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SENATE BILL NO. 494
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Governor
on April 13, 2026)

(Patrons Prior to Substitute—Senators Deeds and Surovell [SB 381])

A BILL to amend and reenact §§ 2.2-2519, 23.1-203, 23.1-1300, 23.1-1303, 23.1-1304, and 23.1-2601 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-1303.1, relating to public institutions of higher education; legal counsel; appointment, confirmation, training, quorum, and duties of governing board members.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2519, 23.1-203, 23.1-1300, 23.1-1303, 23.1-1304, and 23.1-2601 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 23.1-1303.1 as follows:

§ 2.2-2519. Membership; quorum.

The Commission shall have a total membership of eight members that shall consist of at least six but no more than 15 nonlegislative citizen members and two ex officio members. Nonlegislative citizen members shall be appointed by the Governor as follows: two who shall be at least one former members member of either the board of visitors of a public institution of higher education or; at least one former member of the State Board for Community Colleges; at least one who shall be either a former president, provost, or executive vice-president of a public institution of higher education; at least one who shall be a faculty member of a public institution of higher education; and at least two who shall be citizens at large. The Secretary of Education or his designee and the Secretary of the Commonwealth or his designee shall serve as ex officio members of the Commission with nonvoting privileges. The nonlegislative citizen member appointed who is a faculty member of a public institution of higher education shall serve without voting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth. Three A majority of the voting members of the Commission shall constitute a quorum.

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

§ 23.1-203. Duties of Council.

The Council shall:

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

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

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

4. Review and approve or disapprove all enrollment projections proposed by each public institution of higher education. The Council's projections shall be organized numerically by level of enrollment and shall be used solely for budgetary, fiscal, and strategic planning purposes. The Council shall develop estimates of the number of degrees to be awarded by each public institution of higher education and include those

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60 estimates in its reports of enrollment projections. The student admissions policies for such institutions and
61 their specific programs shall remain the sole responsibility of the individual governing boards but all
62 baccalaureate public institutions of higher education shall adopt dual admissions policies with comprehensive
63 community colleges as required by § 23.1-907.

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

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

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

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

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

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

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

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

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

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

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

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

121 17. Require each institution of higher education formed, chartered, or established in the Commonwealth

122 after July 1, 1980, to ensure the preservation of student transcripts in the event of institutional closure or
 123 revocation of approval to operate in the Commonwealth. An institution may ensure the preservation of
 124 student transcripts by binding agreement with another institution of higher education with which it is not
 125 corporately connected or in such other way as the Council may authorize by regulation. In the event that an
 126 institution closes or has its approval to operate in the Commonwealth revoked, the Council, through its
 127 Executive Director, may take such action as is necessary to secure and preserve the student transcripts until
 128 such time as an appropriate institution accepts all or some of the transcripts. Nothing in this subdivision shall
 129 be deemed to interfere with the right of a student to his own transcripts or authorize disclosure of student
 130 records except as may otherwise be authorized by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

176 **§ 23.1-1300. Members of governing boards; removal; terms; faculty, staff, and student
 177 representatives; residency.**

178 A. Members appointed by the Governor to the governing boards of public institutions of higher education
 179 shall serve for terms of four years. Vacancies occurring other than by expiration of a term shall be filled for
 180 the unexpired term. No member appointed by the Governor to such a governing board shall serve for more
 181 than two consecutive four-year terms; however, a member appointed by the Governor to serve an unexpired
 182 term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.
 183 ~~Except as otherwise provided in § 23.1-2601, all~~ All appointments are subject to confirmation by the General

184 Assembly. No member appointed by the Governor shall vote on any matter, or be counted as a voting
 185 member, until confirmed by the General Assembly. Before a member is confirmed, such member may attend
 186 and participate in meetings of the governing board without voting. The General Assembly shall take action
 187 on members appointed by the Governor to the governing board of a public institution of higher education
 188 within 30 days as long as there are at least 30 days remaining in a regular session. If the appointment is
 189 communicated while the General Assembly is convened in a special session under a proclamation specifying
 190 consideration of appointments and operating under a procedural resolution for such purpose, the General
 191 Assembly shall take action within 30 days of the Governor communicating such appointment. If the General
 192 Assembly fails to take action on an appointment within the specified time period for a regular or special
 193 session, the person so appointed shall be deemed confirmed and entitled to vote on any matter. If the Senate
 194 or House Committee on Privileges and Elections votes to reject a gubernatorial appointee by a majority vote
 195 in accordance with the rules of the applicable house, such rejection shall be deemed a refusal of the General
 196 Assembly to confirm such appointment pursuant to § 2.2-105. A member who has been reappointed to a term
 197 immediately succeeding the term for which they were previously confirmed shall continue to serve as a voting
 198 member throughout the confirmation process. Members appointed by the Governor to the governing board of
 199 a public institution of higher education shall continue to hold office until their successors have been
 200 appointed and ~~qualified~~ such successors' terms have begun. Ex officio members shall serve a term coincident
 201 with their term of office.

202 B. No member appointed by the Governor to the governing board of a public institution of higher
 203 education who has served two consecutive four-year terms on such board is eligible to serve on the same
 204 board until at least four years have passed since the end of his second consecutive four-year term.

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

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

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

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

222 G. The governing board of each *baccalaureate* public institution of higher education and each local
 223 community college board ~~may shall~~ appoint at least one ~~or more~~ nonvoting, advisory faculty ~~representatives~~
 224 ~~representative and at least one nonvoting, advisory staff representative~~ to its respective board: ~~In the case of~~
 225 ~~local community college boards and boards of visitors, such representatives, each of whom shall be chosen~~
 226 ~~from individuals (i) elected (a) in the case of the faculty representative, by the majority of the institution's~~
 227 ~~faculty or the institution's faculty senate or its equivalent: In the case of the State Board, such representatives~~
 228 ~~shall be chosen from individuals elected by the Chancellor's Faculty Advisory Committee. Such~~
 229 ~~representatives shall be and (b) in the case of the staff representative, by the majority of the institution's staff~~
 230 ~~or the institution's staff senate or its equivalent and (ii) appointed to serve (i) (a) at least one term of at least~~
 231 ~~12 months, which shall be coterminous with the institution's fiscal year or (ii) (b) for such terms as may be~~
 232 ~~mutually agreed to by the State Board and the Chancellor's Faculty Advisory Committee, or by the local~~
 233 ~~community college board or the board of visitors; and the institution's faculty senate or its equivalent. Any~~
 234 ~~vacancy of such a nonvoting, advisory representative shall be filled in the same manner as the original~~
 235 ~~selection, whether the vacancy occurs by expiration of a term or otherwise. The State Board may appoint one~~
 236 ~~or more nonvoting, advisory faculty representatives to its board from a list of individuals elected by the~~
 237 ~~Chancellor's Faculty Advisory Committee. Any such representatives appointed by the State Board shall be~~
 238 ~~appointed to serve for such terms as may be mutually agreed to by the State Board and the Chancellor's~~
 239 ~~Faculty Advisory Committee.~~

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

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

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

253 K. No baccalaureate public institution of higher education shall employ an individual appointed by the
 254 Governor to the board of visitors of such institution within two years of the expiration of his term. Such
 255 prohibition shall not apply to the employment of an individual to serve as an institution president or, in the
 256 case of Virginia Military Institute, the Superintendent.

257 L. *Unless otherwise specially provided by law or unless the bylaws of the applicable governing board*
 258 *require more than a quorum for certain action, the governing board of any baccalaureate public institution*
 259 *of higher education may exercise any of the powers conferred upon it pursuant to this subtitle at any meeting*
 260 *of the governing board, regular, special, or adjourned, at which a quorum is present. Unless otherwise*
 261 *specially provided by law or unless the bylaws of the applicable governing board require more than a*
 262 *quorum for certain action, the executive committee of a governing board appointed pursuant to § 23.1-1306*
 263 *may exercise any of the powers conferred upon it pursuant to this subtitle only (i) at any meeting of the*
 264 *executive committee (a) that is convened during a recess of the full governing board and (b) at which a*
 265 *quorum of the executive committee is present and (ii) if the full governing board had a quorum at the meeting*
 266 *of the full governing board held immediately prior to going into such recess. A majority of the members of the*
 267 *governing board and a majority of the members of any such executive committee shall constitute a quorum of*
 268 *the respective board, except as otherwise provided pursuant to applicable law.*

269 **§ 23.1-1303. Governing boards; duties.**

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

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

274 1. Adopt and post conspicuously on its website bylaws for its own governance, including provisions that
 275 (i) establish the requirement of transparency, to the extent required by law, in all board actions; (ii) describe
 276 the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in
 277 subdivision B 10 of § 23.1-1301, including the requirements that (a) the board record minutes of each open
 278 meeting and post the minutes on the board's website, in accordance with subsection I of § 2.2-3707 and
 279 § 2.2-3707.1, (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 be held in an
 280 open meeting, (c) the board give public notice of all meetings, in accordance with subsection D of
 281 § 2.2-3707, and (d) any action taken in a closed meeting be approved in an open meeting before it can have
 282 any force or effect, in accordance with subsection B of § 2.2-3711; and (iii) require that the board invite the
 283 Attorney General's appointee or representative to all meetings of the board, executive committee, and board
 284 committees;

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

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

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

300 5. Notwithstanding any other provision of state law, establish policies and procedures requiring the
 301 notification of the parent of a dependent student when such student receives mental health treatment at the
 302 institution's student health or counseling center and such treatment becomes part of the student's educational
 303 record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d
 304 et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights
 305 and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only
 306 be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the
 307 student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent

308 behavior or any other relevant information or (ii) suffer serious harm due to his lack of capacity to protect
309 himself from harm or to provide for his basic human needs. However, notification may be withheld if any
310 person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board
311 within the Department of Health Professions who is treating the student has made a part of the student's
312 record a written statement that, in the exercise of his professional judgment, the notification would be
313 reasonably likely to cause substantial harm to the student or another person. No public institution of higher
314 education or employee of a public institution of higher education making a disclosure pursuant to this
315 subsection is civilly liable for any harm resulting from such disclosure unless such disclosure constitutes
316 gross negligence or willful misconduct by the institution or its employees;

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

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

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

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

331 10. If human research, as defined in § 32.1-162.16, is conducted at the institution, adopt regulations
332 pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1
333 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. Such regulations shall require the human research
334 committee to submit to the Governor, the General Assembly, and the chief executive officer of the institution
335 or his designee at least annually a report on the human research projects reviewed and approved by the
336 committee and require the committee to report any significant deviations from approved proposals;

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

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

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

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

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

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

366 17. ~~Solicit the input of representatives of the institution's faculty senate or its equivalent (i) at least twice~~
367 ~~per academic year on topics of general interest to the faculty and (ii) in advance of decisions to be made on~~
368 ~~the search for the institution's new~~ *Adopt and maintain policies defining and implementing shared*
369 *governance among the components of such institution's organizational structure, including the governing*

board, chief executive officer, and the faculty, staff, and students of such institution, including policies requiring consultation with the institution's faculty senate or its equivalent on matters of academic policy and before any major academic changes such as decisions to eliminate any academic programs or changes to tenure policy.

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

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

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

1. Adopt any campus policies or make any decisions that would have the primary effect of restricting or censoring expression on the basis of viewpoint; or

2. Restrict or censor any professor in his exercise of his rights of free speech or academic freedom pursuant to the First Amendment to the Constitution of the United States and Article I, Section 12 of the Constitution of Virginia.

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

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

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

1. Board members' primary duty to the citizens of the Commonwealth;

2. Governing board committee structure and function;

3. The duties of the executive committee set forth in § 23.1-1306;

4. Professional accounting and reporting standards;

5. Methods for meeting the statutory, regulatory, and fiduciary obligations of the board;

6. The requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), developed and delivered in conjunction with the Freedom of Information Advisory Council;

7. Institutional ethics and conflicts of interest;

8. Creating and implementing regulations and institution policies;

9. Business operations, administration, budgeting, financing, financial reporting, and financial reserves, including a segment on endowment management;

10. Fixing student tuition, mandatory fees, and other necessary charges, including a review of student debt trends;

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

12. Workforce planning, strategy, and investment;

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

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

15. Current national and state issues in higher education;

16. Future national and state issues in higher education;

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

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

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

C. The Council shall submit to the General Assembly and the Governor an annual executive summary of

432 the interim activity and work of the Council pursuant to this section no later than the first day of each regular
433 session of the General Assembly. The executive summary shall be submitted as provided in the procedures of
434 the Division of Legislative Automated Systems for the processing of legislative documents and reports and
435 shall be posted on the General Assembly's website.

436 **§ 23.1-2601. Membership.**

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

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

445 **2. That the provisions of subsection A of § 23.1-1300 of the Code of Virginia, as amended by this act,**
446 **shall become effective on January 1, 2027.**

447 **3. That the State Council of Higher Education for Virginia (the Council) shall convene a work group**
448 **consisting of members of governing boards of public institutions of higher education, administrators of**
449 **public institutions of higher education, and members of faculty, staff, and student governance bodies or**
450 **organizations at public institutions of higher education, for the purpose of developing model shared**
451 **governance policies in accordance with subdivision of B 17 of § 23.1-1303 of the Code of Virginia, as**
452 **amended by this act. Such model shared governance policies shall include provisions relating to the**
453 **establishment, membership, and roles of elected faculty governance bodies for public institutions of**
454 **higher education. The Council shall make the model shared governance policies developed pursuant to**
455 **this enactment available to the governing board of each public institution of higher education by**
456 **January 1, 2027.**

457 **4. That the State Council of Higher Education for Virginia (the Council) shall convene a work group**
458 **consisting of members of governing boards of public institutions of higher education, administrators of**
459 **public institutions of higher education, and at least two individuals who previously served as legal**
460 **counsel for a public institution of higher education in the Commonwealth for the purpose of studying**
461 **and making recommendations on (i) institutional structures and processes relating to legal counsel, (ii)**
462 **the selection and use of outside legal counsel by public institutions of higher education, (iii) a process**
463 **by which it is determined that legal counsel of a public institution of higher education is not acting in**
464 **the best interests of the institution, and (iv) a process by which existing legal counsel is dismissed and**
465 **outside legal counsel is selected and approved to protect the best interests of the institution. The**
466 **Council shall submit to the Governor and the Chairs of the Senate Committee on Education and**
467 **Health and the House Committee on Education by November 1, 2026, a report on the work group's**
468 **recommendations made pursuant this enactment.**