

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 23.1-203, 23.1-1300, 23.1-1303, 23.1-1304, 23.1-1306, 23.1-2303, and*  
 3 *23.1-2601 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered*  
 4 *23.1-1303.1, relating to public institutions of higher education; governing boards; powers and duties*  
 5 *relating to legal counsel; membership appointment, terms, and composition; duties relating to shared*  
 6 *governance; requirements; work group; report.*

7 [H 1385]

8 Approved

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

10 **1. That §§ 23.1-203, 23.1-1300, 23.1-1303, 23.1-1304, 23.1-1306, 23.1-2303, and 23.1-2601 of the Code of**  
 11 **Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section**  
 12 **numbered 23.1-1303.1 as follows:**

13 **§ 23.1-203. Duties of Council.**

14 The Council shall:

15 1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of § 23.1-1002 or  
 16 (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5 of § 23.1-309 for  
 17 higher education in the Commonwealth, identifies a coordinated approach to such state and regional goals,  
 18 and emphasizes the future needs for higher education in the Commonwealth at both the undergraduate and  
 19 the graduate levels and the mission, programs, facilities, and location of each of the existing institutions of  
 20 higher education, each public institution's six-year plan, and such other matters as the Council deems  
 21 appropriate. The Council shall revise such plan at least once every six years and shall submit such  
 22 recommendations as are necessary for the implementation of the plan to the Governor and the General  
 23 Assembly.

24 2. Review and approve or disapprove any proposed change in the statement of mission of any public  
 25 institution of higher education and define the mission of all newly created public institutions of higher  
 26 education. The Council shall report such approvals, disapprovals, and definitions to the Governor and the  
 27 General Assembly at least once every six years. No such actions shall become effective until 30 days after  
 28 adjournment of the session of the General Assembly next following the filing of such a report. Nothing in this  
 29 subdivision shall be construed to authorize the Council to modify any mission statement adopted by the  
 30 General Assembly or empower the Council to affect, either directly or indirectly, the selection of faculty or  
 31 the standards and criteria for admission of any public institution of higher education, whether relating to  
 32 academic standards, residence, or other criteria. Faculty selection and student admission policies shall remain  
 33 a function of the individual public institutions of higher education.

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

40 4. Review and approve or disapprove all enrollment projections proposed by each public institution of  
 41 higher education. The Council's projections shall be organized numerically by level of enrollment and shall  
 42 be used solely for budgetary, fiscal, and strategic planning purposes. The Council shall develop estimates of  
 43 the number of degrees to be awarded by each public institution of higher education and include those  
 44 estimates in its reports of enrollment projections. The student admissions policies for such institutions and  
 45 their specific programs shall remain the sole responsibility of the individual governing boards but all  
 46 baccalaureate public institutions of higher education shall adopt dual admissions policies with comprehensive  
 47 community colleges as required by § 23.1-907.

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

50 6. Review and require the discontinuance of any undergraduate or graduate academic program that is  
 51 presently offered by any public institution of higher education when the Council determines that such  
 52 academic program is (i) nonproductive in terms of the number of degrees granted, the number of students  
 53 served by the program, the program's effectiveness, and budgetary considerations or (ii) supported by state  
 54 funds and unnecessarily duplicative of academic programs offered at other public institutions of higher  
 55 education. The Council shall make a report to the Governor and the General Assembly with respect to the  
 56 discontinuance of any such academic program. No such discontinuance shall become effective until 30 days

57 after the adjournment of the session of the General Assembly next following the filing of such report.

58 7. Review and approve or disapprove the establishment of any department, school, college, branch,  
59 division, or extension of any public institution of higher education that such institution proposes to establish,  
60 whether located on or off the main campus of such institution. If any organizational change is determined by  
61 the Council to be proposed solely for the purpose of internal management and the institution's curricular  
62 offerings remain constant, the Council shall approve the proposed change. Nothing in this subdivision shall  
63 be construed to authorize the Council to disapprove the establishment of any such department, school,  
64 college, branch, division, or extension established by the General Assembly.

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

68 9. Develop a uniform, comprehensive data information system designed to gather all information  
69 necessary to the performance of the Council's duties. The system shall include information on admissions,  
70 enrollment, self-identified students with documented disabilities, personnel, programs, financing, space  
71 inventory, facilities, and such other areas as the Council deems appropriate. When consistent with the  
72 Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), the Virginia  
73 Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the Council, acting solely  
74 or in partnership with the Virginia Department of Education or the Virginia Employment Commission, may  
75 contract with private entities to create de-identified student records in which all personally identifiable  
76 information has been removed for the purpose of assessing the performance of institutions and specific  
77 programs relative to the workforce needs of the Commonwealth.

78 10. In cooperation with public institutions of higher education, develop guidelines for the assessment of  
79 student achievement. Each such institution shall use an approved program that complies with the guidelines  
80 of the Council and is consistent with the institution's mission and educational objectives in the development  
81 of such assessment. The Council shall report each institution's assessment of student achievement in the  
82 revisions to the Commonwealth's statewide strategic plan for higher education.

83 11. In cooperation with the appropriate state financial and accounting officials, develop and establish  
84 uniform standards and systems of accounting, recordkeeping, and statistical reporting for public institutions  
85 of higher education.

86 12. Review biennially and approve or disapprove all changes in the inventory of educational and general  
87 space that any public institution of higher education proposes and report such approvals and disapprovals to  
88 the Governor and the General Assembly. No such change shall become effective until 30 days after the  
89 adjournment of the session of the General Assembly next following the filing of such report.

90 13. Visit and study the operations of each public institution of higher education at such times as the  
91 Council deems appropriate and conduct such other studies in the field of higher education as the Council  
92 deems appropriate or as may be requested by the Governor or the General Assembly.

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

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

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

105 17. Require each institution of higher education formed, chartered, or established in the Commonwealth  
106 after July 1, 1980, to ensure the preservation of student transcripts in the event of institutional closure or  
107 revocation of approval to operate in the Commonwealth. An institution may ensure the preservation of  
108 student transcripts by binding agreement with another institution of higher education with which it is not  
109 corporately connected or in such other way as the Council may authorize by regulation. In the event that an  
110 institution closes or has its approval to operate in the Commonwealth revoked, the Council, through its  
111 Executive Director, may take such action as is necessary to secure and preserve the student transcripts until  
112 such time as an appropriate institution accepts all or some of the transcripts. Nothing in this subdivision shall  
113 be deemed to interfere with the right of a student to his own transcripts or authorize disclosure of student  
114 records except as may otherwise be authorized by law.

115 18. Require the development and submission of articulation, dual admissions, and guaranteed admissions  
116 agreements between associate-degree-granting and baccalaureate public institutions of higher education.

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

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

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

133 22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship Committee  
 134 in the implementation and administration of the Brown v. Board of Education Scholarship Program pursuant  
 135 to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

136 23. Insofar as possible, seek the cooperation and utilize the facilities of existing state departments,  
 137 institutions, and agencies in carrying out its duties.

138 24. Serve as the coordinating council for public institutions of higher education.

139 25. Serve as the planning and coordinating agency for all postsecondary educational programs for all  
 140 health professions and occupations and make recommendations, including those relating to financing, for  
 141 providing adequate and coordinated educational programs to produce an appropriate supply of properly  
 142 trained personnel. The Council may conduct such studies as it deems appropriate in furtherance of the  
 143 requirements of this subdivision. All state departments and agencies shall cooperate with the Council in the  
 144 execution of its responsibilities under this subdivision.

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

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

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

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

154 30. Assist the Department of Education with collecting and compiling information for distribution to high  
 155 school students that assist such students in making more informed decisions about post-high-school  
 156 educational and training opportunities pursuant to § 22.1-206.2.

157 31. *Coordinate training for the members of the governing board of each public institution of higher  
 158 education on institutional governance and the duties and related ethical responsibilities of board members,  
 159 including the responsibilities of board members relating to academic freedom.*

160 **§ 23.1-1300. Members of governing boards; removal; terms; faculty, staff, and student  
 161 representatives; residency.**

162 A. Members appointed by the Governor to the governing boards of public institutions of higher education  
 163 shall serve for terms of ~~four~~ six years. Vacancies occurring other than by expiration of a term shall be filled  
 164 for the unexpired term. No member appointed by the Governor to such a governing board shall serve for  
 165 more than ~~two consecutive four-year terms~~ one six-year term until at least two years have passed since the  
 166 end of such six-year term; however, a member appointed by the Governor to serve an unexpired term is  
 167 eligible to serve ~~two consecutive four-year terms~~ one six-year term immediately succeeding such unexpired  
 168 term. ~~Except as otherwise provided in § 23.1-2601, all~~ All appointments are subject to confirmation by the  
 169 General Assembly. *As a part of the confirmation process, the Senate and House Committees on Privileges  
 170 and Elections shall meet as soon as practicable upon receiving from the Secretary of the Commonwealth  
 171 copies of the resume and statement of economic interests for each gubernatorial appointee pursuant to  
 172 subsection A of § 2.2-107 to begin considering such appointees for confirmation. In the event of an  
 173 appointment to fill a vacancy by reason of the death, resignation, or removal of a member or by any other  
 174 reason other than by expiration of term, the Senate and House Committees on Privileges and Elections shall  
 175 have 30 days from the date of notice of a nomination to fill such vacancy to take action on such nomination.  
 176 The confirmation of any member appointed by the Governor to the governing board of a public institution of  
 177 higher education shall occur within the first 30 days of each regular session of the General Assembly. If the  
 178 Senate or House Committee on Privileges and Elections votes to reject a gubernatorial appointee by a  
 179 majority vote in accordance with the rules of the applicable house, such rejection shall be deemed a refusal  
 180 of the General Assembly to confirm such appointment pursuant to § 2.2-105. The appointment of each*

181 *member appointed by the Governor shall be effective upon approval by the Senate and House Committees on*  
 182 *Privileges and Elections, and any such gubernatorial appointee may, upon such approval, attend and*  
 183 *participate in meetings of the governing board, provided, however, that no gubernatorial appointee shall be*  
 184 *entitled to vote on any matter or be counted as a voting member on a governing board except upon*  
 185 *confirmation by the General Assembly. Members appointed by the Governor to the governing board of a*  
 186 *public institution of higher education shall continue to hold office for up to six additional months after the*  
 187 *expiration of their respective terms until their successors have been appointed and qualified confirmed by the*  
 188 *General Assembly. Ex officio members shall serve a term coincident with their term of office.*

189 B. No member appointed by the Governor to the governing board of a public institution of higher  
 190 education who has served ~~two consecutive four-year terms~~ *one six-year term* on such board is eligible to  
 191 serve on the same board until at least ~~four~~ *two* years have passed since the end of his ~~second consecutive~~  
 192 ~~four-year~~ *first six-year* term.

193 C. Notwithstanding the provisions of subsection E or any other provision of law, the Governor may  
 194 remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the  
 195 board of any public institution of higher education and fill the vacancy resulting from the removal.

196 D. The Governor shall set forth in a written public statement his reasons for removing any member  
 197 pursuant to subsection C at the time the removal occurs. The Governor is the sole judge of the sufficiency of  
 198 the cause for removal as set forth in subsection C.

199 E. If any member of the governing board of a public institution of higher education fails to attend (i) the  
 200 meetings of the board for one year without sufficient cause, as determined by a majority vote of the board, or  
 201 (ii) the educational programs required by § 23.1-1304 in his first two years of membership without sufficient  
 202 cause, as determined by a majority vote of the board, the remaining members of the board shall record such  
 203 failure in the minutes at its next meeting and notify the Governor, and the office of such member shall be  
 204 vacated. No member of the board of visitors of a baccalaureate public institution of higher education or the  
 205 State Board for Community Colleges who fails to attend the educational programs required by § 23.1-1304  
 206 during his first ~~four-year~~ *six-year* term is eligible for reappointment to such board.

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

210 G. The governing board of each *baccalaureate* public institution of higher education and each local  
 211 community college board ~~may shall~~ appoint at least one ~~or more~~ nonvoting, advisory faculty ~~representatives~~  
 212 ~~representative and at least one nonvoting, advisory staff representative to its respective board. In the case of~~  
 213 ~~local community college boards and boards of visitors, such representatives, each of whom shall be chosen~~  
 214 ~~from individuals (i) elected (a) in the case of the faculty representative, by the majority of the institution's~~  
 215 ~~faculty or the institution's faculty senate or its equivalent. In the case of the State Board, such representatives~~  
 216 ~~shall be chosen from individuals elected by the Chancellor's Faculty Advisory Committee. Such~~  
 217 ~~representatives shall be and (b) in the case of the staff representative, by the majority of the institution's staff~~  
 218 ~~or the institution's staff senate or its equivalent and (ii) appointed to serve (i) (a) at least one term of at least~~  
 219 ~~12 months, which shall be coterminous with the institution's fiscal year or (ii) (b) for such terms as may be~~  
 220 ~~mutually agreed to by the State Board and the Chancellor's Faculty Advisory Committee, or by the local~~  
 221 ~~community college board or the board of visitors, and the institution's faculty senate or its equivalent. Any~~  
 222 ~~vacancy of such a nonvoting, advisory representative shall be filled in the same manner as the original~~  
 223 ~~selection, whether the vacancy occurs by expiration of a term or otherwise. The State Board may appoint one~~  
 224 ~~or more nonvoting, advisory faculty representatives to its board from a list of individuals elected by the~~  
 225 ~~Chancellor's Faculty Advisory Committee. Any such representatives appointed by the State Board shall be~~  
 226 ~~appointed to serve for such terms as may be mutually agreed to by the State Board and the Chancellor's~~  
 227 ~~Faculty Advisory Committee.~~

228 H. The governing board of visitors of ~~any~~ each baccalaureate public institution of higher education shall  
 229 appoint to its respective board at least one ~~or more~~ ~~students~~ as nonvoting, advisory ~~representatives~~ *student*  
 230 *representative, to be selected from a list of individuals nominated by such institution's student government or*  
 231 *an equivalent student governance organization or body. Such representatives student representative shall be*  
 232 ~~appointed under such circumstances and~~ serve for such terms as the board of visitors of the institution shall  
 233 prescribe.

234 I. Nothing in subsections G and H shall prohibit the governing board of any public institution of higher  
 235 education or any local community college board from excluding such nonvoting, advisory faculty or student  
 236 representatives from discussions of faculty grievances, *or* faculty or staff disciplinary matters or salaries; ~~or~~  
 237 ~~any other matter.~~

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

241 K. No baccalaureate public institution of higher education shall employ an individual appointed by the  
 242 Governor to the board of visitors of such institution within two years of the expiration of his term. Such

243 prohibition shall not apply to the employment of an individual to serve as an institution president or, in the  
244 case of Virginia Military Institute, the Superintendent.

245 *L. Unless otherwise specially provided by law or unless the bylaws of the applicable governing board*  
246 *require more than a quorum for certain action, the governing board of any baccalaureate public institution*  
247 *of higher education may exercise any of the powers conferred upon it pursuant to this subtitle at any meeting*  
248 *of the governing board, regular, special, or adjourned, at which a quorum is present. Unless otherwise*  
249 *specially provided by law or unless the bylaws of the applicable governing board require more than a*  
250 *quorum for certain action, the executive committee of a governing board appointed pursuant to § 23.1-1306*  
251 *may exercise any of the powers conferred upon it pursuant to this subtitle only (i) at any meeting of the*  
252 *executive committee (a) that is convened during a recess of the full governing board and (b) at which a*  
253 *quorum of the executive committee is present and (ii) if the full governing board had a quorum at the meeting*  
254 *of the full governing board held immediately prior to going into such recess. A majority of the members of the*  
255 *governing board and a majority of the members of any such executive committee shall constitute a quorum of*  
256 *the respective board, except as otherwise provided pursuant to applicable law.*

257 **§ 23.1-1303. Governing boards; duties.**

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

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

262 1. Adopt and post conspicuously on its website bylaws for its own governance, including provisions that  
263 (i) establish the requirement of transparency, to the extent required by law, in all board actions; (ii) describe  
264 the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in  
265 subdivision B 10 of § 23.1-1301, including the requirements that (a) the board record minutes of each open  
266 meeting and post the minutes on the board's website, in accordance with subsection I of § 2.2-3707 and  
267 § 2.2-3707.1, (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 be held in an  
268 open meeting, (c) the board give public notice of all meetings, in accordance with subsection D of  
269 § 2.2-3707, and (d) any action taken in a closed meeting be approved in an open meeting before it can have  
270 any force or effect, in accordance with subsection B of § 2.2-3711; and (iii) require that the board invite the  
271 Attorney General's appointee or representative to all meetings of the board, executive committee, and board  
272 committees;

273 2. Establish and maintain on the institution's website (i) a listing of all board members, including the name  
274 of the Governor who made each appointment and the date of each appointment; (ii) a listing of all committees  
275 created by the board and the membership of each committee; (iii) a schedule of all upcoming meetings of the  
276 full board and its committees and instructions for the public to access such meetings; (iv) an archive of  
277 agendas and supporting materials for each meeting of the governing board and its committees that was held;  
278 and (v) an email address or email addresses that allow board members to receive public communications  
279 pertaining to board business;

280 3. Establish regulations or institution policies for the acceptance and assistance of students that include  
281 provisions (i) that specify that individuals who have knowingly and willfully failed to meet the federal  
282 requirement to register for the selective service are not eligible to receive any state direct student assistance,  
283 (ii) that specify that the accreditation status of a public high school in the Commonwealth shall not be  
284 considered in making admissions determinations for students who have earned a diploma pursuant to the  
285 requirements established by the Board of Education, and (iii) relating to the admission of certain graduates of  
286 comprehensive community colleges as set forth in § 23.1-907;

287 4. Assist the Council in enforcing the provisions relating to eligibility for financial aid;

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

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

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

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

314 9. In addition to all meetings prescribed in Chapters 14 (§ 23.1-1400 et seq.) through 29 (§ 23.1-2900 et  
 315 seq.), meet with the chief executive officer of the institution at least once annually, in a closed meeting  
 316 pursuant to subdivision A 1 of § 2.2-3711 and deliver an evaluation of the chief executive officer's  
 317 performance. Any change to the chief executive officer's employment contract during any such meeting or  
 318 any other meeting of the board shall be made only by a vote of the majority of the board's members;

319 10. If human research, as defined in § 32.1-162.16, is conducted at the institution, adopt regulations  
 320 pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1  
 321 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. Such regulations shall require the human research  
 322 committee to submit to the Governor, the General Assembly, and the chief executive officer of the institution  
 323 or his designee at least annually a report on the human research projects reviewed and approved by the  
 324 committee and require the committee to report any significant deviations from approved proposals;

325 11. Submit and make publicly available on the institution's website the annual financial statements for the  
 326 fiscal year ending the preceding June 30 and the accounts and status of any ongoing capital projects to the  
 327 Auditor of Public Accounts for the audit of such statements pursuant to § 30-133;

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

339 13. Submit to the General Assembly and the Governor and make publicly available on the institution's  
 340 website an annual executive summary of its interim activity and work no later than the first day of each  
 341 regular session of the General Assembly. The executive summary shall be submitted as provided in the  
 342 procedures of the Division of Legislative Automated Systems for the processing of legislative documents and  
 343 reports and shall be posted on the General Assembly's website;

344 14. Make available to any interested party upon request a copy of the portion of the most recent report of  
 345 the Uniform Crime Reporting Section of the Department of State Police entitled "Crime in Virginia"  
 346 pertaining to institutions of higher education;

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

352 16. Adopt policies that are supportive of the intellectual property rights of matriculated students who are  
 353 not employed by such institution; and

354 17. ~~Solicit the input of representatives of the institution's faculty senate or its equivalent (i) at least twice~~  
 355 ~~per academic year on topics of general interest to the faculty and (ii) in advance of decisions to be made on~~  
 356 ~~the search for the institution's new~~ *Adopt and maintain policies defining and implementing shared*  
 357 *governance among the components of such institution's organizational structure, including the governing*  
 358 *board, chief executive officer, and the faculty, staff, and students of such institution, including policies*  
 359 *requiring consultation with the institution's faculty senate or its equivalent on matters of academic policy and*  
 360 *before any major academic changes such as decisions to eliminate any academic programs or changes to*  
 361 *tenure policy.*

362 **§ 23.1-1303.1. Governing boards; primary duties; additional duties; academic freedom.**

363 *A. The governing board of each public institution of higher education shall act at all times in accordance*  
 364 *with its primary duties of advancing the interests of the institution and the interests of the people of the*  
 365 *Commonwealth.*

366 *B. The governing board of each public institution of higher education shall not:*

367 1. *Adopt any campus policies or make any decisions that would (i) have the primary effect of restricting*  
 368 *or censoring expression on the basis of viewpoint or (ii) otherwise restrict or censor expression for the*  
 369 *purpose of ideological correction or conformity or advancing or promoting any partisan objective; or*

370 2. *Restrict or censor any professor in his exercise of his rights of free speech or academic freedom*  
 371 *pursuant to the First Amendment to the Constitution of the United States and Article I, Section 12 of the*  
 372 *Constitution of Virginia, including by taking or threatening to take any disciplinary action against any*  
 373 *professor, including removal from his position at the institution, for exercising such rights.*

374 **§ 23.1-1304. Governing boards; additional duties; educational programs.**

375 A. From such funds as are appropriated for such purpose, the Council shall develop, in consultation with  
 376 public institutions of higher education and members of their governing boards, and annually deliver  
 377 educational programs for the governing boards of such institutions. *The Council shall not enter into a*  
 378 *contract for or otherwise outsource the development or delivery of any educational program for or training*  
 379 *of the members of governing boards by any organization or entity that (i) has not had as its primary mission*  
 380 *for at least 10 years or (ii) cannot satisfactorily demonstrate a consistent, unbroken organizational*  
 381 *commitment to the primary mission of the preparation of members of governing boards of postsecondary*  
 382 *institutions and foundations to fulfill their duties and trusteeship responsibilities.* New members of such  
 383 governing boards shall participate, at least once during their first two years of membership, in the programs,  
 384 which shall be designed to address the role, duties, and responsibilities of the governing boards and may  
 385 include in-service programs on current issues in higher education. In developing such programs, the Council  
 386 may consider similar educational programs for institutional governing boards in other states. In addition, the  
 387 Council shall develop educational materials for board members with more than two years of service on the  
 388 governing board. Each such board member shall participate in further training on board governance at least  
 389 once every two years, and the Council shall develop criteria by which such board members shall demonstrate  
 390 compliance with this requirement.

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

- 393 1. Board members' primary duty to the citizens of the Commonwealth;
- 394 2. Governing board committee structure and function;
- 395 3. The duties of the executive committee set forth in § 23.1-1306;
- 396 4. Professional accounting and reporting standards;
- 397 5. Methods for meeting the statutory, regulatory, and fiduciary obligations of the board;
- 398 6. The requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), developed and  
 399 delivered in conjunction with the Freedom of Information Advisory Council;
- 400 7. Institutional ethics and conflicts of interest;
- 401 8. Creating and implementing regulations and institution policies;
- 402 9. Business operations, administration, budgeting, financing, financial reporting, and financial reserves,  
 403 including a segment on endowment management;
- 404 10. Fixing student tuition, mandatory fees, and other necessary charges, including a review of student debt  
 405 trends;

406 11. Overseeing planning, construction, maintenance, expansion, and renovation projects that affect the  
 407 institution's consolidated infrastructure, physical facilities, and natural environment, including its lands,  
 408 improvements, and capital equipment;

409 12. Workforce planning, strategy, and investment;

410 13. Institutional advancement, including philanthropic giving, fundraising initiatives, alumni  
 411 programming, communications and media, government and public relations, and community affairs;

412 14. Student welfare issues, including academic studies; curriculum; residence life; student governance and  
 413 activities; and the general physical and psychological well-being of undergraduate and graduate students;

414 15. Current national and state issues in higher education;

415 16. Future national and state issues in higher education;

416 17. Relations between the governing board and the chief executive officer of the institution, including  
 417 perspectives from chief executive officers of public institutions of higher education;

418 18. Best practices for board governance, including perspectives from current board members; and

419 19. Any other topics that the Council, public institutions of higher education, and members of their  
 420 governing boards deem necessary or appropriate.

421 C. The Council shall submit to the General Assembly and the Governor an annual executive summary of  
 422 the interim activity and work of the Council pursuant to this section no later than the first day of each regular  
 423 session of the General Assembly. The executive summary shall be submitted as provided in the procedures of  
 424 the Division of Legislative Automated Systems for the processing of legislative documents and reports and  
 425 shall be posted on the General Assembly's website.

426 **§ 23.1-1306. Governing board executive committee; duties.**

427 A. The executive committee of the governing board of each public institution of higher education shall (i)  
 428 organize the working processes of the board; (ii) recommend best practices for board governance; (iii)

429 develop and recommend to the board a statement of governance setting out the board's role; (iv) periodically  
 430 review the board's bylaws and recommend amendments; (v) provide advice to the board on committee  
 431 structure, appointments, and meetings; (vi) develop an orientation and continuing education process for board  
 432 members that includes training on the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); (vii) create,  
 433 monitor, oversee, and review compliance with a code of ethics for board members; and (viii) develop a set of  
 434 qualifications and competencies for membership on the board for approval by the board and recommendation  
 435 to the Governor.

436 *B. The executive committee of the governing board of each public institution of higher education shall*  
 437 *include in the code of ethics for board members created pursuant to clause (vii) of subsection A policies on*  
 438 *the ethical duties of board members with respect to political activity and conflicts of interest. The executive*  
 439 *committee of the governing board of each public institution of higher education shall annually submit to the*  
 440 *Council, the Governor, and the Chairs of the Senate Committee on Education and Health and the House*  
 441 *Committee on Education such code of ethics for board members, including the policies developed pursuant to*  
 442 *this subsection.*

443 **§ 23.1-2303. Membership.**

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

445 B. ~~Notwithstanding Pursuant to § 23.1-1300, members are~~ *shall not be eligible to serve for a total of two*  
 446 *four-year terms which may be served consecutively more than one six-year term until at least two years have*  
 447 *passed since the end of such six-year term; however, a member appointed by the Governor to serve an*  
 448 *unexpired term is eligible to serve two one additional four-year terms six-year term immediately succeeding*  
 449 *such unexpired term.*

450 **§ 23.1-2601. Membership.**

451 A. The board shall consist of 14 members, of whom 13 shall be appointed by the Governor and one shall  
 452 be the president of the Board of Agriculture and Consumer Services, who shall serve ex officio. Of the 13  
 453 members appointed by the Governor, at least 10 members shall be residents of the Commonwealth and at  
 454 least six members shall be alumni of the University. ~~All appointments by the Governor are subject to~~  
 455 ~~confirmation by the Senate.~~

456 B. The alumni association of the University may submit to the Governor a list of three nominees for each  
 457 vacancy on the board, whether it occurs by expired term or otherwise. The Governor may appoint a member  
 458 from the list of nominees.

459 **2. That any person serving on the governing board of each public institution of higher education**  
 460 **pursuant to § 23.1-1300 of the Code of Virginia, as amended by this act, for a term that began prior to**  
 461 **or on the effective date of this act shall continue to serve for the remainder of the term to which he was**  
 462 **appointed. Any vacancy that occurs on any such governing board prior to the expiration of a term that**  
 463 **began prior to or on the effective date of this act shall be filled by the Governor for the remainder of**  
 464 **that term only, provided that any such individual shall be eligible for reappointment to the applicable**  
 465 **governing board in accordance with the provisions of this act.**

466 **3. That the Governor's appointments of members to the governing board of Richard Bland College**  
 467 **pursuant to § 23.1-2106 of the Code of Virginia for terms beginning after the effective date of this act**  
 468 **shall be staggered as follows: (i) upon the expiration of terms set to expire on June 30, 2027, the**  
 469 **Governor shall appoint three members, of whom one member shall be appointed for a term of five**  
 470 **years, to expire on June 30, 2032, and two members shall be appointed for a term of three years, to**  
 471 **expire on June 30, 2030; (ii) upon the expiration of terms set to expire on June 30, 2028, the Governor**  
 472 **shall appoint three members, of whom two members shall be appointed for a term of four years, to**  
 473 **expire on June 30, 2032, and one member shall be appointed for a term of two years, to expire on June**  
 474 **30, 2030; and (iii) upon the expiration of terms set to expire on June 30, 2029, the Governor shall**  
 475 **appoint three members for a term of five years, to expire on June 30, 2034. After such staggering of**  
 476 **terms, members shall be appointed by the Governor for terms of six years in accordance with**  
 477 **§ 23.1-1300 of the Code of Virginia, as amended by this act.**

478 **4. That the Governor's appointments of members to the governing board of the University of Mary**  
 479 **Washington pursuant to § 23.1-1801 of the Code of Virginia for terms beginning after the effective date**  
 480 **of this act shall be staggered as follows: (i) upon the expiration of terms set to expire on June 30, 2027,**  
 481 **the Governor shall appoint three members, of whom two members shall be appointed for a term of five**  
 482 **years, to expire on June 30, 2032, and one member shall be appointed for a term of three years, to**  
 483 **expire on June 30, 2030; (ii) upon the expiration of terms set to expire on June 30, 2028, the Governor**  
 484 **shall appoint three members, of whom one member shall be appointed for a term of six years, to expire**  
 485 **on June 30, 2034, and two members shall be appointed for a term of four years, to expire on June 30,**  
 486 **2032; and (iii) upon the expiration of terms set to expire on June 30, 2029, the Governor shall appoint**  
 487 **three members for a term of five years, to expire on June 30, 2034. After such staggering of terms,**  
 488 **members shall be appointed by the Governor for terms of six years in accordance with § 23.1-1300 of**  
 489 **the Code of Virginia, as amended by this act.**

490 **5. That the Governor's appointments of members to the governing board of Longwood University**

491 pursuant to § 23.1-1701 of the Code of Virginia for terms beginning after the effective date of this act  
 492 shall be staggered as follows: (i) upon the expiration of terms set to expire on June 30, 2027, the  
 493 Governor shall appoint three members, of whom two members shall be appointed for a term of five  
 494 years, to expire on June 30, 2032, and one member shall be appointed for a term of three years, to  
 495 expire on June 30, 2030; (ii) upon the expiration of terms set to expire on June 30, 2028, the Governor  
 496 shall appoint three members, of whom one member shall be appointed for a term of six years, to expire  
 497 on June 30, 2034, and two members shall be appointed for a term of four years, to expire on June 30,  
 498 2032; and (iii) upon the expiration of terms set to expire on June 30, 2029, the Governor shall appoint  
 499 four members, of whom three shall be appointed for a term of five years, to expire on June 30, 2034,  
 500 and one member shall be appointed for a term of three years, to expire on June 30, 2032. After such  
 501 staggering of terms, members shall be appointed by the Governor for terms of six years in accordance  
 502 with § 23.1-1300 of the Code of Virginia, as amended by this act.

503 6. That the Governor's appointments of members to the governing board of Norfolk State University  
 504 pursuant to § 23.1-1901 of the Code of Virginia for terms beginning after the effective date of this act  
 505 shall be staggered as follows: (i) upon the expiration of terms set to expire on June 30, 2027, the  
 506 Governor shall appoint three members for a term of five years, to expire on June 30, 2032; (ii) upon the  
 507 expiration of terms set to expire on June 30, 2028, the Governor shall appoint two members, of whom  
 508 one member shall be appointed for a term of six years, to expire on June 30, 2034, and one member  
 509 shall be appointed for a term of four years, to expire on June 30, 2032; and (iii) upon the expiration of  
 510 terms set to expire on June 30, 2029, the Governor shall appoint three members for a term of five  
 511 years, to expire on June 30, 2034. After such staggering of terms, members shall be appointed by the  
 512 Governor for terms of six years in accordance with § 23.1-1300 of the Code of Virginia, as amended by  
 513 this act.

514 7. That the Governor's appointments of members to the governing board of Virginia Polytechnic  
 515 Institute and State University pursuant to § 23.1-2601 of the Code of Virginia for terms beginning after  
 516 the effective date of this act shall be staggered as follows: (i) upon the expiration of terms set to expire  
 517 on June 30, 2027, the Governor shall appoint three members for a term of five years, to expire on June  
 518 30, 2032; (ii) upon the expiration of terms set to expire on June 30, 2028, the Governor shall appoint  
 519 four members, of whom two members shall be appointed for a term of six years, to expire on June 30,  
 520 2034, and two members shall be appointed for a term of four years, to expire on June 30, 2032; and (iii)  
 521 upon the expiration of terms set to expire on June 30, 2029, the Governor shall appoint two members  
 522 for a term of five years, to expire on June 30, 2034. After such staggering of terms, members shall be  
 523 appointed by the Governor for terms of six years in accordance with § 23.1-1300 of the Code of  
 524 Virginia, as amended by this act.

525 8. That the Governor's appointments of members to the governing board of Christopher Newport  
 526 University pursuant to § 23.1-1401 of the Code of Virginia for terms beginning after the effective date  
 527 of this act shall be staggered as follows: (i) upon the expiration of terms set to expire on June 30, 2027,  
 528 the Governor shall appoint three members for a term of five years, to expire on June 30, 2032; (ii) upon  
 529 the expiration of terms set to expire on June 30, 2028, the Governor shall appoint three members, of  
 530 whom two members shall be appointed for a term of six years, to expire on June 30, 2034, and one  
 531 member shall be appointed for a term of four years, to expire on June 30, 2032; and (iii) upon the  
 532 expiration of terms set to expire on June 30, 2029, the Governor shall appoint three members, of whom  
 533 two members shall be appointed for a term of five years, to expire on June 30, 2034, and one member  
 534 shall be appointed for a term of three years, to expire on June 30, 2032. After such staggering of terms,  
 535 members shall be appointed by the Governor for terms of six years in accordance with § 23.1-1300 of  
 536 the Code of Virginia, as amended by this act.

537 9. That the Governor's appointments of members to the governing board of James Madison University  
 538 pursuant to § 23.1-1601 of the Code of Virginia for terms beginning after the effective date of this act  
 539 shall be staggered as follows: (i) upon the expiration of terms set to expire on June 30, 2027, the  
 540 Governor shall appoint five members for a term of five years, to expire on June 30, 2032, and (ii) upon  
 541 the expiration of terms set to expire on June 30, 2028, the Governor shall appoint five members for a  
 542 term of six years, to expire on June 30, 2034. After such staggering of terms, members shall be  
 543 appointed by the Governor for terms of six years in accordance with § 23.1-1300 of the Code of  
 544 Virginia, as amended by this act.

545 10. That the Governor's appointments of members to the governing board of Radford University  
 546 pursuant to § 23.1-2101 of the Code of Virginia for terms beginning after the effective date of this act  
 547 shall be staggered as follows: (i) upon the expiration of terms set to expire on June 30, 2027, the  
 548 Governor shall appoint three members, of whom two members shall be appointed for a term of five  
 549 years, to expire on June 30, 2032, and one member shall be appointed for a term of three years, to  
 550 expire on June 30, 2030; (ii) upon the expiration of terms set to expire on June 30, 2028, the Governor  
 551 shall appoint five members, of whom two members shall be appointed for a term of six years, to expire  
 552 on June 30, 2034, and three members shall be appointed for a term of four years, to expire on June 30,

553 2032; and (iii) upon the expiration of terms set to expire on June 30, 2029, the Governor shall appoint  
554 three members for a term of five years, to expire on June 30, 2034. After such staggering of terms,  
555 members shall be appointed by the Governor for terms of six years in accordance with § 23.1-1300 of  
556 the Code of Virginia, as amended by this act.

557 11. That the Governor's appointments of members to the governing board of Virginia State University  
558 pursuant to § 23.1-2701 of the Code of Virginia for terms beginning after the effective date of this act  
559 shall be staggered as follows: (i) upon the expiration of terms set to expire on June 30, 2027, the  
560 Governor shall appoint three members for a term of five years, to expire on June 30, 2032; (ii) upon the  
561 expiration of terms set to expire on June 30, 2028, the Governor shall appoint five members, of whom  
562 three members shall be appointed for a term of six years, to expire on June 30, 2034, and two members  
563 shall be appointed for a term of four years, to expire on June 30, 2032; and (iii) upon the expiration of  
564 terms set to expire on June 30, 2029, the Governor shall appoint two members for a term of five years,  
565 to expire on June 30, 2034. After such staggering of terms, members shall be appointed by the  
566 Governor for terms of six years in accordance with § 23.1-1300 of the Code of Virginia, as amended by  
567 this act.

568 12. That the Governor's appointments of members to the governing board of George Mason University  
569 pursuant to § 23.1-1501 of the Code of Virginia, the governing board of Virginia Commonwealth  
570 University pursuant to § 23.1-2303 of the Code of Virginia, and the governing board of Virginia  
571 Military Institute pursuant to § 23.1-2501 of the Code of Virginia for terms beginning after the  
572 effective date of this act shall be staggered as follows: (i) upon the expiration of terms set to expire on  
573 June 30, 2027, the Governor shall appoint four members, of whom three members shall be appointed  
574 for a term of five years, to expire on June 30, 2032, and one member shall be appointed for a term of  
575 three years, to expire on June 30, 2030; (ii) upon the expiration of terms set to expire on June 30, 2028,  
576 the Governor shall appoint four members, of whom one member shall be appointed for a term of six  
577 years, to expire on June 30, 2034, and three members shall be appointed for a term of four years, to  
578 expire on June 30, 2032; and (iii) upon the expiration of terms set to expire on June 30, 2029, the  
579 Governor shall appoint four members for a term of five years, to expire on June 30, 2034. After such  
580 staggering of terms, members shall be appointed by the Governor for terms of six years in accordance  
581 with § 23.1-1300 of the Code of Virginia, as amended by this act.

582 13. That the Governor's appointments of members to the governing board of Old Dominion University  
583 pursuant to § 23.1-2001 of the Code of Virginia for terms beginning after the effective date of this act  
584 shall be staggered as follows: (i) upon the expiration of terms set to expire on June 30, 2027, the  
585 Governor shall appoint four members, of whom three members shall be appointed for a term of five  
586 years, to expire on June 30, 2032, and one member shall be appointed for a term of three years, to  
587 expire on June 30, 2030; (ii) upon the expiration of terms set to expire on June 30, 2028, the Governor  
588 shall appoint four members, of whom one member shall be appointed for a term of six years, to expire  
589 on June 30, 2034, and three members shall be appointed for a term of four years, to expire on June 30,  
590 2032; and (iii) upon the expiration of terms set to expire on June 30, 2029, the Governor shall appoint  
591 four members for a term of five years, to expire on June 30, 2034. After such staggering of terms,  
592 members shall be appointed by the Governor for terms of six years in accordance with § 23.1-1300 of  
593 the Code of Virginia, as amended by this act.

594 14. That the Governor's appointments of members to the governing board of the University of Virginia  
595 pursuant to § 23.1-2201 of the Code of Virginia and to the governing board of The College of William  
596 and Mary in Virginia pursuant to § 23.1-2801 of the Code of Virginia for terms beginning after the  
597 effective date of this act shall be staggered as follows: (i) upon the expiration of terms set to expire on  
598 June 30, 2027, the Governor shall appoint four members, of whom two members shall be appointed for  
599 a term of five years, to expire on June 30, 2032, and two members shall be appointed for a term of  
600 three years, to expire on June 30, 2030; (ii) upon the expiration of terms set to expire on June 30, 2028,  
601 the Governor shall appoint five members, of whom two members shall be appointed for a term of six  
602 years, to expire on June 30, 2034, and three members shall be appointed for a term of four years, to  
603 expire on June 30, 2032; and (iii) upon the expiration of terms set to expire on June 30, 2029, the  
604 Governor shall appoint four members, of whom three members shall be appointed for a term of five  
605 years, to expire on June 30, 2034, and one member shall be appointed for a term of three years, to  
606 expire on June 30, 2032. After such staggering of terms, members shall be appointed by the Governor  
607 for terms of six years in accordance with § 23.1-1300 of the Code of Virginia, as amended by this act.

608 15. That the State Council of Higher Education for Virginia (the Council) shall convene a work group  
609 consisting of members of governing boards of public institutions of higher education, administrators of  
610 public institutions of higher education, and members of faculty, staff, and student governance bodies or  
611 organizations at public institutions of higher education, for the purpose of developing model shared  
612 governance policies in accordance with subdivision of B 17 of § 23.1-1303 of the Code of Virginia, as  
613 amended by this act. Such model shared governance policies shall include provisions relating to the  
614 establishment, membership, and roles of elected faculty governance bodies for public institutions of

615 higher education. The Council shall make the model shared governance policies developed pursuant to  
616 this enactment available to the governing board of each public institution of higher education by  
617 January 1, 2027.

618 16. That the State Council of Higher Education for Virginia (the Council) and the Office of the  
619 Attorney General shall convene a work group consisting of members of governing boards of public  
620 institutions of higher education, administrators of public institutions of higher education, and at least  
621 two individuals who previously served as legal counsel for a public institution of higher education in  
622 the Commonwealth for the purpose of studying and making recommendations on (i) institutional  
623 structures and processes relating to legal counsel; (ii) the current selection and use of outside legal  
624 counsel by public institutions of higher education; (iii) a process by which (a) the governing board of  
625 any public institution of higher education, the Governor, or the General Assembly or a committee  
626 thereof with relevant oversight responsibility, upon determining that the legal counsel of a public  
627 institution of higher education is not acting in the best interests of the institution, including due to a  
628 conflict of interest, failure to defend the lawful authority of the public institution of higher education,  
629 or failure to comply with state law, may request the Attorney General to review the adequacy of such  
630 legal representation and (b) upon a determination by the Attorney General or the General Assembly or  
631 a committee thereof with relevant oversight responsibility that such institution is not receiving  
632 adequate legal representation, the governing board of any public institution of higher education may  
633 request additional representation or approve alternate counsel as necessary to protect the interests of  
634 the institution; and (iv) policies for requiring any individual member of a governing board of a public  
635 institution of higher education to recuse himself from or not participate in any vote or decision of the  
636 governing board on any matter in which he has a personal or pecuniary interest or any partisan or  
637 ideological interest that would compromise his ability to vote or act objectively and in accordance with  
638 the primary duties set forth in subsection A of § 23.1-1303.1 of the Code of Virginia, as created by this  
639 act. The Council shall submit to the Chairs of the Senate Committee on Education and Health and the  
640 House Committee on Education by November 1, 2026, a report on the work group's recommendations  
641 made pursuant this enactment.

**ENROLLED****HB1385ER**