. Borrow money and issue bonds, notes, or other obligations as provided in this subchapter and to
 1254 purchase such bonds, notes or other obligations;

1255 2. Seek financing from, incur or assume indebtedness to, and enter into contractual commitments
 1256 with, the Virginia Public Building Authority and the Virginia College Building Authority, which
 1257 authorities are authorized to borrow money and make and issue negotiable notes, bonds, notes or other
 1258 obligations and other evidences of indebtedness to provide such financing relating to facilities or any
 1259 project; and

1260 3. Seek financing from, incur or assume indebtedness to, and enter into contractual commitments
 1261 with the Commonwealth as otherwise provided by law relating to the institution's facilities or any
 1262 project.

1263 B. Notwithstanding the provisions of this chapter, no covered institution shall be deemed to be
 1264 exempt from any requirement or covenant contained in any outstanding bonds, notes, or other evidences
 1265 of indebtedness.

1266 § 23-38.108. Power to issue bonds, notes or other obligations.

1267 A. Notwithstanding the provisions of § 23-29, which shall be inapplicable to the exercise by a
 1268 covered institution of the authority granted in this article, a covered institution may issue bonds, notes,
 1269 or other obligations from time to time for any purpose that is consistent with its institutional mission,
 1270 including, without limitation, to finance or refinance any project, to appropriately manage operational
 1271 cash flows, to provide for short term financing, to refund bonds, notes or other obligations issued
 1272 therefore by or on behalf of such institution, or otherwise, including bonds, notes, or other obligations
 1273 or obligations not then subject to redemption, and may guarantee, assume or otherwise agree to pay, in
 1274 whole or in part, indebtedness issued by such institution or any affiliated entity for managing
 1275 operational cash flows or resulting in the acquisition or construction of facilities for the benefit of such
 1276 institution, or the refinancing thereof; provided, however, that nothing in this subchapter shall preclude
 1277 a covered institution from participation in any financing program or bond issue established and

1278 implemented by the Commonwealth, or any agency thereof, including, without limitation, any financing
 1279 program or bond issue under Article X, Section 9(b) or 9(c) of the Constitution of Virginia, or any
 1280 financing program or bond issue under Article X Section 9(d) of the Constitution of Virginia undertaken
 1281 by the Treasury Board, the Virginia College Building Authority or the Virginia Public Building
 1282 Authority, if such institution is otherwise eligible for and approved for such participation and is
 1283 otherwise able to fulfill any requirements that may be imposed upon it in relation to such participation.

1284 B. Notwithstanding Article 8 (§ 2.2-2415 et seq.) of Chapter 24 of Title 2.2, Chapter 3 (§ 23-14 et
 1285 seq.) of Title 23, and § 23-65, covered institutions may issue bonds, notes, or other obligations
 1286 consistent with debt capacity and management policies and guidelines established by its Board of
 1287 Visitors without obtaining the consent of any legislative body, elected official, commission, board,
 1288 bureau, or agency of the Commonwealth or of any political subdivision, and without any proceedings or
 1289 conditions other than those specifically required by this subchapter. Bonds, notes, or other obligations
 1290 may be issued for the benefit of covered institutions without the approval required by the provisions of
 1291 Article 8 (§ 2.2-2415 et seq.) of Chapter 24 of Title 2.2. No bonds, notes, or other obligations issued
 1292 under the authority of this article shall be subject to any review or approval procedure, rules,
 1293 regulations, or procedures adopted pursuant to Chapter 3 (§ 23-14 et seq.) of Title 23.

1294 C. A covered institution may issue such types of bonds, notes, or other obligations as it may
 1295 determine are appropriate consistent with debt capacity and management policies and guidelines
 1296 established by its Board of Visitors, including, without limitation, bonds, notes or other obligations
 1297 payable as to principal and interest from any one or more of the following sources: (i) its revenues
 1298 generally; (ii) income and revenues derived from the operation, sale, or lease of a particular project or
 1299 projects, whether or not they are financed or refinanced from the proceeds of such bonds, notes, or
 1300 other obligations; (iii) funds realized from the enforcement of security interests or other liens or
 1301 obligations securing such bonds, notes, or other obligations; (iv) proceeds from the sale of bonds, notes,
 1302 or other obligations; (v) payments under letters of credit, policies of municipal bond insurance,
 1303 guarantees, or other credit enhancements; (vi) any reserve or sinking funds created to secure such
 1304 payment; (vii) accounts receivable of such institution; or (viii) other available funds of such institution.

1305 D. Any bonds, notes, or other obligations may be additionally supported by any grant, contribution,
 1306 or appropriation from a participating political subdivision, the covered institution, the Commonwealth
 1307 or any political subdivision, agency, or instrumentality thereof, any federal agency or any unit, private
 1308 corporation, partnership, association, or individual.

1309 E. Bonds, notes, or other obligations of a covered institution are declared to be for an essential
 1310 public and governmental purpose.

1311 F. It shall be lawful for any bank or trust company within or without the Commonwealth to serve as
 1312 depository of the proceeds of bonds, notes, or other obligations or of other revenues of a covered
 1313 institution and to furnish indemnifying bonds, notes, or other obligations or to pledge such securities as
 1314 may be required by such institution, provided that any such deposits shall be collateralized in
 1315 accordance with the Security for Public Deposits Act (§ 2.2-4400 et seq.) in the case of a bank or
 1316 savings institution or in accordance with the Trust Subsidiary Act (§ 6.1-32.1 et seq.) in the case of a
 1317 trust company.

1318 Article 5.

1319 Capital Projects; Procurement; Property Generally.

1320 § 23-38.109. Capital projects.

1321 A. All capital projects of a covered institution, whether funded by an appropriation of the General
 1322 Assembly or otherwise, shall be approved by such institution's governing body, and the governing body
 1323 of each covered institution shall adopt policies for the review, approval, and implementation of all
 1324 capital projects undertaken by the institution.

1325 B. Except as otherwise provided in subdivision C 2, capital projects undertaken at a covered
 1326 institution may be exempt from any capital outlay oversight performed or required by the Department of
 1327 General Services, the Division of Engineering and Buildings, the Department of Planning and Budget,
 1328 and any other state agency that supports the functions performed by these departments.

1329 C. Capital projects undertaken at a covered institution shall be subject to the institution's capital
 1330 project policies adopted pursuant to subsection A, and:

1331 1. Any capital project undertaken at a covered institution shall be subject to the environmental,
 1332 historic preservation and conservation requirements of state statutes that are generally applicable to
 1333 capital projects in the Commonwealth. For purposes of this subdivision, "capital project" means a
 1334 capital project as defined in § 23-38.89 costing \$300,000 or more; and

1335 2. If the capital project is funded in whole or in part with a general fund appropriation for that
 1336 purpose or proceeds from bonds issued under Article X, Section 9(a), 9(b), or 9(c), or 9(d), if such
 1337 issuance is Commonwealth general fund supported, of the Constitution of Virginia, the project shall
 1338 remain subject to such pre-appropriation approvals as are in effect from time to time within the

1339 executive and legislative branches of state government, but such project may nevertheless be exempt
 1340 from any and all state post-appropriation review, approval, administrative or other policy or procedure
 1341 functions performed or required by the Department of General Services, the Division of Engineering and
 1342 Buildings, the Department of Planning and Budget, and any other state agency that supports the
 1343 functions performed by these departments, subject to the terms of any management agreement.

1344 3. If a covered institution constructs improvements on land, or renovates property, that originally
 1345 was acquired or constructed in whole or in part with a general fund appropriation for that purpose or
 1346 proceeds from bonds issued under Article X, Section 9(a), 9(b), or 9(c), or 9(d), if such issuance is
 1347 Commonwealth general fund supported, of the Constitution of Virginia, and such improvements or
 1348 renovations are undertaken entirely with funds not appropriated by the General Assembly, such
 1349 improvements or renovations must be consistent with such institution's master plan approved by its
 1350 governing body and, if the cost of such improvements or renovations is reasonably expected to exceed
 1351 \$2 million, the institution's decision to undertake such improvements or renovations shall be
 1352 communicated to the Governor and to the Chairmen of the Senate Committee on Finance and the House
 1353 Committee on Appropriations no later than 60 days prior to (i) commencement of construction or
 1354 renovation or (ii) issuance of bonds, notes, or other obligations to finance such construction or
 1355 renovation.

1356 D. A covered institution shall have the authority to designate its own building official who shall be a
 1357 full-time employee and who is hereby authorized to determine the suitability for occupancy of, and to
 1358 issue certifications for building occupancy for, all capital projects undertaken at that institution, and
 1359 who, prior to issuing any such certification, shall ensure that the Virginia Uniform Statewide Building
 1360 Code (§ 36-97 et seq.) requirements are met for that capital project and that such project has been
 1361 inspected by the State Fire Marshal or his designee. When serving as the building official, such
 1362 individual shall report directly and exclusively to the Board of Visitors of the institution and shall be
 1363 subject to review by the appropriate personnel in the Department of General Services. The designated
 1364 official shall be certified by the Department of Housing and Community Development to perform this
 1365 function. The individual employed or contracted to serve in such capacity shall have adequate resources
 1366 and staff who are certified by the Department of Housing and Community Development in accordance
 1367 with § 36-137 for such purpose, and who shall review plans, specifications, and documents for
 1368 compliance with codes and standards and perform required inspections of the work in progress and the
 1369 completed project. No individual licensed professional architect or engineer hired or contracted to
 1370 perform these functions shall also perform other code-related design, construction, facilities-related
 1371 project management or facilities management functions for the institution on the same project.

1372 § 23-38.110. Procurement; discrimination prohibited; participation of small, women-, and
 1373 minority-owned business enterprises.

1374 A. Subject to the express provisions of the management agreement described in § 23-38.88, covered
 1375 institutions may be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et
 1376 seq.), except for § 2.2-4342 (which section shall not be construed to require compliance with the
 1377 prequalification application procedures of subsection B of § 2.2-4317); provided, however, that any
 1378 deviations from the Virginia Public Procurement Act approved in a Management Agreement shall be
 1379 uniform across all covered institutions; and provided further that the governing body of a covered
 1380 institution shall adopt, and the covered institution shall comply with, policies for the procurement of
 1381 goods and services, including professional services, that shall be based upon competitive principles and
 1382 shall in each instance seek competition to the maximum practical degree. The policies shall implement a
 1383 system of competitive negotiation for professional services pursuant to subdivisions 1, 2, and 3 a of the
 1384 defined term "competitive negotiation" under § 2.2-4301, shall prohibit discrimination because of race,
 1385 religion, color, sex or national origin of the bidder or offeror in the solicitation or award of contracts,
 1386 shall incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354, and shall consider the
 1387 impact on correctional enterprises under § 53.1-47.

1388 B. Such policies may, among other things, (i) provide for consideration of the dollar amount of the
 1389 intended procurement, the term of the anticipated contract, and the likely extent of competition; (ii)
 1390 implement a prequalification procedure for contractors or products; and (iii) include provisions for
 1391 cooperative arrangements with other covered institutions, other public or private educational
 1392 institutions, other public or private organizations or entities, including public-private partnerships,
 1393 public bodies, charitable organizations, health care provider alliances or purchasing organizations or
 1394 entities, state agencies or institutions of the Commonwealth or the several states, the District of
 1395 Columbia, the territories and the United States, and any combination thereof. Nothing in this section
 1396 shall preclude a covered institution from requesting and utilizing, and covered institutions are hereby
 1397 encouraged to utilize, the assistance of the Virginia Information Technologies Agency in information
 1398 technology procurements.

1399 C. In the solicitation and awarding of contracts, no covered institution shall discriminate against a

1400 bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis
1401 prohibited by state or federal law. The procurement policies of a covered institution shall provide that,
1402 whenever solicitations are made seeking competitive procurement of goods or services, it shall be a
1403 priority of the institution to provide for fair and reasonable consideration of small, women-, and
1404 minority-owned businesses and to promote and encourage a diversity of suppliers.

1405 D. As part of any procurement provisions of a management agreement, the governing board of a
1406 covered institution shall identify the public, educational, and operational interests served by any
1407 procurement rule or rules that deviate from those in the Virginia Public Procurement Act.

1408 § 23-38.111. Information technology.

1409 Subject to the terms of the management agreement, covered institutions may be exempt from the
1410 provisions governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of
1411 Title 2.2., and the provisions governing the Information Technologies Investment Board, Article 20 of
1412 Chapter 24 (§ 2.2-2457 et seq.) of Title 2.2; provided, however, that the governing body of a covered
1413 institution shall adopt, and the covered institution shall comply with, policies for the procurement of
1414 information technology goods and services, including professional services, that are consistent with the
1415 requirements of § 23-38.110 and that include provisions addressing cooperative arrangements for such
1416 procurement as described in § 23-38.110, and shall adopt and comply with institutional policies and
1417 professional best practices regarding strategic planning for information technology, project management,
1418 security, budgeting, infrastructure, and ongoing operations.

1419 § 23-38.112. Acquisition, possession, operation, and disposition of property; acceptance of grants
1420 and loans.

1421 A. Nothing in this subsection shall limit or reduce the authority granted to a covered institution in
1422 §§ 23-38.109 and 23-38.113, which shall govern the planning, design, construction, and implementation
1423 of capital projects and leases by covered institutions. In order to continue its mission as a public
1424 institution of higher education:

1425 1. A covered institution may continue to hold, possess, operate, and dispose of any property, real or
1426 personal, tangible or intangible, that such covered institution held, possessed, or operated prior to its
1427 effective date of the initial Management Agreement as follows:

1428 a. If the property is real property, including land, buildings, and any improvements to land or
1429 buildings, and it was acquired or constructed in whole or in part with general fund appropriations or
1430 proceeds from a general obligation bond issue under Article X, Section 9(a) or 9(b) of the Constitution
1431 of Virginia, the covered institution (i) shall hold, possess, and operate such property in accordance with
1432 the institution's enabling legislation, with this subchapter, and with any policies adopted by the
1433 governing body of the institution pursuant thereto, and (ii) shall dispose of such property in accordance
1434 with general law applicable to state-owned property and with the institution's enabling legislation.

1435 b. If the property is real property, including land, buildings, and any improvements to land or
1436 buildings, and it was acquired or constructed either (i) entirely with nongeneral fund appropriations or
1437 proceeds from a nongeneral fund revenue bond issue under Article X, Section 9(c) or 9(d) of the
1438 Constitution of Virginia, or (ii) entirely with funds other than funds appropriated by the General
1439 Assembly or proceeds from a general obligation bond issue under Article X, Section 9(a) or 9(b) of the
1440 Constitution of Virginia, the covered institution shall hold, possess, operate, and dispose of such
1441 property in accordance with the institution's enabling legislation, notwithstanding the approval
1442 requirements of § 23-77.1, with this subchapter, and with any policies adopted by the governing body of
1443 the institution pursuant thereto.

1444 c. If the property is personal property, the covered institution shall hold, possess, operate, and
1445 dispose of such property in accordance with the institution's enabling legislation, with this subchapter,
1446 and with any policies adopted by the governing body of the institution pursuant thereto.

1447 2. After the effective date of the initial Management Agreement as provided in § 23-38.88, a covered
1448 institution may acquire any real property, construct improvements thereon in accordance with
1449 § 23-38.109, and acquire any personal property, tangible or intangible, and hold, possess, operate, and
1450 dispose of such real and personal property as follows:

1451 a. If the property is real property, including land, buildings, and improvements to land or buildings,
1452 and it is acquired or constructed with funds appropriated by the General Assembly for that purpose or
1453 with proceeds from a general obligation bond issue under Article X, Section 9(a) or 9(b) of the
1454 Constitution of Virginia, the covered institution (i) shall hold, possess, and operate such property in
1455 accordance with the institution's enabling legislation, with this subchapter, and with any policies
1456 adopted by the governing body of the institution pursuant thereto, and (ii) shall dispose of such property
1457 in accordance with general law applicable to state-owned property and with the covered institution's
1458 enabling legislation.

1459 b. If the property is real property, including land, buildings, and improvements to land or buildings,
1460 and the property is acquired with any funds in the covered institution's possession, other than any funds

1461 appropriated by the General Assembly or proceeds from a general obligation bond issue under Article,
 1462 X, Section 9(a) or 9(b) of the Constitution of Virginia, the institution shall hold, possess, operate,
 1463 dispose of, and otherwise deal with such property, or any right, easement, estate, or interest therein,
 1464 acquired by purchase, exchange, gift, assignment, transfer, foreclosure, lease, bequest, devise, operation
 1465 of law, or other means, in accordance with the covered institution's enabling legislation, notwithstanding
 1466 the approval requirements of § 23-77.1, with this subchapter, and with any policies adopted by the
 1467 governing body of the institution pursuant thereto.

1468 c. If the property is personal property, the institution shall hold, possess, operate, and dispose of
 1469 such property in accordance with the institution's enabling legislation, with this subchapter, and with
 1470 any policies adopted by the governing body of the institution pursuant thereto.

1471 3. With the approval of the Governor or as otherwise provided by law, and consistent with the
 1472 provisions of subdivisions 1 and 2 of this subsection, a covered institution may sell, assign, encumber,
 1473 mortgage, demolish, or otherwise dispose of any project or any other property, real or personal,
 1474 tangible or intangible, or any right, easement, estate, or interest therein, or any deed of trust or
 1475 mortgage lien interest owned by it, under its control or custody or in its possession, and may release or
 1476 relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any
 1477 equity or right of redemption in property foreclosed by it; and

1478 4. May do any of the foregoing by public or private transaction.

1479 B. A covered institution may accept loans, grants, contributions, or other assistance from the federal
 1480 government, the Commonwealth or any political subdivision thereof, or from any other public or private
 1481 source to carry out its mission as a public institution of higher education of the Commonwealth and any
 1482 of the purposes of this subchapter. A covered institution may enter into any agreement or contract
 1483 regarding or relating to the acceptance, use, or repayment of any such loan, grant, contribution, or
 1484 assistance, and may enter into such other agreements with any such entity in furtherance of the
 1485 purposes of this subchapter. Counties, cities, and towns are hereby authorized to lend or donate money
 1486 or other property to a covered institution for any of its purposes. Any local government making the
 1487 grant or loan may restrict the use of the grant or loan to a specific project, within or without that
 1488 locality.

1489 C. Notwithstanding the provisions of this chapter, no covered institution shall take action with regard
 1490 to any property, real or personal, if such action would be deemed to be in violation of any requirement
 1491 or covenant contained in any outstanding bonds, notes, or other evidences of indebtedness.

1492 § 23-38.113. Leases of property.

1493 The governing body of a covered institution shall adopt such policies relating to the leasing of real
 1494 property, including capital or operating/income leases, that reasonably ensure that such leases are
 1495 efficiently procured on appropriate terms and for appropriate purposes. With respect to capital or
 1496 operating/income leases for real property to be used for academic purposes, or for real property owned
 1497 by the institution or a foundation related to the institution to be used for non-academic purposes in
 1498 accordance with the institution's land use plan pursuant to § 2.2-1153, other than applicable policies
 1499 adopted by a covered institution's board of visitors and provisions of general law that expressly apply to
 1500 covered institutions, such institutions shall be exempt from any state or local statutes or ordinances,
 1501 rules, regulations, and guidelines relating to operating/income leases of real property by public entities
 1502 and, except as otherwise provided in §§ 23-38.109 and 23-38.112, to capital leases.

1503 Article 6.

1504 Human Resources.

1505 § 23-38.114. General; definition.

1506 A. Covered Employees are state employees of a covered institution of the Commonwealth of Virginia.
 1507 Notwithstanding subsections B and C of this section, the state retirement system, state health insurance
 1508 program, state workers' compensation coverage program, and state grievance procedure, as they may be
 1509 amended from time to time, shall continue to apply to and govern all eligible Covered Employees. If,
 1510 however, a covered institution has been or is permitted by law other than in this chapter to establish an
 1511 alternative health insurance plan or an alternative faculty or University of Virginia Medical Center
 1512 retirement plan or plans, such alternative health insurance or faculty or University of Virginia Medical
 1513 Center retirement plan or plans shall apply to and govern the Covered Employees included in such plan
 1514 or plans. Each Covered Employee shall continue to be governed by and be eligible to participate in the
 1515 human resources and benefits programs which governed him and in which he was eligible to participate
 1516 immediately prior to the effective date of the initial Management Agreement for the covered institution
 1517 by which he is employed unless and until a human resources program or programs, plan, or procedure
 1518 applicable to him is established by that covered institution pursuant to §§ 23-38.116, 23-38.118,
 1519 23-38.119 and 23-38.120.

1520 B. Even if a covered institution establishes a human resources program or programs, plan, or
 1521 procedure pursuant to §§ 23-38.116, 23-38.118, 23-38.119 and 23-38.120, a salaried nonfaculty

1522 Covered Employee who was in the employment of that covered institution as of the day prior to the
 1523 effective date of the initial Management Agreement, except employees of the University of Virginia
 1524 Medical Center, may elect pursuant to § 23-38.115 to continue to participate in and be governed by the
 1525 state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.)
 1526 of Title 2.2 and administered by the Department of Human Resources Management. In such case, in
 1527 addition to the state human resources plans, programs, policies and procedures set forth in subsection
 1528 A, all other state human resources and benefit plans, programs, policies and procedures that apply to
 1529 and govern state employees shall continue to apply to and govern such salaried nonfaculty Covered
 1530 Employees.

1531 C. Any human resources program or programs, plans, policies or procedures established by the
 1532 governing body of a covered institution pursuant to §§ 23-38.116, 23-38.118, 23-38.119, and 23-38.120
 1533 shall apply to and govern (i) all salaried nonfaculty Covered Employees of that covered institution who
 1534 were in its employment as of the day prior to the effective date of the initial Management Agreement
 1535 and who elect pursuant to § 23-38.115 to participate in and be governed by such program or programs,
 1536 plans, policies, and procedures, (ii) all salaried nonfaculty Covered Employees of that covered
 1537 institution who are employed by that institution on or after the effective date of the initial Management
 1538 Agreement, (iii) all non-salaried nonfaculty Covered Employees of that covered institution without
 1539 regard to when they were hired, (iv) all faculty Covered Employees of that covered institution without
 1540 regard to when they were hired, and (v) all employees of the University of Virginia Medical Center
 1541 without regard to when they were hired. For purposes of this article, "participating Covered Employee"
 1542 means a Covered Employee described in subdivisions (i) through (v) of this subsection.

1543 D. All covered institutions shall be responsible for human resource reporting requirements
 1544 established by the Governor or General Assembly.

1545 § 23-38.115. Election by certain Covered Employees.

1546 A. If the governing body of a covered institution establishes a human resources program or
 1547 programs pursuant to § 23-38.116, a salaried nonfaculty Covered Employee of that covered institution
 1548 who was in its employment as of the day prior to the effective date of the initial Management
 1549 Agreement, except employees of the University of Virginia Medical Center, shall be permitted to elect to
 1550 participate in and be governed by either (i) the state human resources program set forth in Chapters 28
 1551 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2, or (ii) the human resources program or
 1552 programs established by the governing body of that covered institution pursuant to § 23-38.116. A
 1553 salaried nonfaculty Covered Employee who elects to participate in and be governed by the human
 1554 resources program or programs established by the governing body of that covered institution pursuant
 1555 to § 23-38.116 also, by that election, shall be deemed to have elected to be eligible to participate in and
 1556 to be governed by the human resources plans, programs, policies and procedures that are or may be
 1557 adopted by that covered institution for his classification of employees pursuant to §§ 23-38.118,
 1558 23-38.119, and 23-38.120.

1559 B. If the governing body of a covered institution establishes a human resources program or
 1560 programs pursuant to § 23-38.116, the covered institution shall provide each of its salaried nonfaculty
 1561 Covered Employees who was in its employment as of the day prior to the effective date of the initial
 1562 Management Agreement, except employees of the University of Virginia Medical Center, with a period
 1563 of at least 90 days after the effective date of the institution's human resource program for his
 1564 classification of employees to make the election required by subsection A. If such a salaried nonfaculty
 1565 Covered Employee does not make an election by the end of that 90-day period, he shall be deemed not
 1566 to have elected to participate in the human resources program or programs established by the covered
 1567 institution pursuant to § 23-38.116. If such a salaried nonfaculty Covered Employee elects to participate
 1568 in the human resources program or programs established by the covered institution pursuant to
 1569 § 23-38.116, that election shall be irrevocable. At least every two years, a covered institution shall offer
 1570 to salaried nonfaculty Covered Employees who have elected to continue to participate in the state
 1571 human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of
 1572 Title 2.2 an opportunity to elect to participate in the human resources program or programs established
 1573 by the covered institution pursuant to § 23-38.116; provided that, each time prior to offering such
 1574 opportunity to such salaried nonfaculty Covered Employees, and at least once every two years after the
 1575 effective date of the human resources program or programs established pursuant to § 23-38.116, the
 1576 covered institution shall make available to each of its salaried nonfaculty Covered Employees a
 1577 comparison of its human resources program for that classification of salaried nonfaculty Covered
 1578 Employee with the state human resources program for comparable state employees, including but not
 1579 limited to a comparability assessment of compensation and benefits.

1580 § 23-38.116. Human resources programs.

1581 A. The governing body of each covered institution may elect to adopt for its nonfaculty participating
 1582 Covered Employees either (i) one or more human resources programs that is or are generally consistent

1583 with the provisions of Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2,
 1584 pertaining generally to state employees, or (ii) such other human resources program or programs as it
 1585 determines to be appropriate. The covered institution may administer such human resources program or
 1586 programs itself or may contract with another covered institution or with the Department of Human
 1587 Resources Management to administer some or all of its human resources programs, subject to the
 1588 execution of any participation or operating agreement as the parties to that agreement may deem
 1589 necessary and appropriate.

1590 B. Each covered institution may establish a human resources program or programs for participating
 1591 Covered Employees not included in subsection A, including a program or programs relating to those
 1592 other personnel that its enabling legislation authorizes it to employ. In addition, such institution may, in
 1593 its discretion, contract for such consultants, attorneys, accountants, and financial experts, and such
 1594 independent providers of expert advice and consultation as may be necessary or desirable in the
 1595 judgment of the covered institution.

1596 C. Any human resources program adopted by the governing body of a covered institution for
 1597 participating Covered Employees shall be based on merit principles and objective methods of
 1598 appointment, promotion, transfer, layoff, removal, severance, discipline, and other appropriate topics
 1599 included in such a human resources program based on such principles and methods.

1600 § 23-38.117. Grievance procedures.

1601 A. No covered institution shall be exempt from the State Grievance Procedure (§ 2.2-3000 et seq.),
 1602 which shall continue to apply to all eligible nonfaculty Covered Employees of a covered institution. The
 1603 governing body of each covered institution shall adopt policies that encourage the resolution of
 1604 employment-related problems and complaints of its nonfaculty Covered Employees. Such policies shall
 1605 provide that nonfaculty Covered Employees of the institution shall be able to discuss their concerns with
 1606 their immediate supervisors and management freely and without retaliation. To the extent that such
 1607 concerns cannot be resolved informally, the State Grievance Procedure (§ 2.2-3000 et seq.) of Title 2.2
 1608 shall apply (i) to the covered institution's participating nonfaculty Covered Employees to the same extent
 1609 that it applied to the same classifications of nonfaculty employees prior to the institution's effective date
 1610 of the initial Management Agreement and (ii) to the covered institution's salaried nonfaculty Covered
 1611 Employees who have elected pursuant to § 23-38.115 to continue to participate in the state human
 1612 resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2.

1613 B. A covered institution shall continue to make grievance policies available to faculty Covered
 1614 Employees to the extent that such policies were applicable to faculty Covered Employees prior to its
 1615 effective date of the initial Management Agreement, and may amend any such policies.

1616 C. A covered institution is not required to adopt grievance policies governing Covered Employees
 1617 not included in subsections A and B, but it may, in its discretion, do so for some or all such Covered
 1618 Employees, and such grievance policies may be the same as or different from the grievance policies
 1619 adopted pursuant to subsection A.

1620 § 23-38.118. Miscellaneous personnel matters.

1621 A. All appointments to, and promotions and tenure in, positions in the service of a covered institution
 1622 shall be based upon merit and fitness, to be ascertained, as far as possible, by the competitive rating of
 1623 qualifications by that institution.

1624 B. No establishment of a position or rate of pay, and no change in rate of pay, shall become
 1625 effective except on order of the appointing covered institution.

1626 C. No participating Covered Employee of, or applicant for employment with, any covered institution
 1627 shall be required, as a condition of employment, to smoke or use tobacco products on the job, or to
 1628 abstain from smoking or using tobacco products outside the course of his employment, provided that this
 1629 section shall not apply to those classes of employees to which § 27-40.1 or 51.1-813 is applicable.

1630 D. The human resources policies adopted by the governing body of a covered institution shall,
 1631 consistent with applicable federal law, address (i) employment of participating Covered Employees who
 1632 leave the service of a covered institution for service in any of the armed forces of the United States, and
 1633 the employment of other veterans of such military service, following the termination of their military
 1634 service; and (ii) leave and other policies affecting the employment of participating Covered Employees
 1635 who have been ordered to active military service in the armed forces of the United States, or in the
 1636 organized reserve forces of any of the armed services of the United States, or of the Virginia National
 1637 Guard. "Active military duty," as used in this subsection, means federally funded military duty as (i) a
 1638 member of the armed forces of the United States on active duty pursuant to Title 10 of the United States
 1639 Code or (ii) a member of the Virginia National Guard on active duty pursuant to either Title 10 or Title
 1640 32 of the United States Code.

1641 § 23-38.119. Certain insurance plans; legal process and assignment.

1642 A. Insurance provided under this article and all proceeds therefrom shall be subject to the same
 1643 provisions regarding exemption from levy, garnishment and other legal process as is provided to

1644 Virginia Retirement System plans under § 51.1-510; provided, however, that permitted assignments shall
1645 be effected through completion of forms provided by the covered institution or its vendor, and provided
1646 further, that for insurance plans established by a covered institution, the authority granted to the Board
1647 of the Virginia Retirement System in § 51.1-510 is hereby granted to and shall be exercised by the
1648 covered institution.

1649 B. Each covered institution (i) shall purchase or make available group life and accidental death and
1650 dismemberment insurance policies covering in whole or in part those of its participating Covered
1651 Employees eligible to participate in the Virginia Retirement System, and (ii) may purchase or make
1652 available such additional insurance policies covering its participating Covered Employees as it deems
1653 appropriate. Participating Covered Employees shall not be required to present evidence of insurability
1654 satisfactory to an insurance company for basic group life insurance coverage. All salaried participating
1655 Covered Employees shall be offered basic group life insurance at a level of coverage determined by
1656 such institution's governing body. A covered institution may require participating Covered Employees to
1657 pay all or a portion of the cost of the insurance coverage offered pursuant to this subsection, which
1658 may be collected through a payroll deduction program. If the institution's governing body so elects, and
1659 subject to the execution of such participation agreements as the Virginia Retirement System may require,
1660 the covered institution's participating Covered Employees may be covered by the Virginia Retirement
1661 System's group insurance programs established pursuant to Chapter 5 (§ 51.1-500 et seq.) of Title 51.1
1662 under the same terms, costs, and conditions that apply to, and with the same benefits that are available
1663 to, other state employees.

1664 C. For those of its participating Covered Employees eligible to participate in the Virginia Retirement
1665 System, a covered institution shall (i) purchase disability insurance, (ii) subject to the execution of such
1666 participation agreements as may be necessary, appropriate, and in the best interests of the
1667 Commonwealth, continue to participate in the disability insurance program established for state
1668 agencies, (iii) establish a self-insured disability insurance program, or (iv) any combination of clauses
1669 (i) through (iii). A covered institution may require participating Covered Employees to pay all or a
1670 portion of the cost of the insurance coverage offered pursuant to clauses (i), (iii), or (iv) of this
1671 subsection, which may be collected through a payroll deduction program. However, the covered
1672 institution shall not be required to contribute to the program established for state agencies on behalf of
1673 participating Covered Employees who do not participate in that program.

1674 D. If a covered institution's governing body so elects, and subject to the execution of such
1675 participation agreements as may be necessary, appropriate, and in the best interests of the
1676 Commonwealth, each such institution or its participating Covered Employees, or both, may participate
1677 in any future insurance programs established for state employees under the same terms and conditions
1678 that apply to, and with the same benefits that are available to, other state employees.

1679 § 23-38.120. Severance Policies.

1680 A. Each covered institution shall adopt one or more severance policies for its eligible participating
1681 Covered Employees, applicable to voluntary or involuntary separations, including reductions in
1682 workforce. The provisions of the Workforce Transition Act (§ 2.2-3200 et seq.) shall not apply to
1683 participating Covered Employees.

1684 B. The terms and conditions of a covered institution's severance policy or policies for eligible
1685 participating Covered Employees shall be determined by the institution's governing body. The covered
1686 institution and the Board of the Virginia Retirement System shall negotiate a formula according to
1687 which cash severance benefits may be converted to years of age or creditable service for participating
1688 Covered Employees who participate in the Virginia Retirement System.

1689 C. Covered Employees who were employees of a covered institution and were covered by the
1690 provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 prior to its effective date of the initial
1691 Management Agreement, who otherwise would be eligible for severance benefits under the Workforce
1692 Transition Act (§ 2.2-3200 et seq.), and who are separated by a covered institution because of a
1693 reduction in workforce shall have the same preferential hiring rights with state agencies and other
1694 executive branch institutions as other state employees have under § 2.2-3201. Conversely, a covered
1695 institution shall recognize the hiring preference conferred by § 2.2-3201 on state employees who were
1696 hired by a state agency or executive branch institution before the covered institution's effective date of
1697 the initial Management Agreement and who were separated after that date by that state agency or
1698 executive branch institution because of a reduction in workforce. If a covered institution has adopted a
1699 classification system pursuant to § 23-38.116 that differs from the classification system administered by
1700 the Department of Human Resources Management, the covered institution shall classify the separated
1701 employee according to its classification system and shall place the separated employee appropriately.
1702 Any such separated employee who is hired by a covered institution shall be a participating Covered
1703 Employee for purposes of this article. Classification decisions made under this subsection and applying
1704 to employees transferring between state agencies or other executive branch institutions and covered

1705 institutions, or between covered institutions, as a result of a reduction in force and with the preferential
 1706 hiring rights provided in this subsection and in § 2.2-3201 shall be presumed appropriate, and a
 1707 separated employee who grieves the classification decision shall bear the burden of demonstrating that
 1708 the classification violates the separated employee's preferential hiring rights.

1709 *D. An employee's transition on the effective date of a covered institution's initial Management*
 1710 *Agreement from being an employee of a public institution of higher education to being a Covered*
 1711 *Employee of a covered institution shall not, in and of itself, constitute a severance of that employee or a*
 1712 *reduction in force that would make either the covered institution's severance policy or policies adopted*
 1713 *pursuant to subsection A or the Workforce Transition Act (§ 2.2-3200 et seq.) applicable to that*
 1714 *employee.*

1715 *Article 7.*

1716 *Additional Authority Subject to Management Agreement.*

1717 *§ 23-38.121. Restructured authority subject to management agreement.*

1718 *As provided in subsection D of § 23-38.88, no restructured financial or operational authority set*
 1719 *forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter or any other provision of such chapter shall*
 1720 *become effective unless and until the authority or provision is expressly included in a management*
 1721 *agreement and all other conditions of subdivisions D 1 and D 2 of § 23-38.88 have been met.*

1722 *§ 30-133.1. Additional certifications for public institutions of higher education.*

1723 *In addition to all other responsibilities and duties required under law, the Auditor of Public*
 1724 *Accounts shall, promptly upon completion of the annual audit for each public institution of higher*
 1725 *education, certify in writing to the Chairman of the Board of Visitors or other governing body of the*
 1726 *institution, the Secretaries of Education, Finance, and Administration, and the Chairmen of the House*
 1727 *Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance*
 1728 *whether or not the institution meets all of the financial and administrative management standards*
 1729 *currently in effect for public institutions of higher education pursuant to § 2.2-5004 and as may be*
 1730 *included in the appropriation act currently in effect. In addition, for any public institution of higher*
 1731 *education required to develop and implement a plan of corrective action under § 2.2-5004, the Auditor*
 1732 *shall at the time of making the certification provide a written evaluation of the institution's progress in*
 1733 *implementation of the plan and in meeting all of the financial and administrative management standards*
 1734 *currently in effect.*

1735 *For purposes of this section "public institution of higher education" means the same as that term is*
 1736 *defined in § 23-38.89.*

1737 *§ 36-98.1. State buildings.*

1738 *A. The Building Code shall be applicable to all state-owned buildings and structures, with the*
 1739 *exception that §§ 2.2-1159 through 2.2-1161 shall provide the standards for ready access to and use of*
 1740 *state-owned buildings by the physically handicapped.*

1741 *Any state-owned building or structure for which preliminary plans were prepared or on which*
 1742 *construction commenced after the initial effective date of the Uniform Statewide Building Code, shall*
 1743 *remain subject to the provisions of the Uniform Statewide Building Code that were in effect at the time*
 1744 *such plans were completed or such construction commenced. Subsequent reconstruction, renovation or*
 1745 *demolition of such building or structure shall be subject to the pertinent provisions of the Building*
 1746 *Code.*

1747 *Acting through the Division of Engineering and Buildings, the Department of General Services shall*
 1748 *function as the building official for state-owned buildings. The Department shall review and approve*
 1749 *plans and specifications, grant modifications, and establish such rules and regulations as may be*
 1750 *necessary to implement this section. It shall provide for the inspection of state-owned buildings and*
 1751 *enforcement of the Building Code and standards for access by the physically handicapped by delegating*
 1752 *inspection and Building Code enforcement duties to the State Fire Marshal's Office, to other appropriate*
 1753 *state agencies having needed expertise, and to local building departments, all of which shall provide*
 1754 *such assistance within a reasonable time and in the manner requested. State agencies and institutions*
 1755 *occupying buildings shall pay to the local building department the same fees as would be paid by a*
 1756 *private citizen for the services rendered when such services are requested by the Department of General*
 1757 *Services. The Department of General Services may alter or overrule any decision of the local building*
 1758 *department after having first considered the local building department's report or other rationale given*
 1759 *for its decision. When altering or overruling any decision of a local building department, the Department*
 1760 *of General Services shall provide the local building department with a written summary of its reasons*
 1761 *for doing so.*

1762 *B. Except as provided in subsection D of § 23-38.109, and notwithstanding the provisions of*
 1763 *subsection A, at the request of a public institution of higher education, the Department, as further set*
 1764 *forth in this subsection, shall authorize that institution of higher education to contract with a building*
 1765 *official of the locality in which the construction is taking place to perform any inspection and*

1766 *certifications required for the purpose of complying with the Uniform Statewide Building Code (§ 36-97*
 1767 *et seq.). The Department shall publish administrative procedures that shall be followed in contracting*
 1768 *with a building official of the locality. The authority granted to a public institution of higher education*
 1769 *under this subsection to contract with a building official of the locality shall be subject to the institution*
 1770 *meeting the conditions prescribed in subsection B of § 23-38.88.*

1771 § 51.1-124.3. Definitions.

1772 As used in this chapter, unless the context requires a different meaning:

1773 "Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by
 1774 Chapter 1 of the Acts of Assembly of 1952.

1775 "Accumulated contributions" means the sum of all amounts deducted from the compensation of a
 1776 member and credited to his individual account in the member's contribution account, all amounts the
 1777 member may contribute to purchase creditable service, all member contributions contributed by the
 1778 employer on behalf of the employee, on or after July 1, 1990, except those amounts contributed on
 1779 behalf of members of the General Assembly who are otherwise retired under the provisions of this
 1780 chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which
 1781 is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), dies in service prior
 1782 to retirement, or requests a refund of contributions in accordance with § 51.1-161, "accumulated
 1783 contributions" shall include all member contributions paid by the employer on behalf of the member on
 1784 and after July 1, 1980, and all interest which would have accrued to these funds.

1785 "Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial
 1786 tables adopted by the Board.

1787 "Average final compensation" means the average annual creditable compensation of a member during
 1788 his 36 highest consecutive months of creditable service or during the entire period of his creditable
 1789 service if less than 36 months. If a member ceased employment prior to July 1, 1974, "average final
 1790 compensation" means the average annual creditable compensation during the five highest consecutive
 1791 years of creditable service.

1792 "Beneficiary" means any person entitled to receive benefits under this chapter.

1793 "Board" means the Board of Trustees of the Virginia Retirement System.

1794 "Creditable compensation" means the full compensation payable annually to an employee working
 1795 full time in his covered position. *For any state employee of a public institution of higher education or a*
 1796 *teaching hospital affiliated with a public institution of higher education who is (i) compensated on a*
 1797 *salaried basis, and (ii) working full time in a covered position pursuant to a contract of employment for*
 1798 *a period of at least nine months, creditable compensation means the full compensation payable over the*
 1799 *term of any contract entered into between the employee and the employer, without regard to whether or*
 1800 *not the term of the contract coincides with the normal scholastic year. However, if the contract is for*
 1801 *more than one year, creditable compensation means that compensation paid for the current year of the*
 1802 *contract.*

1803 Remuneration received by members of the General Assembly not otherwise retired under the
 1804 provisions of this chapter pursuant to §§ 30-19.11 and 30-19.12 shall be deemed creditable
 1805 compensation. In addition, for any member of the General Assembly, creditable compensation shall
 1806 include the full amount of salaries payable to such member for working in covered positions, regardless
 1807 of whether a contractual salary is reduced and not paid to such member because of service in the
 1808 General Assembly.

1809 "Creditable service" means prior service as set forth in § 51.1-142.2 plus membership service for
 1810 which credit is allowable.

1811 "Employee" means any teacher, state employee, officer, or employee of a locality participating in the
 1812 Retirement System.

1813 "Employer" means the Commonwealth in the case of a state employee, the local public school board
 1814 in the case of a teacher, or the political subdivision participating in the Retirement System.

1815 "Joint Rules Committee" means those members of the House of Delegates and the Senate designated
 1816 by the Speaker of the House and the Chairman of the Senate Committee on Rules, respectively, to meet
 1817 with each other and to act jointly on behalf of the Committee on Rules for each house.

1818 "Local officer" means the treasurer, commissioner of the revenue, attorney for the Commonwealth,
 1819 clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.

1820 "Medical Board" means the board of physicians as provided by this chapter.

1821 "Member" means any person included in the membership of the Retirement System.

1822 "Membership service" means service as an employee rendered while a contributing member of the
 1823 Retirement System except as provided in this chapter.

1824 "Normal retirement date" means a member's sixty-fifth birthday.

1825 "Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or
 1826 unit of the Commonwealth, or any commission, public authority, or body corporate created by or under

1827 an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the
1828 commission, public authority, or body corporate.

1829 "Primary social security benefit" means, with respect to any member, the primary insurance amount
1830 to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions
1831 of the federal Social Security Act as in effect at his date of retirement, under the provisions of this
1832 chapter except as otherwise specifically provided.

1833 "Prior service" means service rendered prior to becoming a member of the Retirement System.

1834 "Purchase of service contract" means a contract entered into by the member and the Retirement
1835 System for the purchase of service credit by the member as provided in § 51.1-142.2.

1836 "Retirement allowance" means the retirement payments to which a member is entitled.

1837 "Retirement System" means the Virginia Retirement System.

1838 "Service" means service as an employee.

1839 "State employee" means any person who is regularly employed full time on a salaried basis, whose
1840 tenure is not restricted as to temporary or provisional appointment, in the service of, and whose
1841 compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or
1842 any department, institution, or agency thereof. "State employee" shall include any faculty member, but
1843 not including adjunct faculty, of a public institution of higher education (a) who is compensated on a
1844 salary basis, (b) whose tenure is not restricted as to temporary or provisional appointment, and (c) who
1845 regularly works at least 20 hours but less than 40 hours per week (or works the equivalent of one-half
1846 of a full time equivalent position) engaged in the performance of teaching, administrative, or research
1847 duties at such institution; such faculty member shall be deemed an eligible employee for purposes of the
1848 retirement provisions under §§ 51.1-126, 51.1-126.1, and 51.1-126.3. "State employee" shall also include
1849 the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly but shall
1850 not include (i) any local officer, (ii) any employee of a political subdivision of the Commonwealth, (iii)
1851 individuals employed by the Department for the Blind and Vision Impaired pursuant to § 51.5-72, (iv)
1852 any member of the State Police Officers' Retirement System, (v) any member of the Judicial Retirement
1853 System, or (vi) any member of the Virginia Law Officers' Retirement System.

1854 "Teacher" means any person who is regularly employed full time on a salaried basis as a professional
1855 or clerical employee of a county, city, or other local public school board.

1856 § 51.1-505. Amounts of life and accident insurance for each employee; reduction and termination of
1857 insurance.

1858 A. Each employee to whom this chapter applies shall, subject to the terms and conditions thereof, be
1859 eligible to be insured for an amount of group life insurance plus an amount of group accidental death
1860 and dismemberment insurance, each amount equal to twice the amount of his annual salary. If an
1861 employee's annual salary is not an even multiple of \$1,000, his annual salary for purposes of this section
1862 shall be considered to be the next higher \$1,000. For purposes of this section, the annual salary of a
1863 member of the General Assembly shall be his creditable compensation for his last full calendar year of
1864 service or his salary under § 30-19.11, whichever is greater, and shall include the full amount of any
1865 salaries payable to such member for working in covered positions, regardless of whether such salaries
1866 were paid, reduced, or not paid because of such member's service in the General Assembly. The annual
1867 salary for an employee retired for service or disability on an immediate retirement allowance may be
1868 adjusted by the Board in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of this title.

1869 Subject to the conditions and limitations of the group insurance policy, the accidental death and
1870 dismemberment insurance shall provide payments as follows:

1871	Loss	Amount Payable
1872	For loss of life	Full amount determined in accordance with the
1873		provisions of this section
1874	Loss of one hand or	One-half of the amount
1875	of one foot or loss	determined in accordance
1876	of sight of one eye	with the provisions of this section
1877	Loss of two or	Full amount determined in
1878	more such members	accordance with the provisions of this section.

1879 For any one accident, the aggregate amount of accidental death and dismemberment insurance that
1880 may be paid shall not exceed the maximum amount of accidental death and dismemberment insurance
1881 determined in accordance with this section.

1882 Notwithstanding the provisions of § 51.1-124.8, the amount of life insurance for which an employee
1883 shall be eligible shall be equal to twice the amount of his annual salary without regard to the date of the
1884 employee's qualification for a retirement allowance.

1885 B. The amount of life insurance on an employee who retires for service on an immediate retirement
1886 allowance or who elects to postpone the receipt of his retirement allowance to some date other than his
1887 last day of service shall be the amount set forth in subsection A, reduced by an amount equal to 25

1888 percent thereof on the January 1 following the first full year from the date the employee is separated
 1889 from service and each January 1 thereafter. The amount of life insurance on an employee who retires for
 1890 disability on an immediate retirement allowance shall be the amount set forth in subsection A on the
 1891 date the employee last rendered service reduced by an amount equal to 25 percent thereof on January 1
 1892 of the first full year following the date the employee attains age 65, and each January 1 thereafter. If the
 1893 employee by statute or Board regulation has been construed to be in service to the beginning of the next
 1894 school year, the reduction shall not apply until the beginning of the next school year. The reduction
 1895 shall not decrease the amount of life insurance on an employee to less than 25 percent of the amount of
 1896 life insurance to which the initial reduction is applied. For purposes of this subsection, an employee
 1897 shall be deemed to have retired only if the employee has five or more years of service as an employee
 1898 prior to the date of retirement. This requirement shall not be applicable if the employee is retired for
 1899 disability.

1900 Any employee who was denied membership in the Retirement System because of having attained age
 1901 60 at the time of being employed or reemployed and who has five or more years of service immediately
 1902 prior to separation from service shall retain the life insurance coverage as though he had retired on an
 1903 immediate retirement allowance.

1904 C. For any employee, who at any time has at least 20 years of creditable service in any retirement
 1905 plan administered by the Virginia Retirement System or other Virginia public plan participating in the
 1906 group life program established by this chapter, the amount of group life insurance shall be an amount
 1907 equal to twice the amount of the highest annual salary earned during such employment. For any
 1908 employee who returns to covered employment after retiring with at least 20 years of creditable service
 1909 in any retirement plan administered by the Virginia Retirement System or other Virginia public plan
 1910 participating in the group life program established by this chapter, the amount of insurance shall be the
 1911 greater of the amount of insurance he would have been eligible for had he remained a retiree or twice
 1912 the amount of his current annual salary.

1913 The provisions of subsection B providing a reduction in the amount of life insurance shall apply to
 1914 the amount of group life insurance as determined under this subsection for such employees with at least
 1915 20 years of creditable service.

1916 D. The amount of life insurance for an employee who is retired for disability on an immediate
 1917 retirement allowance, who also has attained age 55, and who elects to receive a retirement allowance as
 1918 set forth in subsection C of § 51.1-160, shall be reduced as set forth in subsection B of this section. The
 1919 reduction shall begin the January 1 following the first full year from the date the employee elects a
 1920 service retirement allowance.

1921 E. All accidental death and dismemberment insurance on an employee shall cease upon the earliest of
 1922 (i) his separation from service, (ii) his failure to pay, in the manner prescribed by the Board, the
 1923 contribution required for the first 24 months of leave without pay, (iii) if the employee has not returned
 1924 to pay status, the expiration of 24 months of leave without pay, or (iv) his retirement.

1925 F. Except in case of retirement as provided in subsections B, C, and D of this section, all life
 1926 insurance on an employee shall cease upon the earliest of (i) his separation from service, or (ii) his
 1927 failure to pay, in the manner prescribed by the Board, the contribution required for the first 24 months
 1928 of leave without pay, or, (iii) if the employee has not returned to pay status, the expiration of 24 months
 1929 of leave without pay. Except in the case of retirement, life insurance shall be subject to a temporary
 1930 extension of 31 days. During this 31-day extension, the employee may convert his life insurance into an
 1931 individual policy of life insurance (without disability or other supplementary benefits) in any one of the
 1932 forms, except term insurance, then customarily issued by the insuring company. The amount of life
 1933 insurance which may be converted shall not exceed the amount of his life insurance under the group
 1934 insurance policy at the time coverage is terminated. The insurance shall be converted to an individual
 1935 policy (a) without evidence of insurability, (b) at the premium applicable to the class of risk to which he
 1936 belongs, and (c) to the form and amount of the individual policy at his then attained age, provided
 1937 application for the individual policy and payment of the first premium thereon is made to the issuing
 1938 company within the 31 days. The right to convert to an individual policy as provided in § 38.2-3333
 1939 shall not apply upon termination of this group policy or elimination of a class of insured employees.

1940 Except as provided in subsection C, the amount of life insurance on each insured employee who
 1941 retires shall be determined under the provisions of this chapter as it exists on the employee's date of
 1942 retirement.

1943 G. Each employee of a state institution of higher education or of a local school board who remains
 1944 in service until the completion of the school year and who makes contributions required to provide
 1945 insurance coverage until service normally will be resumed the beginning of the next school year shall be
 1946 deemed to be in service as an employee through the period to which the payments apply. If the
 1947 employee is retired for service or disability during this period, contributions made by the employee shall
 1948 be accepted and retained as proper.

1949 *Each state employee of a public institution of higher education or a teaching hospital affiliated with*
 1950 *a public institution of higher education who (i) is employed pursuant to a contract (a) that is for a term*
 1951 *of employment of at least nine months and (b) that does not coincide with the normal scholastic year,*
 1952 *(ii) remains in service until the completion of the contract year, and (iii) makes contributions required*
 1953 *to provide insurance coverage until service normally will be resumed at the beginning of the next*
 1954 *contract year shall be deemed to be in service as an employee through the period to which the*
 1955 *payments apply. If the employee is retired for service or disability during this period, contributions*
 1956 *made by the employee shall be accepted and retained as proper.*

1957 H. That the provisions of this section shall apply to all members of the Virginia Retirement System
 1958 who, on and after July 1, 1995, are covered under the group life insurance program created pursuant to
 1959 this section and whose effective date of retirement is (i) before July 1, 1970, or (ii) on and after July 1,
 1960 1970.

1961 § 51.1-506. Employee contributions; payroll deductions; effect of failure to deduct.

1962 Each insured employee shall contribute to the cost of his insurance an amount to be determined by
 1963 the Board but not to exceed the rate of ~~seventy cents~~ \$0.70 per month for each \$1,000 of annual salary.
 1964 If the annual salary is not an even multiple of \$1,000, annual salary shall be considered to be the next
 1965 higher \$1,000. The employer shall deduct the premium from the salary payable to the insured employee.
 1966 An employee who is paid on other than a monthly basis shall have an amount deducted at a
 1967 proportionate rate, adjusted to the nearest cent. All deductions shall be retained by or paid to the State
 1968 Treasurer to the credit of the Board and shall be available to the Board for the purposes of carrying out
 1969 the provisions of this chapter. Nothing contained in this section shall prohibit any employer from
 1970 making the contributions required herein for his employees, in whole or in part.

1971 If the premium is not deducted from the employee's salary and the failure to deduct is not the fault
 1972 of the employee, the employee shall be insured and the employee shall not be required to pay the
 1973 amount which should have been deducted.

1974 Employees retired for service or disability shall not be required to contribute to the cost of their life
 1975 insurance. If an employee is separated from the service of any state institution of higher education or of
 1976 any local school board prior to completing a school year, the premiums paid shall be accepted and
 1977 retained as proper to date of separation. *If a state employee of a public institution of higher education or*
 1978 *a teaching hospital affiliated with a public institution of higher education (i) is employed pursuant to a*
 1979 *contract (a) that is for a term of employment of at least nine months and (b) that does not coincide with*
 1980 *the normal scholastic year, and (ii) separated from service prior to completing the contract year, the*
 1981 *premiums paid shall be accepted and retained as proper to the date of separation.*

1982 **2. That the Secretary of Finance, in consultation with representatives of public institutions of**
 1983 **higher education in the Commonwealth and other interested persons, shall develop procedures for**
 1984 **determining an appropriate and equitable amount of interest to be paid to certain public**
 1985 **institutions of higher education as provided in § 2.2-5005 of the Code of Virginia pursuant to this**
 1986 **act. The Secretary of Finance shall by July 1, 2006, provide to the Governor and to the General**
 1987 **Assembly the procedures that shall be used for such purposes.**

1988 **3. That § 2.2-5005 of the first enactment of this act shall become effective on July 1, 2006.**

1989 **4. That the Governor shall review the financial and administrative management standards**
 1990 **included in § 2.2-5004 of the Code of Virginia and shall recommend, as he deems appropriate,**
 1991 **additional financial and administrative management standards in "The Budget Bill" or in his**
 1992 **proposed gubernatorial amendments to the general appropriation act submitted in calendar year**
 1993 **2005 pursuant to § 2.2-1509 of the Code of Virginia. In developing such standards, the Governor**
 1994 **or his designees shall also consult officials with professional expertise in the areas of capital**
 1995 **project management, personnel management, and procurement to develop financial and**
 1996 **administrative management standards for public institutions of higher education.**

1997 **5. That the Secretary of Administration shall work with public institutions of higher education**
 1998 **and other interested persons to review proposed changes to the Virginia Public Procurement Act**
 1999 **(§ 2.2-4300 et seq.) of the Code of Virginia and procurement regulations in order to enhance and**
 2000 **improve the procurement process for all public bodies in the Commonwealth. The Secretary shall**
 2001 **provide a copy of any recommended changes to the Virginia Public Procurement Act to the**
 2002 **Governor and to the General Assembly no later than October 1, 2005.**

2003 **6. That the Virginia Retirement System shall (i) complete an actuarial analysis of the potential**
 2004 **impact on the Commonwealth's retirement system and group insurance programs for state**
 2005 **employees if public institutions of higher education in the Commonwealth included in Subchapter**
 2006 **2 or 3 of Chapter 4.10 of Title 23, or in both subchapters, or all public institutions of higher**
 2007 **education in the Commonwealth, were permitted to offer an optional retirement plan and optional**
 2008 **group insurance programs to classified employees who are, or who prior to the effective date of**
 2009 **this Act were, covered by the State Personnel Act, and (ii) report the results of this analysis to the**

2010 Governor and to the Chairmen of the House Appropriations Committee and the Senate Finance
2011 Committee no later than November 1, 2005. The Department of Human Resource Management
2012 shall conduct the same analysis for the group insurance programs that it administers and shall
2013 report the results of the analysis to the Governor and to the Chairmen of the House
2014 Appropriations Committee and the Senate Finance Committee no later than November 1, 2005. In
2015 addition, the Department of the Treasury shall conduct the same analysis for all risk management
2016 programs it administers and shall have the same reporting responsibility described herein.
2017 7. That the Virginia Retirement System shall work with representatives of public institutions of
2018 higher education in the Commonwealth and other interested persons to develop procedures for the
2019 reporting of creditable compensation and creditable service for state employees of such institutions
2020 that are employed pursuant to a contract with a term of employment that does not coincide with
2021 the normal scholastic year. The Director of the Virginia Retirement System shall by October 1,
2022 2005, provide the procedures to the Governor and to the General Assembly.
2023