

CHECKS AND BALANCES AT WORK:
THE RESTRUCTURING OF VIRGINIA'S
PUBLIC HIGHER EDUCATION SYSTEM

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Foreword

The history of public higher education in the United States could, we believe, be told in terms of conflict among its many interested participants. From the Dartmouth College case in 1819 to the proliferation of state coordinating agencies following World War II, an almost perennial tug-of-war has existed between the states and their colleges and universities: the states seeking more control over their institutions, and these institutions seeking greater autonomy. Sometimes the state prevailed, sometimes the institutions, but some might argue that these tensions have contributed to today's worldwide predominance of some of our institutions. A crucial question remains, however: Might higher education be better served if both sides pulled together toward common goals?

How one state and its institutions realigned their efforts in order to pull together is told by Lara Couturier in this important report. She relates in detail how an almost routine conflict in 2002 over who should set tuition in the Commonwealth of Virginia stimulated a statewide discussion of institutional management and accountability in the broad context of public purposes and priorities, and how that discussion yielded an almost unprecedented broad legislative "reconstruction" of Virginia's public higher education system in 2005.

The story, thus far, exemplifies both the substantive and political complexities that vex major efforts to redefine state and institutional roles, as well as the creative strategies that evolved to deal with those complexities. The resulting groundbreaking legislation promises now to serve as a valuable framework for eliciting measurable institutional progress toward explicit public policy goals in exchange for a state commitment to funding and institutional autonomy in certain key areas.

The final chapter of this story has yet to be written, and higher education's experience with state contracts is not encouraging. Nevertheless, we strongly urge that political and educational policy leaders across the nation carefully examine and continue to monitor the evolution of Virginia's reconstruction efforts. The need in all states for colleges and universities to be accountable for public policy goals has never been greater. At the same time, colleges

and universities need an appropriate degree of flexibility in the means by which they achieve these goals. Ms. Couturier’s report lays a firm foundation for understanding and continuing to follow the attempt to meet both these needs in one state, and offers a possible model for future attempts.

We are grateful to Lara Couturier for her valuable contribution to the national discourse on the changing relationships between the states and their colleges and universities. We appreciate the direction of several higher education experts in Virginia who reviewed an early draft of this report: Peter Blake, Vice Chancellor for Workforce Development Services, Virginia Community College System; Laura Fornash, Associate Director of Government Relations, Virginia Polytechnic Institute and State University; Judith E. Heiman, Deputy Secretary of Education, Commonwealth of Virginia; and Elizabeth A. Wallace, Director of Communications and Government Relations, State Council of Higher Education for Virginia. We also thank the following policy experts who reviewed an early draft: Richard Novak, Vice President for Public Sector Programs, Association of Governing Boards of Universities and Colleges; Jane V. Wellman, Senior Associate, the Institute for Higher Education Policy; and William M. Zumeta, Senior Fellow, the National Center for Public Policy and Higher Education.

The National Center and the author welcome the reactions of readers to this report.

Patrick M. Callan
Joni E. Finney

Executive Summary

The nation's higher education community is watching, waiting with anticipation to see the outcome of Virginia's 2005 Restructured Higher Education Financial and Administrative Operations Act (Restructuring Act), which amounts to a significant renegotiation of the relationship between the Commonwealth of Virginia and its renowned public colleges and universities. In an era that values small government, competition, and private enterprise, this renegotiation seems to some a logical update to an outdated system; to others it represents an ominous sign of changes that are spreading throughout society now reaching the once-protected world of higher education. Onlookers are, of course, all the more fascinated because of the historical significance of tinkering with Thomas Jefferson's universities.

In what many described as "an evolutionary process," two parallel initiatives came together to create the Restructuring Act. The three most powerful public institutions in the state—the University of Virginia, the College of William and Mary, and Virginia Polytechnic Institute and State University—were advancing a proposal to become "chartered universities," a status that would have given these institutions far more autonomy over their daily operations. Among other things, charter status would have reasserted the institutions' right to set their own tuitions, and the universities would no longer have been traditional state agencies. Instead, they would have become "political subdivisions" of the state. At the same time, Governor Mark Warner (D) was working with a group of Virginia leaders and higher education experts to develop an agenda to reform higher education in the state.

As the two initiatives came together, key stakeholders, including legislators and their staffs, other college presidents, college faculty and staff, and the governor's cabinet, all got involved and put their wants and needs on the table. The end result is legislation that includes every public college in the state, and ensures that all public institutions remain state agencies. All public colleges and universities are now eligible for three differentiated levels of increased autonomy, but not without first agreeing to meet a series of 11 specific performance goals that address state needs, such as access to higher education, collaboration with K–12 education, increased student transfers between two- and four-year colleges, and more deliberate and strategic

planning.* The State Council of Higher Education for Virginia (SCHEV) will assess the colleges' performance in meeting these goals annually. If SCHEV deems an institution successful at meeting the state goals, the institution will be eligible for a series of financial incentives as well.

What can this grand experiment teach us? What might it mean for public higher education around the country? Perhaps Virginia's secretary of finance John Bennett said it best when he quoted President John F. Kennedy: "For of those to whom much is given, much is required." In Virginia, autonomy came at the price of accountability for explicit performance goals that will be regularly assessed. To some, the final legislation's accountability requirements are an unfortunate result that the institutions did not anticipate. To others, the requirements are the natural result of a healthy give-and-take between a governor, a legislature, and a public system of higher education.

This legislation and the path taken during its passage are, in a sense, checks and balances at work. The public colleges in Virginia gained more power to conduct certain operations, but their power is checked by new accountability targeted directly at the needs of the state. The legislation reasserts the institutions' ability to set tuition, but the Legislature did not give up all power to curb tuition increases in the future. A new planning process helps the institutions lay out their needs for both state funding and tuition increases, making the state's role as a funding partner clear and helping to create mutual accountability for meeting educational needs in the future.

Many have speculated about what Thomas Jefferson would think of these changes at his university, his alma mater, and his home state's public education system. We'll never know, but he would likely be proud of the way that the government he helped to design, which is based in large part on a theory of checks and balances, negotiated the wants and needs of a variety of stakeholders while keeping the public good at the forefront.

* *As of the writing of this case study, legislation to add a twelfth performance goal has passed the Virginia House and Senate. As stated in the bill, the goal will read: "Seek to ensure the safety and security of the Commonwealth's students on college and university campuses." Virginia HB 346 Restructured Higher Education Financial and Administrative Operations Act; Includes Campus Security, January 11, 2006, <http://leg1.state.va.us/cgi-bin/legp504.exe?061+sum+HB346> (February 13, 2006).*

“Trains on Their Own Tracks”

Many tell the story of the development, negotiation, and passage of Virginia’s 2005 Restructured Higher Education Financial and Administrative Operations Act (Restructuring Act) as a one-sided institutional bid for more autonomy. In reality, however, an equally important parallel agenda for higher education was developing in the governor’s office. The true story, therefore, is one of what one interviewee dubbed two “trains on their own tracks.” The leaders on each track eventually came together, made their cases, found ways to compromise, and produced legislation that was quite different from where they started.

TRACK 1: AN INSTITUTION-DRIVEN RESTRUCTURING AGENDA

The leaders of the University of Virginia, the College of William and Mary, and Virginia Polytechnic Institute and State University (hereinafter U.Va., William & Mary, and Va. Tech) had been talking among themselves about seeking greater levels of autonomy from the state for years. Furthermore, in Virginia, calls for decentralization and more autonomy in higher education have long been fairly commonplace. During the 1980s and 1990s, several decentralization initiatives gave the public colleges, especially U.Va., William & Mary, and Va. Tech., more freedom in several areas, including purchasing and capital spending.¹ A pilot program, for example, gave institutions permission to manage some construction projects locally.² Universities participating in the pilot were required to set up a memorandum of understanding (MOU) with the state’s secretary of administration about how they would manage this authority. Once the MOU was in place, they could make their own decisions without waiting for approval from government officials in Richmond, the state capital.

In addition, in 1996 the board of visitors for U.Va. was granted heightened autonomy over administrative, financial, and personnel operations at the U.Va. Medical Center.³ Then, in the early 2000s, both U.Va.’s School of Law and its Darden Graduate School of Business Administration transitioned to a private funding model. The schools now rely on tuition and private fundraising

“We envision that selected colleges and universities with strong records of excellent administrative performance might become quasi-public entities that are responsible for all of their own operational processes.”⁵

—The Commission on the Future of Higher Education in Virginia, 1996

while enjoying more authority over setting faculty salaries and tuition.⁴

Observers in Richmond have generally viewed these decentralization initiatives as successful (with some exceptions, including controversy over the personnel policies at the U.Va. Medical Center), helping the institutions to build credibility with lawmakers. Interviewees suggested that initiatives such as these helped build the momentum leading up to the 2005 Restructuring Act.

Tuition: The Heart and Soul

It is no secret that the main goal of the leaders of U.Va., William & Mary, and Va. Tech in seeking greater autonomy was to assert the authority of the institutions' boards of visitors to set their own tuition and fees, thereby gaining control over one of their most important revenue sources.[†] As David Breneman, an expert on restructuring initiatives and also the dean of the Curry School of Education at U.Va., stated, "In my view, the name of the game on this thing all along was tuition, as well as regulatory relief." This view was seconded by Colette Sheehy, vice president for management and budget at U.Va. and a key player in promoting and shaping this legislation, when she said, "We felt we had to get control over one of our key revenue sources: tuition."

The story told universally in Virginia—by the governor's office, the legislators, and the colleges—is that over the past two decades, higher education has experienced both budget volatility and intense lawmaker control over tuition. Even though each public college's board of visitors technically has authority to set tuition, that authority has been overridden by legislators and governors alike in recent years. As Sarah Turner, associate

[†] *Public colleges in Virginia are not alone in wanting to wrest control of tuition authority away from their Legislature. Tuition-setting authority is at the heart of many similar autonomy efforts seen around the country. The twist is that the Legislature has primary authority over tuition setting in only two states (Florida and Louisiana). However, even when systems or colleges and universities have tuition-setting authority, they are still at the mercy of the Legislature, which can override existing legislation with the annual appropriations act. This has certainly been the case in Virginia. See Christopher J. Rasmussen, State Tuition, Fees, and Financial Assistance Policies, 2002-03 (Denver, CO: State Higher Education Executive Officers, June 2003), table 2, p. 10, <http://www.sheeo.org/finance/tuitionfee.pdf> (July 20, 2005). Note that Texas and Oklahoma both decentralized tuition-setting authority in the years since this report was released.*

professor of education and economics at U.Va., observed, “With a one-term limit on the governor’s tenure, tuition policy has been used as a potent and symbolic political lever.”⁶

U.Va. developed a matrix designed to visually impress upon the reader that legislative and gubernatorial actions on tuition have been erratic and volatile at best.⁷ Every year between 1994–1995 and 2001–2002, tuition was capped, frozen, or rolled back, including a 20% rollback in 1999–2000. At the same time, the university was growing, with undergraduate fall headcount increasing by 1,834 students between 1991–1992 and 2004–2005. U.Va. administrators see the recent hands-on approach to tuition setting as a new development. As one said, “Fifteen years ago, we did not have an issue where tuition authority was usurped.”⁸

State funding has been erratic as well.⁹ In the early 2000s, the state faced a serious budget crisis. Governor Warner enacted dramatic statewide budget cuts, including a 22% reduction in fiscal year 2003 general fund appropriations to higher education. The U.Va. matrix shows that between 1991–1992 and 2003–2004, the university endured six general fund budget reductions. According to U.Va. president John Casteen, the state budget shortfall for public higher education grew from \$200 million in 2001 to \$399 million by 2003 (this shortfall is relative to the state’s funding formula, referred to as base adequacy,[‡] not a prior funding level).¹⁰ Even after appropriations to higher education were increased in 2004, legislative staff member Amy Sebring told the Senate Finance Committee, “Funding for Virginia’s public institutions continues to fall short of base adequacy guidelines, faculty salary goals, and demonstrated student financial need.”¹¹ Rob Lockridge, executive assistant to the president for state government relations at the University of Virginia, commented that higher education is cut during every major recession because “no one died from not going to college.” (See Figure 1 for further data U.Va. used to make the case that state appropriations to higher education have fallen.)

Legislative observers commented that part of the problem was an “emotional” and “symbolic” response to the idea that the Legislature was interfering in tuition setting, an authority that technically is the purview of the institutional boards of visitors.

[‡] According to Amy Sebring, “Often referred to as ‘base adequacy’ guidelines, the legislative funding guidelines estimate how much is needed to provide adequate support for E&G (educational and general) programs at Virginia’s public colleges and universities.” *Presentation to Virginia Senate Finance Committee, 2004 Higher Education Retreat, November 2004.*

Figure 1.

General Fund Appropriations to Higher Education

Budget Drivers as a Percent of Total General Fund Appropriations*					
Appropriation	1985	1990	1995	2000	2004
Higher Education	17%	16%	13%	13%	10%
K–12 Education	36%	35%	35%	34%	35%
Mental Disability	5%	6%	6%	5%	6%
Corrections	7%	8%	9%	8%	8%
Medicaid	5%	7%	12%	10%	12%
Other GF Appropriations	29%	28%	25%	29%	29%

Annual Growth in General Fund Appropriations as Compared to 2004*				
Appropriation	since 1985	since 1990	since 1995	since 2000
Higher Education	–7%	–6%	–3%	–3%
K–12 Education	–1%	no change	no change	1%
Mental Disability	1%	no change	no change	1%
Corrections	1%	no change	–1%	no change
Medicaid	7%	5%	no change	2%
Other GF Appropriations	no change	1%	4%	no change

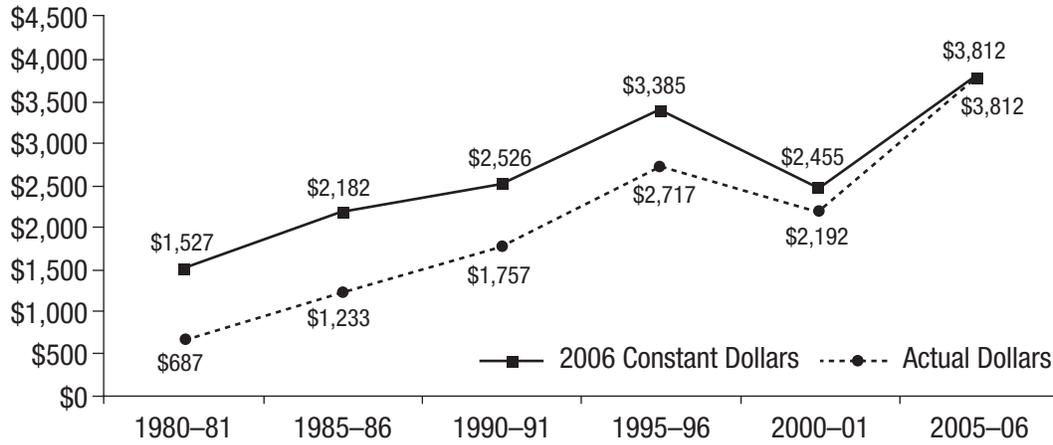
* percentages are rounded to the nearest whole number

Source: University of Virginia, *Higher Education Restructuring, Supporting Documents: General Fund Appropriations to Higher Education*.

It must be noted, however, that while in-state tuition increases have been unpredictable and have grown at a slower rate than the national average, they have not been insubstantial overall. According to U.Va.'s matrix, its overall average annual tuition increase was 6.4% between 1991–1992 and 2004–2005. In 1991–1992, U.Va.'s in-state undergraduate tuition and fees were \$2,757 in current dollar terms. By 2004–2005, tuition and fees had grown by 90% to \$5,243 in current dollars.¹² According to data from the State Council of Higher Education for Virginia, average in-state tuition and fees at public four-year institutions grew from \$1,527 in 1980–1981 to \$3,812 in 2005–2006 in 2006 constant dollars, a 150% increase. Tuition and fees at two-year colleges rose 118%, from \$1,003 to \$2,182, over the same period.¹³ (See Figures 2 and 3.) In comparison, average tuition and fee charges at public four-year institutions rose nationally by 202%, from \$1,818 to \$5,491, between 1980–1981 and 2005–2006 in constant 2005 dollars. At public two-year colleges, the corresponding

Figure 2.

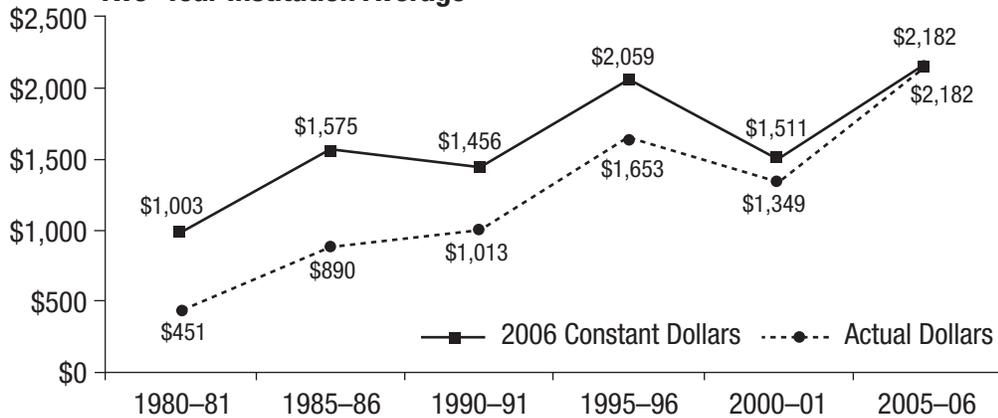
**Full-Time In-State Undergraduate Tuition and Mandatory E&G Fees
Four-Year Institution Average**



Source: State Council of Higher Education for Virginia, *2005-2006 Tuition and Fees at Virginia's State-Supported Colleges & Universities*, p. 5.

Figure 3.

**Full-Time In-State Undergraduate Tuition and Mandatory E&G Fees
Two-Year Institution Average**



Source: State Council of Higher Education for Virginia, *2005-2006 Tuition and Fees at Virginia's State-Supported Colleges & Universities*, p. 6.

increase was 148%, from \$884 to \$2,191.¹⁴

In current dollar terms, appropriations of state tax funds for operating expenses of higher education increased in Virginia by 62.5% between fiscal year 1996 and fiscal year 2006, which is above the national average of 50.1%. But the effects of the economic downturn of the early 2000s are apparent in

“The biggest state budget crisis in half a century has forced Democrat Warner and the Republican-controlled Legislature to slash nearly \$6 billion out of the \$51 billion two-year budget. The cuts have fallen heavily on state-supported colleges and universities, leaving them short an estimated \$385 million a year.”¹⁸

—*The Virginian Pilot*, January 4, 2003

Postsecondary Governance in the Commonwealth of Virginia¹⁹

The State Council of Higher Education for Virginia is the statutory coordinating agency in the state, with responsibility for program approval, the development of budget guidelines and recommendations, and overall planning and coordination.

The public colleges are overseen by local boards, with responsibility for selecting the president, providing managerial direction and oversight, and setting admissions policy. The State Board for Community Colleges oversees 23 public community colleges. The Board of Visitors of the University of Virginia has statutory authority for the University of Virginia and the University of Virginia’s College at Wise. The Board of Visitors of the College of William and Mary has statutory authority for William and Mary and Richard Bland College. The 12 other four-year public colleges, including Virginia Polytechnic Institute and State University, are governed by individual boards of visitors.

The governor appoints members of the State Council and the boards of visitors.

that the five-year change in Virginia between fiscal year 2001 and fiscal year 2006 was a decrease of 2.2%, compared to a national average increase of 9.9%.¹⁵ Furthermore, a more detailed look at comparative national data reveals that between 1991 and 2004, Virginia was below the national average in both the percent change in educational appropriations^s per FTE (full-time equivalent student) and the percent change in net tuition revenue per FTE.¹⁶ Net tuition revenue makes up 42.7% of total state, local, and net tuition revenue in Virginia, compared to a nationwide average of 31.2%, revealing a relatively heavy reliance on tuition revenues to fund public higher education.¹⁷

Overall, therefore, recent funding patterns in Virginia are troubling. Both tuition and appropriations have been volatile and have lagged national averages, and Virginia has not met its own state-based expectations for adequate funding. At the same time, however, these indicators do not suggest that higher education in Virginia has faced a funding crisis, or that the state has abandoned higher education, especially when viewed in the context of the broader state budget problems endured in recent years.

This erratic fiscal policy coincided with a time when, in the words of U.Va. administrators, the universities were growing more complex, they were being run by people with greater management expertise, and there were greater demands on state resources. In a presentation to the Senate Finance Committee, staff member Amy Sebring echoed this sense when she stated, “Although the academic mission remains the core ‘business’ of higher education,

^s *State Higher Education Executive Officers (SHEEO) defines “educational appropriations” as “Net State Support [defined by SHEEO as “State support for public higher education annual operating expenses”] plus Local Tax Appropriations minus Research, Agricultural, and Medical (RAM) appropriations.” State Higher Education Executive Officers. State Higher Education Finance FY 2004. (Denver, CO: State Higher Education Executive Officers, 2005), p. 66.*

the higher education enterprise has become ever more complex as institutions juggle multiple business lines.”²⁰

Such revenue volatility is a significant issue, creating what Sarah Turner of U.Va. described as “‘feast and famine’ funding cycles” and making planning for a large enterprise like U.Va., which has a \$1.9 billion operating budget for 2005–2006, quite difficult.²² A faculty member at U.Va. cut to the heart of the matter: “The real problem in Virginia is not the lack of commitment to higher education, but the volatility of appropriations, which surge during economic booms and collapse during recessions. Such volatility makes it difficult for university administrators to plan.”²³ Ideally, from the universities’ perspective, gaining more control over tuition would help smooth out changes in state funding, ensure greater stability and predictability, and enable long-term planning.

One observer noted, however, that concern over volatility is a “common refrain nationwide,” and continued, “There is no doubt that economic booms and recessions upset long-term planning at a state-supported university. Only if the state share is an insignificant part of one’s budget would that not be an issue.” Others similarly commented that higher education is not exempt from the economic cycles that affect almost everything and everyone, and economic cycles cannot be legislated away.

“This is a powerful yet troubling trend. On the one hand, the flagships are being forced to rely more on fund-raising, research grants, and other private or nonstate money. Given this reality, it makes sense to free them up from state rules that could impede their ability to become efficient and competitive. Such moves could help to insulate them from meddling politicians, as well.”²¹

—“Should Public Universities Behave Like Private Colleges?” *BusinessWeek*, November 15, 2004

Freedom from Bureaucracy

When arguing in favor of autonomy from the state, public college leaders often suggest that state regulations are overly burdensome and bureaucratic. If freed of regulations, the argument goes, public colleges could operate more flexibly and respond faster to competition and the needs of employers and the state. In the case of Virginia, this line of reasoning was seen as secondary to the desire to gain more control over revenue, but nonetheless important. One interviewee described the wish for freedom from bureaucracy as “the window dressing.”

To build support for the idea of increased autonomy from the state, U.Va., William & Mary, and Va. Tech. undertook a lobbying effort that included telling horror stories of regulations that forced them to jump through what they viewed as unnecessary hoops. William & Mary administrators said they had to put a lit exit sign in a picnic shelter in order to meet state regulations.

“Everybody thinks that what we want to get out of this thing is more autonomy....That’s only a piece of what we want....The big thing for us...is that we want to be able to develop strategic business plans for the University of Virginia. If you include the hospital, we are a \$1.6 billion a year operation....If we want our engineering school to move from the 31st-best engineering school in the nation as determined by *U.S. News & World Report* to the top 25 in the next five years, we have no way of knowing what resources we will have over that five-year period to devote to the engineering school to get to the 25th-best school....The Legislature... determines what we can charge our customers, our customers don’t know what that’s going to be on a year-to-year basis....We don’t know how much money we’re going to get from the General Assembly....What Fortune 500 company in the nation would be able to survive more than a few years if it didn’t develop a business plan?”

—Rob Lockridge, Executive Assistant to the President for State Government Relations, University of Virginia

U.Va. complained of having to apply to the Department of General Services for permission to put up a tent if they learned an outdoor event might be rained out, and pay a fee of \$300 for that review. Often, the approval wouldn’t be issued until after the event was over.

While these arguments met with some success, Richmond observers also expressed some frustration that the institutions were exaggerating. Virginia’s public colleges have their own governing boards, giving them more autonomy than public institutions of higher education in more centralized states.²⁴ Several people also suggested that some of the stories used to elicit shock or sympathy about the level of bureaucracy were resolved years ago. As John Bennett, the secretary of finance, described it, “Some is rhetoric, some is reality, and it’s impossible to separate the two.”

The Original “Charter” Proposal

The leaders of U.Va., William & Mary, and Va. Tech began meeting with public officials and making public statements about seeking more autonomy as early as 2002.²⁵ In spring 2003, meetings with Senator John H. Chichester, chair of the Senate Finance Committee, and

Delegate Vincent Callahan, chair of the House Appropriations Committee, convinced the universities that they had adequate support to move forward. The universities retained the services of two firms, Reed Smith and McGuireWoods Consulting, to assist them with the lobbying effort and with writing the legislation.

The universities worked behind the scenes to draft what would become known as the “charter proposal.” Under this original proposal, the three universities would have been designated as “Commonwealth Chartered Universities,” hence the nickname “charter proposal.” The proposal included a reassertion of the institutions’ boards of visitors’ right to set tuition and fees, and granted the universities greater control over all revenue sources. A key provision was that the universities would no longer have been treated like other state agencies; rather, they would have been political subdivisions of the Commonwealth, a status akin to that granted to counties, cities, and towns.

As political subdivisions, the universities would have been exempted from the constitutional requirement that state agencies deposit all non-general fund monies, which includes tuition and fees, into the state treasury. Therefore, they would have had the ability to hold and invest their revenues, including tuition and fees.

Other benefits included being exempted from state laws concerning capital projects not “funded in whole or in part by a general fund appropriation” and other operational freedoms, such as the ability to adopt their own policies and procedures related to procurement and personnel.²⁶ The proposal did not, however, include any governance changes. The governor would have continued to appoint members of the universities’ boards of visitors.²⁷

In exchange for this high level of autonomy, the three institutions offered to accept less new money from the state, conceived of as only accepting \$.90 of every new dollar appropriated to the institutions.²⁸ “We would not expect proportionately to get the same increase in state funds in the future that non-chartered institutions would expect to get,” said Leonard Sandridge, U.Va.’s executive vice president and chief operating officer, in spring 2004.²⁹ The three institutions advancing the proposal suggested that by relinquishing those state dollars, they were freeing up funding that could be invested in other colleges and universities instead. They were also offering to accept 2,500 additional in-state students across the three institutions.

The original charter proposal also sought to emphasize a deliberate tie between funding and tuition and fees. As one reporter described it, “The charter agreements...contain a clause stating that the schools could raise tuition and fees higher—as well as accept additional out-of-state students—if the state fails to meet its funding obligations.”³⁰

However, in response to the state’s budget crisis, a controversial tax reform effort was underway. By late 2003, Senator Chichester warned the universities that tax reform would be the focus of the 2004 session of the General Assembly, and that the higher education legislation would be too much of a distraction.³¹ Thus, in the 2004 legislative session, Senator Chichester introduced a resolution to establish a joint subcommittee to study administrative and financial relationships between the Commonwealth and its institutions of higher education. Meanwhile, Delegate Callahan and Senator Thomas Norment introduced the charter proposal as HB1359 and

SB 638—both titled the Chartered Universities and Colleges Act of 2004—which were ultimately carried over to the 2005 session and eventually became the basis for the Restructuring Act of 2005.³²

Resistance to the Original Charter Proposal

Several interviewees commented that there was widespread support for the idea of greater autonomy for the public colleges and universities. Peter Blake, Virginia's secretary of education from the summer of 2005 until the end of Governor Warner's term in January 2006, described the state's position as "less interested in processes and more interested in results." Given the fluctuations in tuition policy over the preceding years, there was a general sense that the state was an "unreliable partner" (a description used by several interviewees) and that tuition controls were bad policy, and some faith that, if given the chance, institutions would maneuver deftly in the marketplace and make wise choices.³³ General Assembly members conceded that funding had been volatile, and while they were unwilling to say they would never intervene again, one observer said the legislators agreed that "instability is not conducive to long-term health." Still, significant reservations about the charter proposal itself surfaced among lawmakers, the other public colleges, and an alliance of faculty, staff, and students at the University of Virginia.

The move by the universities to become political subdivisions was especially worrisome for some in the administration and the General Assembly. For them, it signaled a serious departure from Virginia's long and symbolic history of public higher education. Belle Wheelan, Virginia's secretary of education until summer 2005, commented, "It's almost like seceding from a union."³⁴

The attempt to codify an explicit tie between state funding and tuition increases while also giving institutions full authority to set their own tuition—creating a seesaw of sorts between levels of state funding and tuition—was another area of contention. Some people at the state level did not want to see the state contractually obligated to fund higher education to a prescribed level. In the words of one observer, the charter proposal would have "codified a funding formula" and not allowed the General Assembly to "intervene in the public interest" if there were problems down the road.³⁵

A significant concern voiced throughout the negotiations was that allowing the public colleges to set their own tuition would lead to substantial increases, harming access for low-income students. The dominant view

was that the three universities believed they could get away with charging much higher tuition, as this quote from the *Virginian-Pilot* reflects: “The three institutions believe they are in such high demand that they could increase tuition without pricing themselves out of the market. They don’t have the power to do that now, because tuition is capped by the General Assembly.”³⁶

The original charter proposal did not include any new accountability, another point that troubled many. The sense in Richmond was that the three universities advancing the charter proposal wanted the ability to raise tuition at will without giving anything to the state in return.

This issue seemed all the more worrisome after the higher education policy analysis newsletter *Postsecondary Education OPPORTUNITY* published a report in February 2004 showing that U.Va. ranked dead last out of all 50 flagship universities in the nation with only 8.6% of low-income students on Pell grants enrolled.³⁷ A May 2005 *New York Times* article that explored class and social mobility in America, and ways that elite colleges are—or are not—helping to address educational gaps between low-income and more affluent students also included troubling data about low enrollment levels of low-income students at U.Va.³⁸

It also became clear that the other public colleges were skeptical of anything that treated the three elite universities differently. Although the charter proposal did not specifically say that it affected only U.Va., William & Mary, and Va. Tech, it did suggest that those universities were already approved for pilot decentralization initiatives and so their participation would be automatic. It is important to note, however, that despite the fact that the legislation didn’t exclude others, it was widely seen as only meant for those three institutions. Given their prestigious status in the state, any undertaking by the three was immediately cast in tones of elitism. U.Va., William & Mary, and Va. Tech., on the other hand, felt that they were “pioneering on behalf” of all the public institutions, as one administrator described it.

There were also worries that the proposal would create a two-tiered system. Without the political power of the three most prestigious institutions, lobbying for state funding would be a more difficult undertaking for the rest of the public colleges. As Longwood University President Patricia Cormier told the *Washington Post*, “When you look at those institutions, they do have a power base in the General Assembly. Not having them at the table causes us concern. We don’t want to lose their voice.”³⁹

The idea of the three universities returning 10% of new funding to the state didn't sit well with many onlookers either. The other public colleges did not like the precedent. Legislators found it difficult to see the logic in an argument that said universities weren't getting enough money from the state, but that offered to return money at the same time. In addition, many doubted that the forfeited 10% would actually be funneled into other higher education institutions.

At the state level, there were concerns about what would happen to statewide programs—such as health care, retirement, and joint purchasing—if U.Va., William & Mary, and Va. Tech withdrew. For example, these colleges employ some of the most educated and wealthiest personnel in the state system. Because higher education and wealth levels often translate to better health, removing these personnel from the state health care system would put a burden on those remaining, potentially forcing them to pay higher premiums. For the retirement system, the three universities wanted their classified staff[¶] to be able to choose between the current Virginia Retirement System (a defined benefit) and an alternative defined contribution program. The state opposed this plan because those who contribute to the retirement system now are funding current retirees. If the state allowed a large group to leave this system, it would diminish the pool of employees paying for those who are currently collecting benefits.

At the campus level, the Faculty-Staff-Student Alliance (the Alliance) formed at U.Va. to oppose the charter proposal. The Alliance opposed the charter proposal based on concerns over two main issues: classified staff being removed from the state human resources system, and the potential for tuition increases to lead to a wealthier and more homogeneous student body. A key participant in the Alliance was the Staff Union at U.Va.,** which continues to assert that classified staff at the Medical Center have suffered under the new personnel system enacted after the Medical Center was granted heightened autonomy, receiving fewer pay raises and benefits than university staff who have remained in the state system.⁴⁰ (Administrators at U.Va., on the other

[¶] Classified staff are "Employees who are assigned to positions within the occupational families listed in the Commonwealth's Compensation Plan. These employees are covered by the provisions of the Virginia Personnel Act (Title 2.2, § 2.2-2900 of the Code of Virginia), once they have completed the probationary period." University of Virginia Department of Human Resource Management, Policies and Procedures Manual, July 1, 2005, http://www.dpt.state.va.us/hrpolicy/policy/pol1_01Introduction.doc (March 31, 2006).

** Virginia is a right-to-work state, so there isn't collective bargaining.

hand, maintain that employee turnover at the Medical Center is down and salaries are up compared to the state system, and that they have instituted a performance-based pay system that rewards hard work.)

The Alliance published op-eds, held a teach-in, and made its opposition clear at employee briefings. Although the Alliance mounted a fairly vocal opposition, many commented that, outside of this group, the campuses were largely silent. Still, David Breneman, as an informed observer, commented that the staff opposition was very important politically, and continued to influence lawmakers and other stakeholders throughout the process of modifying the charter proposal and later codifying the Restructuring Act. Ultimately, the Charlottesville delegate, Mitch Van Yahres (D), voted against the Restructuring Act because he aligned with the Staff Union.

U.Va.'s faculty senate formed an ad hoc group to analyze the charter proposal. Some faculty members, deeply committed to teaching at a public university, were concerned about whether U.Va. would retain its public mission. The faculty senate sent a statement to the General Assembly just before the 2005 session asserting its desire to be more included in anything that would affect its university to such a degree. That statement said, "We value and support the University administration's efforts to create a new model for a premier public university," and went on to outline four primary areas of concern in which the faculty wanted a voice: commitment to public higher education; economic diversity and quality of the student body; employment conditions and quality of the staff; and governance.⁴¹

Seconding concerns over tuition was the Parents Network for Affordable Tuition, a group formed by U.Va. alumnus Tom Gayner. The Network released a statement on January 18, 2005, saying it was "concerned that the charter movement will cause tuitions to increase at an accelerating pace and damage both the economic vitality of Virginia and access to higher education for Virginia's families."⁴²

The opposition at U.Va. did not spread to other campuses. As one observer noted, "The locus of opposition was U.Va." At Va. Tech, there was never an organized movement against the proposed changes, though an administrator suggested that some faculty and students voiced concerns. Similarly, a professor at William & Mary suggested that charter status was not a high priority for people there, and that many were generally supportive of "getting the state out of the operation."

TRACK 2: GOVERNOR WARNER'S HIGHER EDUCATION AGENDA

“Thomas Jefferson founded U-Va. to be a public university; he chose to establish it with a powerful link to the state, both in funding and oversight,” said Jeffrey Rossman, a U-Va. professor who helped lead opposition to the original [charter] bill. “He felt democracy could only be strong if aristocracy of birth was replaced by aristocracy of merit. That could only happen if high-quality education were available to all ranks of society.”⁴³

—*Washington Post*, April 6, 2005

Governor Mark Warner took office in 2002 amid a serious budget crisis. To address the crisis, he took steps that included budget reductions for state agencies averaging 20% statewide, making for a difficult start.⁴⁴ Onlookers were unsure of how successful he would be as a governor. Virginia governors are not permitted to seek office for consecutive terms, so the pressure to make a mark in four years is intense. As Pat Callan, president of the National Center for Public Policy and Higher Education, characterized it, “Virginia is a no-forgiveness state for governors. One or two mistakes, and you’re out of office before you can fix them.”

Upon entering office, Warner made higher education a priority. He made a point of meeting with many college presidents, as well as with national higher education experts; he identified the areas of higher education on which he wanted to focus; and he held a higher education summit. In fall 2002, voters passed a \$900 million general obligation bond issue for higher education, which Governor Warner had championed vigorously.⁴⁵

In 2003, Virginia became one of five states involved in the National Collaborative for Postsecondary Education Policy (the Collaborative), which was a joint effort of the Education Commission of the States, the National Center for Higher Education Management Systems, and the National Center for Public Policy and Higher Education. The Collaborative helped states examine their performance in higher education and their existing higher education policies, with the goal of “modifying policies in order to improve results.”⁴⁶ In Virginia, some of the Collaborative’s key findings included:

- Long-standing, deep disparities in educational opportunity by race, class, and geographic region, which are likely to be exacerbated in the future as the state experiences disproportionate growth among black and Hispanic youth;
- A lack of alignment in the early childhood through college (P–16) educational system, leading to inadequate performance in student preparation, persistence, and completion;
- A lack of collaboration and seamless transfer between higher education sectors; and

- A reminder that while the state is home to many outstanding colleges and universities, they were not working together toward a common agenda for the state.

The Collaborative also highlighted the existing chasm between the mechanisms used for setting state appropriations, tuition, and student aid, which do not allow for linkages between these critical financial resources and levers. A key Collaborative goal was to suggest the best means for the Commonwealth to “leverage the assets of [its higher education system] to serve public purposes.”⁴⁷

Based on these findings, the Collaborative recommended, among other things, creating a P-16 Council to improve the alignment between the various sectors of education; improving transfer between the two- and four-year colleges; setting aggressive goals for increased postsecondary participation and completion; providing higher levels of need-based financial aid; decentralizing responsibility for management to the institutional boards of visitors; reinvigorating the State Council of Higher Education with a more strategic mission; expanding research capacity; and framing a long-term agenda for higher education’s critical role in the future of the Commonwealth.

With discussions sparked by the Collaborative about higher education’s public purposes underway, the governor and a group of Virginia’s leaders embarked on a process designed to illuminate the state’s educational needs.

THE TRACKS CROSS: THE NEGOTIATIONS BEGIN

These varied initiatives converged in 2004. To quickly recap what has happened to date: U.Va., William & Mary, and Va. Tech have put forth the charter proposal, but it has been tabled until the 2005 legislative session. Governor Warner has been working with the Collaborative and is starting to formulate ideas for a higher education agenda. Governor Warner and a bipartisan legislative alliance including Senator John Chichester (R) and Senator Edd Houck (D) are in the throes of a contentious battle over instituting a tax increase to ameliorate a budget deficit and structural imbalances. A joint subcommittee to “study administrative and financial relationships” for higher education has been formed. Key stakeholders have voiced support for the idea of greater autonomy for the colleges and universities and agreed that state funding for higher education has been volatile, but still have some serious reservations about the charter proposal itself.

In 2004, Governor Warner gained national attention after pushing through, with bipartisan support, a tax increase package that included a \$278 million boost for higher education.⁴⁸ Buoyed by that success, the governor was now ready to turn his attention to the higher education charter proposal. Described by several observers as a quick study and a good listener who surrounds himself with smart people, the governor was eager to put forward a proposal of his own for higher education, rather than being “run over” (as one interviewee put it) by the universities, as some believed would happen.

A flurry of negotiations took place throughout the summer and fall of 2004, described by some as a good and healthy process. The three universities promoting the charter proposal undertook a serious lobbying effort. The Virginia Business Higher Education Council, which was generally supportive of greater autonomy for public higher education, worked to educate business leaders and college presidents about the restructuring ideas on the table.

In August 2004, Glenn Dubois, chancellor of the Virginia Community College System, took over as chair of the Council of Presidents, which is composed of the presidents of Virginia’s public colleges. As head of the community college system, Dubois saw an opportunity to solve some of the bureaucratic issues his colleges faced. However, at that time, the fact that the charter proposal only included the three most prestigious universities was causing conflict within the Council of Presidents. In Dubois’ opinion, the Council could not have supported the original charter proposal, and it was unlikely that the legislation would pass without the support of all the public college presidents. The writing was on the wall. As Dubois suggested, “Our strength is working together. When we’re divided, it’s just a clear signal to the Legislature that they don’t have to do anything.”

The governor continued to work with the Collaborative and consult with national experts, including Aims McGuinness of the National Center for Higher Education Management Systems, Pat Callan of the National Center for Public Policy and Higher Education, Jane Wellman of the Institute for Higher Education Policy, and David Breneman of the University of Virginia. They pushed the governor to think in terms of how higher education connects to the future of the Commonwealth and contributes to public priorities. As reported in the *Washington Times* in September 2004, Governor Warner asserted the state’s needs while talking to reporters: “Mr. Warner said he does not oppose the idea [the charter proposal], but added that the state’s long-term interests must be represented during negotiations and that the

schools must commit to increasing their research activities.”⁴⁹ As one observer described the process, Governor Warner said, “We hear you. You need something and we understand that. But let’s talk about that process.” During fall 2004, Governor Warner also held a series of six town hall-style meetings around the state during which he solicited feedback on the charter proposal, as well as on his other priorities for higher education.⁵⁰

The joint subcommittee held sessions to work through the proposal. Senator Chichester was “look[ing] under the covers,” trying to assess the longer-term implications of autonomy. Aims McGuinness was asked to present at a joint subcommittee meeting in October 2004. A legislative staff member present at that meeting suggested that McGuinness’ comments represented a turning point for the legislators. As the staff member described it, McGuinness reminded them that even if the state has a few great institutions, the higher education system still might not meet statewide goals.

U.Va., William & Mary, and Va. Tech undertook a significant effort to meet with the other public college presidents, describe the legislation, and gain their support. The idea of including all the public colleges was floated. Dubois convened a special meeting of the Council of Presidents in October 2004 to talk about the charter proposal head on.

The governor’s push for a clear articulation of the state’s needs took root, and consensus emerged on the need to describe the ways that higher education must serve the state’s needs in the form of a public agenda. Lane Kneedler, the lawyer from Reed Smith who was drafting the legislation, worked with many parties, including legislators and their staff, the Council of Presidents, the State Council of Higher Education for Virginia, the Collaborative, and the governor’s office, to develop the public agenda, which expressed the state’s need for higher education to provide services ranging from access to higher education to economic development and externally funded research.

Meanwhile, many of the public colleges and universities, such as Old Dominion University and J. Sargeant Reynolds Community College, held informational sessions for their communities and raised the topic at their faculty meetings. According to Sam Jones, William & Mary’s vice president of finance, there were approximately 40 public discussions held for William & Mary constituents. U.Va. administrators were navigating the opposition described earlier. Interviewees described the informational sessions at U.Va. as often contentious.

As late as January 10, 2005, Governor Warner was still unsure of whether a compromise could be found: “There’s no question in my mind that the charter university approach is probably in the best interest of the institution,” said Warner as quoted in the *Chicago Tribune*. “But what it needs to be weighed against is, does that also mean it’s in the best interest of the state?”⁵¹

The Restructuring Act: “Much Is Given, Much Is Required”

Between 2004 and 2005, the legislation underwent dramatic changes (see Appendices C and D for details and a timeline). One observer dubbed the 2004 charter proposal as the “died and gone to heaven” version, acknowledging that it asked for more than the universities reasonably expected to get. The legislation that ultimately passed was structured as a tradeoff: More autonomy is a positive move for the institutions, but it must be not only coupled with, but in fact also preceded by, a public agenda with clear, measurable, and unambiguous accountability for meeting the state’s needs. Secretary of Finance John Bennett said it well when he quoted John F. Kennedy: “For of those to whom much is given, much is required.”

In the end, all the public colleges were included, and, significantly, all public colleges and universities remained state agencies. However, it was clear that the three universities interested in charter status still wanted the broader autonomy they originally sought. Thus, a compromise that provides for three differentiated levels of autonomy was born. The other public college presidents, largely pleased that their institutions would also be granted some autonomy, agreed to support U.Va., William & Mary, and Va. Tech in their bid for even more autonomy in certain areas.

The final legislation enjoyed widespread support, backed by legislators on both sides of the aisle, the governor, the Council of Presidents, the Virginia Business Higher Education Council, and the State Council of Higher Education for Virginia. On January 21, 2005, companion bills HB 2866 and SB 1327 were introduced as the Restructured Higher Education Financial and Administrative Operations Act. HB 2866 was sponsored by Delegate Vincent F. Callahan, Jr. (R); SB 1327 was sponsored by Senator Thomas K. Norment, Jr. (R); Delegate Chris Jones (R) also worked to shepherd the bill. In February 2005, HB 2866 was passed by the Senate with substitute, and the House agreed to the substitute. Governor Warner submitted

How Stakeholders Described the 2005 Restructuring Act

“Evolutionary, not revolutionary.”⁵²

“Moving from pre-audit to post-audit.”

“Trading process accountability for outcomes accountability.”

Seeking “a more stable funding model.”

“A long-term planning tool that makes the implications of funding and tuition clear.”

“*Returning*” tuition authority to the boards of visitors.

“The Uncharter bill.”⁵³

“Trust but verify.”⁵⁴

“The divorce proceedings.”

“Son of Charter.”

amendments to the bill on March 31, 2005, and both houses passed the amended bill on April 6, 2005.

“MUCH IS REQUIRED”: ACCOUNTABILITY AND THE “STATE ASK”

It is both important and interesting to note that at one time, some public college leaders assumed that if they didn't like how this legislation shaped up, they would just opt out. The governor, however, made the accountability portion mandatory. Each public college's board of visitors had to pass a formal resolution by August 1, 2005, agreeing to meet the state's goals, and making the boards responsible for ensuring that the state's goals are met.⁵⁵ Upon passing the resolution, the colleges automatically became eligible for some operational autonomy in such areas as procurement and construction, but whether they take advantage of this autonomy is their choice (for more information, see the full description of Level I autonomy on page 27).

Governor Warner worked with the Legislature, the State Council of Higher Education for Virginia, and the Council of Presidents to outline a public agenda of 11 performance goals for the institutions in what is referred to as the “state ask.” The state ask covers everything from access to higher education to transfer and economic development. In a press release, Warner described the tradeoff between autonomy and accountability in these terms: “In the effort to provide colleges and universities with more predictability and flexibility, we have worked to ensure that Virginians see tangible benefits, like improved access, affordability, and quality.”⁵⁶ The 11 goals, as abbreviated by the governor, follow in shortened form (for the goals as they are fully described in the legislation, see Appendix E):

- [Ensure] [a]ccess to higher education, including meeting enrollment demand
- [Ensure] [a]ffordability, regardless of income
- Provide a broad range of academic programs
- Maintain high academic standards
- Improve student retention and progress toward timely graduation
- Develop uniform articulation agreements with community colleges
- Stimulate economic development, and for those seeking further autonomy, assume additional responsibility for economic development in distressed areas

- Where appropriate, increase externally funded research and improve technology transfer
- Work actively with K–12 to improve student achievement
- Prepare a six-year financial plan
- Meet financial and administrative management standards

—Source: Web site of Governor Warner⁵⁷

As of the writing of this case study, legislation to add a twelfth performance goal has passed the House and Senate. As written, this goal will require that institutions: “Seek to ensure the safety and security of the Commonwealth’s students on college and university campuses.”⁵⁸

Assessment of Institutional Performance

The State Council of Higher Education for Virginia (SCHEV) was assigned the difficult task of developing performance indicators to measure whether the institutions are meeting the first nine education-related state performance goals. The tenth goal mandates that all public colleges and universities prepare a six-year plan (see the next section for further details). The governor’s office took responsibility for developing performance indicators for the eleventh goal, which relates to financial and administrative management.⁵⁹

Not surprisingly, developing standards to measure the accountability of the colleges and universities has been a contentious process marked by regular and significant revisions. Working with a group that included institutional representatives, legislative staff, and the governor’s office, SCHEV originally produced a “scorecard” with 37 performance measures for four-year institutions and 32 measures for two-year institutions.⁶⁰ The scorecard would have required institutions to enter data for the years 1996–2005 for many of the measures, and to establish baselines and target goals. The number of performance measures fluctuated significantly throughout this process, reaching more than 50 at one stage.⁶¹

In a process like this, there is an inherent tension between having so many measures that the measuring process becomes onerous, and having

“I think this has been...a wake-up call to institutions that were hoping to...walk away from state control...that says, ‘Well, yes, procedural freedom is OK, but remember that you are a public institution.’ The new statute over and over again says, ‘You’re a state university’...It repeats the obligation to serve the state.”

—David Leslie, Chancellor Professor of Education, The College of William and Mary

so few that they do not reflect the unique circumstances of each institution. Ultimately, on September 30, 2005, SCHEV approved a much-streamlined set of “Institutional Performance Standards.” The final version approved by SCHEV had 18 “measurable targets” for four-year non-research institutions, 20 for research institutions, and 17 for two-year colleges.⁶² SCHEV submitted the Institutional Performance Standards to the governor, who then made some adjustments before including them, along with the measures his office developed surrounding financial and administrative management (the eleventh goal), in his December 2005 budget bill under a section entitled “Assessment of Institutional Performance.” The governor’s budget bill listed 26 performance measures, and did not differentiate goals based on institutional mission or direct SCHEV on how to “certify” performance.⁶³ At the time of this writing, the budget bill is in the hands of the General Assembly.

The measures of institutional performance map directly to the goals of the state as laid out by Governor Warner. The targets have not yet been customized for each public college or university. SCHEV is currently working with a number of colleges to pilot the process of developing institution-specific targets, with the hope that members of the General Assembly will be able to assess whether the measures will produce the information they seek. If not, the General Assembly can amend the language in the appropriation act. The targets for all of the colleges should be completed by July 2006.

Given that the metrics for each institution are not yet available, it is difficult to assess the measures’ strengths and weaknesses. However, the measures encompass a spectrum of specificity. Some measures are quite clear-cut, relying on numbers that will reveal progress in a straightforward manner. For example, the access goal requires that each institution meet “at least 99% of its State Council-approved biennial projection of total in-state student enrollment.”⁶⁴ Similarly, to address the affordability goal, each institution must keep in-state tuition and fees “within an acceptable range” that SCHEV and the institution will determine.

Other measures were left in quite broad language, merely requiring the institutions to maintain “acceptable progress towards a mutually agreed target.” For example, here are the performance measures for student retention and timely graduation:

E. Student Retention and Timely Graduation

10. Institution maintains acceptable progress towards a mutually agreed target for the average annual retention and progression rates of degree-seeking undergraduate students.

11. Institution maintains acceptable progress towards a mutually agreed target for the average time to degree for undergraduate students, including transfer students.⁶⁵

For two goals—economic development and providing assistance to elementary and secondary education—the institutions are required to “develop a specific set of actions” to address economic development needs and to improve student achievement. In an attempt to address the lack of clear performance benchmarks in these areas, SCHEV intends to conduct surveys of the parties—such as local leaders, regional leaders, superintendents, and principals—affected by the institutional actions in the areas of economic development and elementary and secondary education. Here are the measures for those two areas, as submitted in the governor’s budget bill:

G. Economic Development

15. Institution develops a specific set of actions, in cooperation with the State Council, to help address local and/or regional economic development needs consisting of specific partners, activities, fiscal support, and desired outcomes. Institution will receive positive feedback on an annual standardized survey developed by the State Council, in consultation with the institution, of local and regional leaders, and the economic development partners identified in its plans, regarding the success of its local and regional economic development plans.

I. Elementary and Secondary Education

18. Institution develops a specific set of actions, in cooperation with the State Council, with schools or school district administrations with specific goals to improve student achievement, upgrade the knowledge and skills

“For the first time here, everyone knows what the priorities are across the board....I think that what we have now is a consensus on what is important to the Commonwealth: access, affordability, critical shortage needs.”

—Elizabeth Wallace, Director of Communications and Government Relations, State Council of Higher Education for Virginia

of teachers, or strengthen the leadership skills of school administrators. Institution will receive positive feedback on an annual standardized survey developed by the State Council, in consultation with the institution, of the superintendents, principals, and appropriate other parties.⁶⁶

Performance Measure #10: The Six-Year Plans

Every institution is required to submit a six-year plan by October 1 of every odd-numbered year (the Virginia Community College System will submit one six-year plan for all the community colleges).⁶⁷ SCHEV

SCHEV's Template for the Six-Year Plans⁶⁸

Part A—Institutional Narrative: “a 3 to 5 page document that outlines macro-level information on the major strategic directions of the institution over the next six years.”

Part B—Academic Component: “will detail academic activities and support services related to the state goals for higher education.”

Part C—Finance Component: requires the institutions to fill out estimated revenue worksheets and an estimated spending worksheet. The revenue worksheets are “based upon assumptions for achieving adequate base funding as prescribed by the State Council” and must address two different fiscal scenarios: one of no general fund increase, and one of “incremental general fund support for in-state students.”⁶⁹ The plan must outline anticipated tuition and fee charges and financial aid strategies, and must take into account the impact of tuition increases on the Virginia College Savings Plan.⁷⁰

Part D—Enrollment Component: the institutions must submit six-year enrollment projections, including details about in-state and out-of-state students, degree completion, transfers, etc.

developed the template for the plans. Each plan includes a brief, high-level narrative on the institution’s strategic direction, followed by an academic component describing the institution’s academic activities that must directly address how each college will meet the goals outlined in the state ask. A financial component estimates revenues, expenses, financial aid, and tuition and fee charges for the six-year period under two separate funding scenarios: 1) assuming no increase in revenues from the state general fund, and 2) assuming incremental increases in general fund support. Finally, each college must detail enrollment projections for the coming six years.

Aligning with the State Ask

The six-year plans outline institutional strategies for aligning the institutions’ activities with the direction the state prefers to take—as articulated in the state ask. Examples of these strategies include expanding advising offices, improving dining facilities, establishing dual enrollment programs, limiting tuition increases, and increasing financial aid.⁷¹ Va. Tech, for example, has pledged to achieve a series of specific, numeric goals. Its six-year plan includes the following objectives: increase applications from underrepresented undergraduates by 6.7% in each biennium of the six-

year plan (from a 2004 base of 1,724 students); improve its first to second year retention rates for undergraduate students to 89% by 2012; and increase

participation in its K–12 outreach and pipeline programs by 5% over each biennium.⁷²

Community college representatives are especially enthusiastic about the progress being made on transfer agreements as a result of this legislation. New transfer and articulation agreements are already being ironed out, such as the one announced in November 2005 between Tidewater Community College and William & Mary.⁷³ Timothy C. Brown, vice president of finance and administration at J. Sargeant Reynolds Community College, said of the comprehensive articulation agreements, “That’s worth the whole act right there.”

While there has been concrete progress, reservations remain about how far institutions will be, and should be, pushed to align with the state goals. As one observer noted, if some colleges already have high retention rates, for example, shouldn’t they be allowed to merely “hold position”? Not surprisingly, when describing how they intend to meet the requirements of the state ask, some institutions that feel they are already performing at or above the required levels are detailing plans they already had in place. In a review of the submitted six-year plans, SCHEV commented, for example, “As would be expected, strategies designed to ensure the availability of a broad range of undergraduate and graduate programs largely involve the continuation of existing degree programs. However, a number of institutions also propose expanding the number of degree programs, and many specifically reference expansion of programs in ‘high need’ areas.”⁷⁴

To address the goal of working closely with elementary and secondary education, for example, William & Mary detailed many of its existing activities: “Twenty-three different partnership programs involving more than 200 specific negotiated relationships with fifty-eight separate school divisions were active during 2004.” The plan then told of two new programs for 2005. One aims to raise achievement for students in sixth through eighth grades in a number of small rural school divisions. The other seeks to make middle school teachers “highly qualified” to teach algebra and geometry.⁷⁵

The Virginia Community College System is planning to implement modest annual tuition increases of between 4% and 6%, keeping tuition low and predictable. The System has also articulated a goal of not allowing tuition levels to exceed one-half of the average cost of attending a public four-year college in Virginia. These plans, however, also preceded the Restructuring Act.⁷⁶

It will be several years before we know how far SCHEV pushes the institutions to change their behavior to meet the performance goals outlined in the state ask—what SCHEV is referring to as “the reach.” At the moment, the six-year plans seem to outline a mix of new and old goals and activities. Certainly, some institutions will be justified in reasserting existing goals and activities, especially if they are already exceeding the threshold set by the Restructuring Act. The challenge for SCHEV will be to guide the institutions to “reach” for heightened performance, and then to determine how conscientiously the institutions approach the state goals.

“MUCH IS GIVEN”: WHAT THE INSTITUTIONS GET IN RETURN

Each year, SCHEV will review the six-year plans and the performance standards. As part of that process, SCHEV will identify any disparities between the institutions’ plans and the statewide goals, recommend changes to the plans if necessary, and “certify” whether each institution is meeting the performance standards.⁷⁷

As already described, each institution’s board was required to submit a resolution by August 1, 2005, committing to meeting the statewide performance goals as outlined in the state ask. A series of financial incentives was put in place to motivate the institutions to meet those goals. If an institution is certified as meeting the goals, it will receive the financial incentives; if an institution is not certified, it will not. The legislation does not outline any further sanctions if an institution does not receive certification for meeting the state goals.

In addition, passing the resolution made the institutions immediately eligible for Level I autonomy. There are two progressively higher levels of autonomy. Level II autonomy allows colleges and universities to seek autonomy in information technology and/or human resources and personnel if they have strong management capabilities in those areas. Level III autonomy consists of a negotiated management agreement that confers high levels of autonomy on boards of visitors and requires the boards to have their own policies in the areas of delegated authority. Level III is reserved for those institutions that have demonstrated advanced financial and administrative managerial competence.

In a move fairly rare for public systems of higher education, the Restructuring Act avoids a one-size-fits-all approach. A number of institutions

fall somewhere in between the desire to have widespread Level III autonomy (as pursued by U.Va., William & Mary, and Va. Tech) and the desire to exercise only those authorities outlined in Level I.

Financial Incentives

As mentioned earlier, SCHEV has been tasked with conducting an annual review of the institutions' performance in meeting the statewide goals; it must provide written certification of the results of its review. The first certification will take place by June 1, 2007; certification will then be conducted annually by June 1 of each year. Any institution receiving written certification that it has met the statewide goals becomes eligible to receive the following financial benefits, which the institutions do not receive now:⁷⁸

- Interest earnings on tuition and fees and other E&G (educational and general) non-general fund revenues that the institutions have deposited into the state treasury
- An automatic re-appropriation of unexpended year-end balances
- A pro rata share of the rebate on small credit card purchases (\$5,000 or less)
- A rebate of transaction fees paid for sole-source procurements⁷⁹

The financial incentives will be worth over \$30 million per year across the system (divided among all of the colleges and universities), according to one estimate from the State Council of Higher Education for Virginia. The sum will fluctuate dramatically by institution, depending on such factors as size and tuition levels. A U.Va. administrator estimated that U.Va. stands to collect approximately \$2.5–\$3 million per year on the interest on tuition and fees alone.

Level I: Basic Autonomy

Once each institution's board of visitors passed a resolution committing the institution to meeting the statewide performance goals (a mandatory act), all

Three Levels of Autonomy

The level of autonomy granted to each institution depends on "each institution's financial strength and ability to manage day-to-day operations."⁸⁰

Level I: All public colleges are eligible for increased operational autonomy in areas including procurement, leases, personnel, and capital outlay.

Level II: Institutions may seek additional operational autonomy through a memorandum of understanding (MOU) with the appropriate cabinet secretary in the areas of information technology and/or human resources and personnel.⁸¹

Level III: Institutions that can demonstrate advanced financial and administrative strength may seek additional, more comprehensive autonomy through a management agreement, which outlines board-approved policies in the following areas: 1) capital outlay; 2) leases; 3) information technology; 4) procurement; 5) human resources; and 6) finance and accounting.

the public colleges and universities in Virginia immediately became eligible for a baseline level of new autonomy from the state affecting areas ranging from personnel to surplus materials and leases. This Level I autonomy allows institutions the following authorities:⁸²

- To dispose of surplus materials locally
- To contract with a local building official for inspections and certifications required by the Uniform Statewide Building Code
- To acquire easements
- To enter into an operating/income lease or capital lease
- To convey easements
- To sell surplus real property valued at less than \$5 million
- To procure goods, services, and construction from a vendor that the institution has certified as a small, women-, and minority-owned business enterprise
- To be exempt from the state's review of budget requests for information technology
- To establish policies for designating positions as administrative and professional faculty, which will be exempt from the Virginia Personnel Act
- To be exempt from reporting purchases to the secretary of education, provided all purchases are placed through the electronic procurement system
- To use fixed-price, design-build, or construction management contracts in procurement

In addition, those colleges that already operate under a capital outlay memorandum of understanding may enter into a construction project without prior state review.⁸³

A "Reassertion" of Tuition-Setting Authority

An interesting nuance that reflects the vastness of the political gray area surrounding tuition authority is the widespread belief that the institutions "gained" tuition-setting authority via the Restructuring Act. The media widely proclaimed that all public colleges had received new authority over

tuition, and the first item mentioned in a list of the new Level I autonomy granted by the Restructuring Act prepared for a staff briefing of the Virginia Department of Planning and Budget was “tuition flexibility.”⁸⁴ Technically, however, the Level I section of the legislation does not actually say anything about the boards of visitors having the authority to set tuition, and technically it doesn’t need to. It is already state law that the institutional boards of visitors have the authority to set their own tuition and fees. Although tuition-setting authority was a key goal of the institutions that drove the original charter proposal, in reality nothing changed in a substantive or legal way.

At first glance, then, given that a key goal of the institutions advancing the original charter proposal was to gain tuition-setting authority, the Restructuring Act seems like a case of the emperor’s new clothes. But, as is often the case in law and politics, the important points lie in the nuances, not in the legalese. This legislation can be characterized more as a reassertion, a reaffirmation, and a reminder to the Legislature that the boards of visitors have tuition-setting authority. The hope is that this reassertion will stave off legislative action for at least the foreseeable future, or until institutional memory fades and legislators begin to try to influence tuition again. As Secretary of Education Peter Blake expressed it:

The current code of Virginia already says the boards of visitors have authority over setting fees. It’s already in there. What this bill does is say it again...But that will last as long as the Legislature doesn’t want to override it in the appropriation act, just as they have overridden it in the appropriation act in the past. But because of the conversation that we’ve had around it this time, I think at least for the short term, people are a little bit more understanding of the relationship between state support and tuition support and how that pays the bills at a college and university and so forth. So, in law, in code, it’s probably no stronger than it was before. In the minds of the decisionmakers, the balance has probably shifted a little bit to give institutions a little more autonomy over their tuition.

Level II: MOUs for Institution-Specific Areas of Autonomy

Level II autonomy is designed to accommodate the college that has, for example, a strong human resources department. In the December 2005 budget bill, the governor designated that institutions can request additional autonomy in the areas of information technology and/or human

resources and personnel.⁸⁵ Beginning July 1, 2006, an institution can sign a memorandum of understanding (MOU) with the appropriate cabinet secretary in those areas if the institution can demonstrate its ability to operate with increased autonomy.⁸⁶

Level III: Institutions “Covered” by Management Agreements

Level III autonomy is outlined in Subchapter 3 of the Restructuring Act. In a move that is symbolic of the power of words, institutions with Level III autonomy are referred to as “covered institutions,” not “chartered” institutions. Over the course of the negotiations, the word “chartered” came to be seen in a negative light, with some feeling it implied a desire to walk away from the state without giving anything in return. Although there are some important differences, observers wryly commented that the wording of Subchapter 3 is quite similar to the original charter proposal, with the word “chartered” merely replaced with “covered.”

Level III does not grant institutions the broad powers that the original charter proposal sought. It is, however, the closest approximation to charter status found in this legislation. Some key areas of the original charter proposal have been removed, such as converting institutions into political subdivisions (a status akin to that afforded cities and towns). Yet much of the original charter proposal was copied and pasted into Subchapter 3 of the final legislation. Returning to the topic of tuition-setting authority being “reasserted” in this legislation, Subchapter 3 is the only place that says anything about tuition authority outright: “Subject to the express terms of the management agreement...the Board of Visitors of a covered institution shall have sole authority to establish tuition, fee, room, board, and other charges.”⁸⁷ This reflects the fact that Subchapter 3 was largely derived from the original charter proposal, and that U.Va., William & Mary, and Va. Tech had wanted tuition-setting authority to be an explicit piece of the legislation applicable to them. It also reflects the assumption that U.Va., William & Mary, and Va. Tech have the highest price elasticity and are, therefore, more likely to seek significant tuition increases than the other public colleges.

Level III provides the *potential* for broad authority in the following areas: 1) capital outlay; 2) leases; 3) information technology; 4) procurement; 5) human resources; and 6) finance and accounting. However, the actual authority granted is governed by the terms of the individual management agreements.⁸⁸ Furthermore, in reading the legislation, it becomes clear

that this is not a broad mandate to the institutions. Rather, it is a series of exceptions to current law, and the covered institutions are still required to submit six-year plans and to be evaluated by SCHEV under the Institutional Performance Standards, just like all other public institutions. As Secretary of Education Peter Blake described it, “The bill defines the upper limit of available authority. The management agreement defines the actual authority that an institution may exercise.”⁸⁹

Eligibility for entering into a management agreement is determined in one of two ways. The first way is to have at least a AA- or equivalent bond rating from Moody’s Investors Service, Standard & Poor’s, or Fitch Investors Service.⁹⁰ The second way is for an institution to participate in “decentralization pilot programs in the areas of finance and capital outlay” and receive written certification from the appropriate cabinet secretaries that they proved their management competency, plus then entering into a memorandum of understanding (Level II) for one other functional area and demonstrating competency in that area for at least two years.⁹¹ For all institutions, a two-thirds majority of the institution’s board of visitors must vote in favor of being governed by a management agreement.

Any institution wishing to be governed by a management agreement must submit an application to the governor by November 15 of any given year *or* the year preceding the year in which the agreement will take effect. The application must substantiate that the institution is financially and administratively able to undertake the expanded authorities granted by a management agreement (the application U.Va. submitted in 2005 was 31 pages long). The governor then “determines whether the institution has the capacity to govern itself under Level III status.” If the decision is made to move forward, the governor then designates which cabinet secretaries will be involved in executing a management agreement.⁹² The first management agreements will be in place for three years; subsequent agreements are intended to last for five years.

Any institution entering into a management agreement must agree to reimburse the state for “any additional costs to the Commonwealth in providing health or other group insurance benefits to employees, and in undertaking any risk management program” that are incurred as a result of exercising Level III authority. The management agreement must also take into account any “potential future impacts of tuition increases on the Virginia College Savings Plan.”⁹³

From the outset, the assumption was that U.Va., William & Mary, and Va. Tech would seek Level III autonomy. U.Va. and Va. Tech already possessed a AA- bond rating at the time the legislation was passed, but William & Mary did not. William & Mary quickly sought a bond rating, and Standard and Poor's issued a AA rating, higher than needed. Virginia Commonwealth University (VCU) already has a AA- bond rating as well, but so far has not indicated an interest in pursuing Level III.⁹⁴ VCU is, instead, continuing to apply pressure to the Legislature to fully fund higher education according to the Legislature's base adequacy guidelines, a strategy that has kept the role of state funding on the table throughout these negotiations (see footnote ‡, page 3 for more on base adequacy).

Level III Does Not Appeal to Everyone

"Kevin Appleton, vice president for finance and business at Norfolk State University, said, 'The requirements for Level III autonomy were placed so high that there were only going to be a few institutions that would be able to meet them.'

To win a AA-minus bond rating, 'you have to have substantial resources on the private side,' he said.

Regardless of the rating, Old Dominion University Vice President Robert L. Fenning said he thought it might be more costly for the university to take over responsibilities in areas such as capital planning and human resources because it would have to hire more people."⁹⁵

—*The Virginian-Pilot*, November 16, 2005

Some institutions expressed concern that the move to Level III requires board-approved policies in the areas of autonomy. The process for developing board-approved policies is complicated. Because U.Va., William & Mary, and Va. Tech have been working on this issue for many years, they have had time to develop such policies, but others would be hard pressed to do the same in such a short time-frame. To date, only these three universities have applied for Level III status. If other colleges pursue Level III at a later date, they'll be able to ask already-covered universities to provide copies of their documentation.

The Management Agreements as Approved by the Governor

The management agreement for the University of Virginia was used as the template for William & Mary and Va. Tech. The body of U.Va.'s management agreement, which numbers 22 pages, is followed by the signatures of the four cabinet secretaries (finance, administration, education, and technology) with whom the university negotiated this agreement. Next, a series of exhibits describes in more detail the university's board policies related to the following areas: 1) capital outlay; 2) leases; 3) information technology; 4) procurement; 5) human resources; and 6) financial and accounting. These board policies make up the bulk of the fully packaged management agreement, which numbers 213 pages in total.

The process of drafting the agreement with U.Va. “ironed out the kinks,” as one person involved described it. William & Mary and Va. Tech then went through the document and made substitutions as appropriate in what one observer said was essentially a “find and replace” of the university names for the bulk of the changes. According to Laura Fornash, associate director of government relations at Va. Tech, the management agreements are “close to identical....The names of the universities have been changed...[and there are] specific references to how the authorities apply to [each school’s affiliated] entities.”

Once the appropriate cabinet secretaries had signed the management agreements, the next step was for the governor to include a recommendation for their approval as a line item in his budget bill. One government official described this as creating “the illusion of an up-or-down vote,” meaning that the process was designed with the hope that the Legislature would not make changes to the management agreements, but would simply pass them along with the budget bill. However, this process made some legislators uneasy, and in mid-January 2006, a new bill was introduced that covered the complete text of the management agreements (HB 1502). The simple act of converting the management agreements into a bill is interesting and important in and of itself. For one thing, the agreements are now laws rather than contracts. Furthermore, checks and balances are at work again. The legislators’ action reflects the fact that the negotiations over the course of the fall were between the administration and the institutions, and with the inauguration of a new governor in January 2006, the Warner administration was no longer there to defend and support its actions. As of this writing, the legislators have already made 99 amendments that one observer described as mostly technical.

Heightened Autonomy for Level III Institutions

Both Dwight Shelton, vice president for budget and financial management at Va. Tech, and Colette Sheehy of U.Va. agreed that the most important authority the management agreements grant is that the university boards have “the sole authority to establish tuition, fees, room, board, and other charges.”⁹⁶ Sheehy immediately singled this out, stating, “The confirmation that the board has the authority to set tuition and fees...the fact that the management agreement outlines and states it again very explicitly, I think, was clearly the most important thing that we wanted to get going in.” Shelton described this as Va. Tech’s “primary purpose” and said, “By far, the ability for the board of visitors to set tuition and fees and to allow us to establish a

steady, predictable stream of revenues through tuition and fees, was the most critical part....If the management agreements could have achieved only one objective, it would have needed to be the ability for the boards to set tuition and fees.”

The second most important authority, again mentioned by both Shelton and Sheehy, is the ability to hold and invest all non-general fund revenues, i.e., tuition and fees. Because university leaders know their own cash flow, they believe they can tailor the investment of their operating cash to their own needs and possibly earn a bit more than the state does by investing in longer-term, higher-yield vehicles. However, the universities and the state had to overcome two obstacles to make this work.

The first obstacle was that the state’s constitution requires that state agencies deposit all monies into the state treasury. Through 2006–2007, the three covered institutions will continue to deposit all monies to the state treasury as they always have. However, beginning in 2007–2008, if the institutions have received certification of good performance from SCHEV, they will deposit monies to the state treasury to fulfill the constitutional requirement, but will then be allowed to withdraw the funds immediately and deposit them in their own banks to be held and invested.

The second obstacle was that the state had already made the payment of interest earned on tuition and fees a financial incentive payable to any institution that received annual certification of good performance from SCHEV. Senator John Chichester believed strongly in building financial incentives into the bill, and thus he was not happy with the prospect of the three covered institutions being treated differently and having automatic access to their interest. As a compromise, therefore, the management agreements stipulate that “interest the state would have earned on non-general fund cash balances will be withheld [from the general fund appropriation] until SCHEV’s annual certification.”⁹⁷ Thus, after certification in July of each year, the institutions will retroactively receive the interest earned on tuition and fees.

Using U.Va.’s management agreement as the model, here are other key points of interest:

- The management agreements make clear that “the University shall remain a public institution of higher education of the Commonwealth.”⁹⁸

- The agreements stress that the boards now have expanded powers, and expanded accountability: “The Board of Visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this Management Agreement and the policies adopted by it and attached hereto.”⁹⁹
- The management agreements suggest that this newfound autonomy will help the institutions operate more nimbly and flexibly. As one example, the main body of the management agreement states: “This autonomy will better position the University to support the requirements of its growing teaching, research, and outreach missions. Greater autonomy in procurement will improve internal capacity to respond quickly to emergent material and service issues and, therefore, enable the University to be more efficient and effective in meeting the Commonwealth’s goals for institutions of higher education.”¹⁰⁰
- In some cases, the management agreements enable the institutions to develop policies in particular functional areas, but actual university policies do not yet exist. This situation is probably most prominent in the area of human resources. Sheehy of U.Va. estimates, for example, that it could take another one or two years before detailed human resources policies, such as for classification and compensation, are worked out in their entirety. Once the institutions develop the policies, their boards have to approve them, and then they will be operational. However, reacting to the union’s opposition, the governor mandated that the universities “commit to regularly engage employees in appropriate discussions and to receive employee input” as they develop human resources policies.¹⁰¹
- The management agreements include a reminder that, at the end of the day, the provisions of the appropriation act override any provisions outlined in the Restructuring Act, the management agreement, or the boards of visitors’ policies.¹⁰²
- Other areas of authority granted by the management agreements include:¹⁰³
 - “Continues local responsibility for all non-code-related post-appropriation review, approval, administrative, and policy and procedure functions performed by the Department of General

Services, Department of Engineering and Buildings, and Department of Planning and Budget.”

- “Allows initiation of a non-general fund project without prior state approval.”
- “Converts pilot program to permanent delegation for approval of operating, income, or capital leases.”
- “Continues delegation of a core set of locally administered policies and procedures to govern procurement.”
- Provides exemption from state regulations related to “information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits.”
- “Provides for two human resources systems—the current state system administered by the Department of Human Resource Management and a new system to be developed by the University. Classified employees have the option to stay in the state system or make an irrevocable election to transfer to the University system. All employees hired on or after July 1, 2006, will become part of the University human resources system. Periodically, but no less than every two years, classified employees remaining in the state system will be given an opportunity to move to the University system.” Until the new institutional human resources systems are developed, all employees will remain in the current state system.
- “Provides a sum sufficient appropriation for all non-general funds,” which means, “whatever you collect, you can spend.” To appropriate money to an institution means to grant that institution the authority to spend those dollars. Under the old setup, institutions had to have authority—in the form of an appropriation—to spend every dollar they wanted to spend, even for non-general fund revenues. So, for example, if an institution collected more via research fundraising than the state had appropriated to it, it had to go through a formal process of asking the state to approve an increase in the appropriation.

Added Performance Accountability for Level III Institutions

A key theme of this case study has been that more autonomy comes hand in hand with more accountability. This is even more the case for those institutions seeking Level III autonomy.

Institutions wishing to obtain Level III autonomy were required to submit an application to the governor. As part of the application process, the governing boards had to adopt their own additional performance and accountability standards, which will then be used to measure whether the institutions are ably implementing the additional authorities granted. In the area of leases, for example, the institutions will compare the number of days it takes for the institution to approve a lease with the number of days that the state's office of Real Estate Services takes to approve a lease to ensure that the covered institutions are performing as well as, or better than, the state. In the area of procurement, for example, the institutions will track the number of "vendor protests with a legal basis," and compare that number to vendor protests in 2005–2006, before the management agreements took effect.¹⁰⁴

Heightened performance accountability appears in the body of the management agreements, as well. "Section 2.2. State Goals" sets forth even higher performance expectations than are being applied to the other state colleges. The first component is "2.2.1. Furthering State Goals," which outlines the following three additional areas of performance commitments in research, community college transfer, and economic development:¹⁰⁵

- Each institution must match "from institutional funds, on a dollar-for-dollar basis, any additional research funds provided by the State in the Appropriation Act above the amount provided from institutional funds for research in 2005–06."
- The three covered institutions will work together to "increase significantly the number of...students transferring to their institutions" from the two-year colleges in the state, with the specific goal of increasing, by the end of the decade, the number of transfer students by 650 new students each year over the number enrolled in the benchmark year of 2004–2005, reaching a total of 1,250 transfer students each year.
- The universities must work with "an economically distressed region or local area of the Commonwealth" both to stimulate economic activity and to improve local schools.

Each institution is responding to these performance commitments in its own way. Accordingly, each institution's management agreement contains language specific to that institution. In the area of research funding, for example, Va. Tech's management agreement states, "In addition to its six-year target of achieving \$227 [million] in [additional] external research by 2011–12...the University commits to match from institutional funds, on a dollar-for-dollar basis, any additional research funds provided by the State in the Appropriation Act above the amount provided from institutional funds for research in 2005–06."¹⁰⁶ U.Va.'s and William & Mary's management agreements read almost identically to Va. Tech's, but set six-year targets of \$337 million and \$68 million, respectively.¹⁰⁷

Although the management agreements set forth a combined goal of increasing the number of transfer students to 1,250 students each year by the end of the decade, they do not provide details on how the institutions will achieve that goal, instead merely saying that the institutions will "mutually determine how to divide the responsibility for these additional transfer students."¹⁰⁸ The institutions have detailed their strategies in their six-year plans. Va. Tech's six-year plan includes increasing the number of in-state students at that university by 1,000 by 2012. Va. Tech plans to meet that goal in large part via articulation agreements with the Virginia Community College System, developing "transfer students as the major pathway for growth."¹⁰⁹ Over the next six years, Va. Tech has also pledged to:

- Implement articulation agreements with the 23 community colleges that will allow automatic transfer into the College of Agriculture and Life Sciences for students completing the associate degree with at least a B average;
- Implement similar articulation agreements between the College of Engineering and eight community colleges; and
- Allow automatic transfer into at least two more colleges at Va. Tech by 2010–2012.¹¹⁰

U.Va. has similar plans, including the goal of "introducing articulation agreements with all community colleges having introductory programs in nursing, architecture, commerce, and education" for transfer into those colleges at U.Va.¹¹¹

William & Mary has also pledged to develop guaranteed acceptance

agreements with the state's two-year colleges for students with a GPA of at least 3.6 and a grade of at least a B in English 111 and 112; to co-enroll some community college students at the community college tuition; and to add admissions, advising, and student affairs staff to recruit and support transfer students. William & Mary's six-year plan outlines the following numeric targets:

We project the in-state headcount enrollment in Fall 2011 to be 3,884 for an increase of slightly over 480 or 14.4 percent over the AY2005–2006 level. It is our expectation...that significant numbers of these students will be [Virginia Community College System and Richard Bland College] graduates. Our projected increase in the size of the freshman class is 20 per class, hence of the 240 additional undergraduates we plan to enroll by fall 2011, 80 will be first-time freshmen and the balance will be transfer students from predominantly two-year institutions.¹¹²

For the performance goal of working with an economically distressed region, the institutions have promised to submit an action plan to the governor and the General Assembly no later than December 31, 2006. In the interim, every public college had to address how it would assist with economic development in its six-year plan. One of U.Va.'s more concrete goals is to "launch a graduate Nursing training program in Danville, which will place 100 trained nurses in the Southside-Southwest hospitals over a 3-year period."¹¹³ A similarly concrete goal from Va. Tech is to "create and implement one new strategic alliance with [the] private sector through the Southside Initiative and the Institute for Advanced Learning and Research to enhance economic and community development" in each biennium.¹¹⁴

The second component of Section 2.2 is "Section 2.2.2. Student Enrollment, Tuition, and Financial Aid." The assumption is that the covered institutions will most likely exercise their authority over tuition setting, moving toward a high-tuition/high-aid model, so the legislation requires that each institution specifically address its "commitment to provide need-based grant aid for middle- and lower-income Virginia students in a manner that encourages student enrollment and progression without respect to potential increases in tuition and fees."¹¹⁵ This is another area of the management agreements where each of the three

"In short, the selective public universities [in Virginia] propose to adopt a 'high-tuition, high-aid' model to raise revenue and provide access to low-income students, while increasing the overall level of resources available to promote excellence in teaching and research."¹¹⁶

—Sarah Turner, Associate Professor of Education and Economics, University of Virginia

covered institutions is responding uniquely.

U.Va. is counting on its flagship financial aid initiative, AccessUVa, to hold access harmless in the face of tuition increases.¹¹⁷ AccessUVa, announced in February 2004, preceded the restructuring legislation. The initiative meets 100% of demonstrated need for all admitted undergraduate students; replaces need-based loans with grants for students from families with incomes up to 200% of the poverty level; limits the amount of need-based loans that any student will be required to take out, a piece of the program that is “targeted at middle-income students whose families earn between \$75,000 and \$149,999”; and provides financial aid counseling.¹¹⁸ U.Va. will assess its success in increasing enrollment and enhancing the experience of low- and middle-income students by tracking such metrics as the number of applications received from low- and middle-income students, the percentage of low-income students in the student body, and financial aid recipient participation in such activities as internships and study abroad. The management agreement states, for example, that “The University expects to increase the numbers of low-income students enrolled from the current 830 to 1,033 by 2011–12.”¹¹⁹

In response to the Restructuring Act’s requirements, William & Mary recently rolled out a similar initiative, called Gateway William and Mary, which will seek to provide grants to meet 100% of financial need for in-state undergraduates, and to ensure that students whose family income levels are less than \$40,000 per year can graduate debt free. Gateway William and Mary will first apply to students who enroll full time in the fall of 2006 and will build over the period covered by the initial six-year plan, with the goal of doubling the number of students—from 280 to 560—receiving aid through the initiative.¹²⁰

Va. Tech announced plans to implement a Funds for the Future program, which will completely offset tuition increases for undergraduates from families with an income of less than \$30,000, and will provide varying levels of aid to reduce the impact of increases for students from families with incomes between \$30,001 and \$99,999.¹²¹ It also will take effect in fall 2006. The university expects that 5,636 students, or approximately 36% of the student body, will receive some benefits from Funds for the Future in 2006–2007.

KEY DIFFERENCES BETWEEN THE ORIGINAL CHARTER PROPOSAL AND THE FINAL LEGISLATION

After all the legal wrangling, the original charter proposal and the final legislation were indeed quite different. While the institutions achieved many of their goals for autonomy, the legislation creates many checks and balances—ensuring that the state can continue to monitor institutional performance and make corrections in the public interest if necessary.

The changes were significant enough to ease some of the concerns of one of the charter proposal's biggest critics, Jeffrey Rossman, assistant professor of history at the University of Virginia. Rossman analyzed the final bill and concluded that it was "a vast improvement over the original charter proposal."¹²²

For most observers, three differences between the original charter proposal and the final legislation rose to the top. The biggest—and likely the most significant—difference was the fact that a clear articulation of the state's needs and goals (the state ask), backed up by accountability for performance, now precedes any benefits ceded to the colleges. Second, all institutions will remain state agencies. Even though the management agreements spell out a way for the institutions to get some of the benefits they were seeking in becoming political subdivisions (namely, being able to hold and invest tuition and fees), their unchanged status as state agencies maintains the state's prerogative. Finally, all public colleges were included in the final legislation.

A legislative staff member made the distinction that the final legislation creates absolutely no entitlements or mandates regarding general fund appropriations. It also does not impose a limit on state funding. In the end, this legislation was about autonomy and accountability, not about funding from the state. Putting it another way, a different staff member commented that this is "process legislation, not policy," meaning that the funding mechanism and funding goals have not changed.

The outcry about the impact of tuition increases on low-income students led to stipulations regarding assessing that impact for all of the colleges. In addition, every institution must lay out detailed plans for enrollment, tuition, and financial aid in their six-year plans.

Given the opposition to human resources changes at U.Va., the “most extensive” of the governor’s March 31, 2005, amendments concerned personnel.¹²³ In broad strokes, the compromise included the following:¹²⁴

- As of the effective date of the management agreements, classified employees already on staff will have at least 90 days to choose whether to remain classified employees with the state, as they are now, or to opt into the new university personnel system (actual implementation is likely to occur quite a bit later anyway). All new employees will enter the new university system.
- The new covered university personnel systems can take an approach different from that of the state regarding classification and pay practices, leave, severance, and some benefits.
- The areas that the universities cannot change are retirement, health insurance, workers compensation insurance, and state grievance procedures.
- Each covered university must conduct a periodic salary and benefits comparison and make the comparison available to all employees. At least every two years, classified employees will be given the option to switch to the new university human resources system.

Finally, Governor Warner wanted to reform the process for appointing board members, which he saw as leading to political cronyism and unqualified, poorly functioning boards. Thus, as a part of his amendments, the governor codified the earlier creation by executive order of a Commission on Higher Education Board Appointments that will “review and recommend candidates for college and university governing boards.”¹²⁵

Are the Institutions Happy with the Final Legislation?

Opinions differ as to whether U.Va., William & Mary, and Va. Tech are pleased with the final legislation. In interviews, administrators at U.Va. maintained that Subchapter 3 of the legislation, which allows for the management agreements, is pretty much the legislation that the three wanted in the first place. First and foremost, the institutions wanted, and received, a reassertion of their ability to set tuition and fees. Although technically this was an authority that they already had, their right to set tuition had been usurped over the past decade, and the institutions wanted it back. This legislation created a public dialogue that resulted in a good-faith agreement that, as long as the institutions don't enact tuition increases that are seen as too high (generally agreed upon as not reaching into double-digit increases), the Legislature won't intervene, at least in the short term. The six-year plans also create an opportunity for the institutions to continuously engage the state in discussions about enrollment and financing, including the chance to spell out on paper the interactions between tuition and state funding.

The institutions also suggested that the original goal was not to stop being a state agency, *per se*, but rather that becoming political subdivisions would have allowed the institutions to hold and invest their own tuition and fee revenues. Because they gained the ability to hold and invest tuition and fees, they got what they wanted.

Most people believe that the three institutions never really believed they could get the entire charter proposal anyway, but getting at least some autonomy was progress. Regarding the new accountability measures, Leonard Sandridge of U.Va. commented, "There is nothing in the state ask that concerns me because they are things we ought to be doing anyway."

On the flip side, however, a number of observers believe that the Warner administration out-negotiated the universities, gaining a public agenda for higher education without giving up much control. Many are skeptical that a "reassertion" of tuition authority that gives absolutely no guarantees is a worthwhile tradeoff, given the new accountability burden the institutions received in exchange. Some state policymakers in Richmond commented that the three universities were still fighting for charter status into the 2005 session. One commented that they "fought not having charter all the way." Another

“We got more and less than we expected....I think we got...more state control than we really thought we were bargaining for....We got...the procedural autonomy we were hoping for....[We also] thought we would get more substantive autonomy, or at least not less....What we didn’t anticipate...was the rather hard bargain that... Governor Warner drove that said, ‘Now wait a minute, you really are public institutions, and in order to get this kind of freedom, it’s not just a matter of less money, it’s a matter of, will you do what the state wants?’”

—David Leslie, Chancellor Professor of Education, The College of William and Mary

observer commented that U.Va. wants “all it can get approval for.” This notion was seconded by Colette Sheehy, who said that U.Va. is “trying to do everything that the legislation would allow. We would do other things, but the legislation doesn’t allow it.”

Public statements by leaders at William & Mary also reveal some misgivings. Timothy J. Sullivan, the university’s outgoing president, said, “We would have preferred to end up where we started (with charter status).” He continued, “What we eventually got was a framework to work out these management agreements that may offer us the chance to plan ahead several years at a time. That would be a huge advantage over the last decade, which left us with

zero predictability.”¹²⁶ And in a presentation to William & Mary’s board of visitors, Vice President of Finance Sam Jones said: “Did we get everything we wanted?...No. But we have the lion’s share of changing the relationship with the Commonwealth. It’s a different picture going forward for these three institutions.”¹²⁷

Not surprisingly, there are differing levels of enthusiasm found in the other public colleges as well. Paul Timmreck, senior vice president of finance and administration at Virginia Commonwealth University said, “The effort that U.Va., Tech, and William & Mary started for autonomy has become the higher education accountability act of 2005. State agencies and institutions that receive taxpayer money should expect to be held accountable, but many are questioning whether the increased accountability is matched by an appropriate degree of increased autonomy and decentralization.” Some individuals are not completely sure that the autonomy will be worth the accountability burden, but others, such as Glenn Dubois of the Virginia Community College System, are excited both about meeting the public agenda and about the new benefits coming to the colleges: “If these things that we have to do right now get us to a calmer, more predictable regulatory environment where we control tuition, where we have certain management benefits that we do not have today, I say let’s do whatever we have to do to get to that calm sea.”

Some colleges were pleased to get the new autonomy pledged in Level I, while others that already enjoyed some of those privileges, or don’t feel that

they need them, have complained that they didn't gain anything except a slew of new accountability measures and reporting requirements. More than one interviewee commented that some small colleges would prefer to continue to have the assistance of the state in managing daily operations—assistance they can continue to rely on if they so choose—because they just don't have the in-house capability to do it. Timothy C. Brown, vice president of finance and administration for J. Sargeant Reynolds Community College, acknowledged that it would be difficult for some of the smaller colleges to take advantage of the benefits to the same degree as a larger college, such as his, could: "You have to be a certain size and complexity to have the infrastructure in place to do the things that the legislation allows." In addition, Brown felt that the accountability component of the act will prove to be a bigger burden for the smaller institutions. Ultimately, Brown characterized the question to be asked as, "Can I use this authority, without increasing my employee costs, and reap the benefits to put back into instruction?"

For J. Sargeant Reynolds Community College, Brown expressed great enthusiasm for the autonomy, suggesting that as soon as he learned about the areas of autonomy sought in the charter proposal, he too was interested. He offered concrete examples of ways that this legislation will make his day-to-day operations run more smoothly, such as the ability to dispose of surplus materials locally. As another example, in the past, the college has wanted to quickly expand by offering classes in leased space at an office park across the street from campus. However, getting a lease executed by the state took so long (up to 12 months, Brown suggested) that the window of opportunity was often lost. Now, JSRCC will be able to execute leases quickly and locally.

John Sygielski, president of Lord Fairfax Community College, also immediately identified the ability to execute lease agreements locally as an important benefit. Because his college is growing rapidly, it needs the flexibility to add classrooms quickly. Sygielski views the legislation in a positive light because, as he said, "Higher education in Virginia needs to constantly reevaluate itself. This measure does move us in the right direction. It is helping us to make some decisions locally."

What Does This Mean for Public Higher Education Nationally?

Ultimately, there was widespread support for the Restructuring Act from the colleges, legislators, cabinet secretaries, the governor, the Council of Presidents, and SCHEV. There was, as well, a sense of excitement about the future, and enthusiasm about participating in a great experiment. Several national higher education experts who were consulted on this project see the Restructuring Act as critically important to higher education and its future role in the states. When it comes to the impact that this legislation will have in a number of absolutely critical areas, including tuition, financial aid, and the treatment of classified staff, the jury is still out. But in an era of swirling discussions about changing the relationship between states and their public colleges and universities, the Virginia case represents one of the most coherent and thoughtful efforts to deregulate and decentralize while working toward an explicit state agenda that we have yet seen.

For those watching from afar, wondering what this all means for public higher education nationally, there are a number of lessons to take away.

This Is Not Privatization

A point made almost universally was that while the legislation represents a very significant change in the future of public higher education in the United States, it is not an example of privatization. Indeed, Secretary of Finance John Bennett said, “If anything, we’re strengthening the tie to the state.”

The colleges themselves, especially the three that sought charter status, denied any intention to privatize. As early as 2003, the *Virginian-Pilot* stressed this point: “Spokesmen for the University of Virginia, Virginia Tech and the College of William and Mary are quick to emphasize that outright privatization—divorcing themselves completely from the state—is not an option.”¹²⁸ Sam Jones of William & Mary said, “We were hoping through this act...to change how we were working together, and I would stress that it’s always been seen as how to continue the partnership with the state. It was never intended...that we were going to go private or that we would reduce our commitment to the Commonwealth.” Colette Sheehy explained U.Va.’s position in this way: “We are clearly a public institution, and we know we are

a public institution. We do not want to be private. But we do have a desire to be the best public university we can be, and that takes resources.”

Experts on higher education are also careful to ensure that the word “privatization” does not get misused in this case. David Breneman referred to privatization as a “show stopper,” saying “that’s a word you don’t ever want to let into this conversation. The legislators don’t want to hear that word.” David Leslie of William & Mary wrote, “First, and most importantly, they [the colleges] are public. Their governance, their funding, their mission, and their moral commitment is to serve their states. The intricate historical, political, and operational realities of this relationship probably cannot be contracted away. The Virginia experience is instructive.”¹²⁹

Researchers in this area also point out that most public colleges and universities cannot do without state funding. Even if the state appropriation is a declining share of a public college’s budget, it still represents millions of dollars. Replacing millions of dollars with tuition, external revenues, or endowment funding is almost impossible. Furthermore, private funding is often restricted funding, meaning that it is earmarked for special purposes and cannot be used to cover an institution’s general operating expenses.¹³⁰

The distinction between procedural autonomy (i.e., daily operations) and substantive autonomy (i.e., mission) created by Robert O. Berdahl, professor emeritus of higher education at the University of Maryland, is a useful descriptor in the case of Virginia. While the institutions gained procedural autonomy, the state reasserted its control over the mission of its institutions in legislation that does not move the system toward privatization.¹³¹

We Live in an Era of Renegotiation

This is a time that values entrepreneurial behavior, competition, and self-sufficiency. Anti-government rhetoric is commonplace. The demands placed on state budgets by such entitlements as K–12 education and Medicaid are growing. Very few people believe that a vast infusion of public money into higher education—in the style of the G.I. Bill or the Pell Grants—is going to materialize any time soon. The world has changed significantly for public higher education.

As a result, many believe that Virginia’s Restructuring Act is just one of many large-scale renegotiations on the horizon. Pat Callan commented, “This is an era where, for a lot of different reasons, this kind of renegotiating of the

state 'social compact' makes a lot of sense. It's probably a good idea to try to renegotiate the deal because it's not all that clear that mechanisms that were put in place over the course of the 20th century will get us where we need to go. Sitting at the table, examining expectations makes sense."¹³²

Along similar lines, David Breneman suggested that the Restructuring Act "signals in a fairly dramatic way that we are moving into a new era where the public universities will be cast more on their own....The old days of sitting back and thinking the state is going to be the protector are over. It's a watershed. Not that we haven't been building up to it, but it symbolizes that we're not going to go back to 20 years ago."

Start with the State's Needs

Because the state's needs are clearly articulated, there are some cascading public benefits resulting from the Restructuring Act. For example, every institution had to pledge to provide access to higher education, and any institutions covered by a management agreement had to explicitly address the impact of tuition increases on low-income students and the institution's commitment to need-based aid, thereby linking tuition and financial aid policy together.

The concept of accountability in higher education in Virginia has thus been broadened to mean accountability not just for institutional performance, but also for an institution's contribution to the state's well-being. By starting with its needs, the Commonwealth of Virginia was able to craft legislation that intends to keep its higher education system working in the name of the public good, rather than allowing institutional self-interest to reign supreme.

Tuition-Setting Authority Does Not Benefit All

While many public college leaders might agree that they would prefer less state interference in tuition setting, the reality is that only a small subset of the nation's public institutions are selective enough to raise tuition significantly without losing students or harming their open access missions.¹³³ In the case of Virginia, the assumption is that while all of the public colleges have the ability to set their own tuition, U.Va., William & Mary, and Va. Tech are the most likely to exercise it.

Colleges Cannot Expect to Gain Freedoms Without Giving Something in Return

Many viewed the initial charter proposal as an act of pure institutional self-interest, wherein the universities asked for broad autonomy without pledging higher performance accountability in return. In today's political climate, it is unlikely that any government agency, including public colleges and universities, would be given the level of autonomy requested in the original charter proposal without being held accountable for higher performance. Indeed, a SCHEV report written in 1997 said, "The first essential for granting Virginia's colleges and universities decentralized authority has always been accountability."¹³⁴

There are even some who believe the institutions brought accountability upon themselves, as reflected in this comment by David Leslie: "In their effort to negotiate more autonomy (albeit procedural) by accepting reduced funding, the 'charter' advocates appear to have awakened the state's political leaders to the prospect of losing substantive control over higher education."¹³⁵

The State Must Remain a Funding Partner

Privatization is not a viable option for most public colleges because they need the state as a funding partner. Likewise, if states wish to continue to enjoy economic growth and the civic and social benefits that accrue to an educated citizenry, they must continue to invest in the education of all their residents. The universities involved in restructuring reiterated the need for the state to remain involved: "The law's emphasis on long-term planning won't change the need to raise tuition unless the state gives schools enough money," said William & Mary spokesman Bill Walker. "Our goal of making tuition increases predictable and modest is very much dependent upon the willingness of the commonwealth to re-engage and reinvigorate the funding partnership."¹³⁶ Similarly, Rob Lockridge of U.Va. said, "We are not looking to go to the marketplace on tuition. We're looking to keep it competitive, with normal growth from the state."

Be Honest About Funding

Around the country, leaders of public colleges and universities are saying that the decline in financial support from the state makes a request for autonomy not merely justifiable, but necessary. In Virginia, examples like the following were commonly cited: "Today, the state provides just 8% of U.Va.'s \$1.7 billion

annual operating budget, down from 28% two decades ago.”¹³⁷ In 2003–2004, revenue from private gifts and endowment income made up more of U.Va.’s budget (8.3%) than the state’s share (8.1%).¹³⁸ The state’s share of William & Mary’s budget fell from 42.8% in 1980 to 18.7% in 2004.¹³⁹ Examples such as these are often used to convince observers that the states have abandoned their commitment to higher education.

“Some have suggested that states are abandoning their historical commitment to public higher education, expecting parents and students to pay a larger share of the cost. National data from the past quarter century and a more detailed and recent look within states indicate that this conclusion is premature and superficial.”¹⁴¹

—State Higher Education Executive Officers, 2005

However, this argument does not always elicit great sympathy, and higher education leaders should be careful about which statistics they use and how they use them. A 2005 analysis by the State Higher Education Executive Officers found that even though state and local appropriations per student fell during the economic downturn between 2001 and 2004, a more detailed analysis of funding during the past 25 years suggests that “states have largely maintained operating revenues for higher education, even though they have struggled to keep pace with enrollment growth and

inflation in times of recession.”¹⁴⁰ Indeed, many feel that higher education should shoulder part of the burden when a state is facing a recession, so pointing out funding declines during difficult economic times strikes many observers as higher education being arrogant and disconnected from the real world. Funding for higher education also competes head-on with funding for mandatory areas like K–12 education, debt servicing, and health and human services.

In addition, institutional spending on non-instructional services and programs, such as dorms and recreational activities, has ballooned in recent years, with many of those dollars coming from private sources. In many cases, the share of an institution’s instructional budget coming from the state has been far more stable than the share of the institution’s *total* budget coming from the state. Many point out that arguments vilifying the state for supplying a declining “share” of an institution’s budget are disingenuous, as this editorial in the *Richmond-Times Dispatch* suggested:

The schools point out that spending on higher education as a percentage of the total state budget has declined, while private resources have become a greater source of college funding. ...*Both points rely on relative figures.* If spending on Medicaid rises faster than spending on higher ed, then the share of the budget going to higher ed

naturally will fall, even if the total number of dollars going to higher ed increases. Similarly, the state does not bear blame if a successful fund-raising campaign adds millions to a university's endowment, thereby making state support a smaller share of overall college financing. (emphasis added)¹⁴²

Build In Checks and Balances

True to the Founding Fathers' democratic ideals, the Restructuring Act makes use of checks and balances. The institutions gained significant autonomy, but they were not set free as political subdivisions. The institutions cannot gain this autonomy without first pledging to meet state needs, and they cannot reap the benefits of the financial incentives without first being certified for good performance. The six-year plans provide an ongoing arena for the institutions and the state to negotiate enrollments, state funding, and tuition. The state agreed to a publicly announced agreement not to intervene in tuition setting, providing the institutions with a guarantee that has moral, if not legal, weight. Still, if tuition goes too high, the Legislature retained the right to impose caps through the appropriations process. Nowhere in the legislation does the state make any promises about funding the institutions to a certain level, but the six-year plans allow the institutions to demonstrate the interactions between tuition and state funding. The management agreements must be renewed every few years. The state has not lost its right to monitor progress and intervene if the institutions stray from meeting public purposes.

Beware of Bureaucracy and Start With a Clean Slate

As the months have passed and the serious work has gotten underway, concerns about bureaucracy and the burdens on colleges have arisen. The six-year plans, the methods of assessing institutional performance, and the management agreements have consumed enormous amounts of time and energy. Some fear that the new paperwork required might be more onerous than the administrative and financial controls that were decentralized via this act. As one college leader remarked in December 2005, "We have spent all of our time on the compliance side and the waiting side, and we haven't gotten to the benefits side."

Furthermore, from a central government perspective, Virginia is a highly regulated state. One drawback to the Restructuring Act is that, instead of addressing the broader problems of overregulation, the Act deals with

deregulation via a series of exceptions written into existing laws, plus management agreements with individual institutions.

The combined result is only limited change in the way state government operates and a new set of requirements that could quickly lead to onerous bureaucracy. As McGuinness reminds us:

Keep it simple and focused because it will die of its own weight.... To try to get out of that mess via a set of agreements creates a very complicated set of agreements. Make the base relationships clearer, then the contracts can be around questions of mission, connections with public purposes, and state priorities.... The real questions [about affordability, tuition policy, and overall financing in Virginia] are still on the table.

Monitor the Impact on Low- and Middle-Income Students

Tuition-setting authority is the heart and soul of autonomy initiatives around the country. That means we can expect to see substantial tuition increases at the institutions that gain autonomy in this area. Deregulation of tuition authority typically comes with increased financial aid requirements attached. This policy shift means that there is a growing embrace of the high-tuition/high-aid model. We must continue to monitor the actual impact on college participation rates for low- and middle-income students and not assume that financial aid promises will be adequate to improve educational opportunity for our students, especially groups that historically have not been well served by our educational system, including students of color, students who are the first generation in their family to attend college, and low-income students.

“Those six-year plans will allow, for the first time, planning on the part of the Commonwealth, the institutions, parents—everyone will know at least six years out what tuition is going to look like. I think the marvelous part of it is that, on that [six-year plan] template it says, ‘We need X general fund dollars to keep tuition here.... If we don’t get those general fund dollars, this is what tuition is going to look like.’ So I think there is some real accountability on both sides.”

—Elizabeth Wallace, Director of Communications and Government Relations, State Council of Higher Education for Virginia

One Size Does Not Fit All

The three levels of autonomy spelled out in the Restructuring Act recognize that institutions have different needs and capacities. Similarly, the measures for assessing institutional performance (the accountability side of the act) will likely be differentiated according to the institutions’ individual missions. While it will never be possible to make all of the people happy all of the time, by differentiating the approach to some aspects of the bill, the Restructuring

Act helps the colleges maintain their unique missions.

Strategic and Long-Term Planning Make Sense for Colleges

The interviews revealed a fair level of enthusiasm about the six-year plans, though some were concerned about how long and bureaucratic they were becoming. Overall, the plans were characterized as a tool that will facilitate more productive conversations between the state and the institutions about funding and support. Several people expressed the idea that planning and thinking through consequences over the long-term was a “good exercise.” Indeed, this type of strategic and financial planning was a part of what the original three institutions proposing charter status sought. Timothy J. Sullivan, former president of William & Mary, described a future in which the environment might become “predictable and controllable.”¹⁴³ Sam Jones of William & Mary took a long-term view: “The dramatic ups-and-downs of tuition increases should be smoothed dramatically. If we’re developing long-term plans with our board, then they will try to look at those plans, look at the timing of investments, in ways that make tuition increases more systematic.”

The six-year plans force the institutions to forecast tuition and fee estimates for the next six years. Some felt that the colleges and universities would benefit from the way that the six-year plans would allow them “to lay out their case, lay out the facts. If [the state] want[s us] to enroll X more students, here is what we need from the state.” Similarly, if the state will only fund the institutions to a certain level, the six-year plans will demonstrate the long-term impact on tuition and enrollment capacity. In this way, the six-year plans serve as a means for the institutions and the state to negotiate enrollments, state funding, and tuition over the long term.

The institutions will also, however, be faced with the consequences of forecasting tuition increases year after year on paper, which is different from requesting increases each year after the impact of prior increases has been forgotten or muted. Further, the six-year plans will push institutions to modify enrollment projections to meet the demands of the state, something that the state has had difficulty monitoring in the past.

“There was a very thoughtful process of the state saying, rather than focusing on measuring how we do things, it was what do we really want institutions in Virginia to do for us? Coming out of this, because of the six-year plan requirement and the state ask requirement, the Commonwealth will know a whole lot more about where we’re trying to go and what our priorities are than maybe they would have in the past. I think that’s very positive for the Commonwealth, but it also allows us to plan better, and we’re both benefiting from that longer-term focus.”

—Sam Jones, Vice President of Finance, College of William and Mary

We Are Facing a New Era for Boards

The management agreements pertaining to Level III autonomy make clear that the boards of visitors are taking on a more rigorous role that requires them to oversee and be responsible for many functions for which the state was previously accountable. In the wake of such events as the Sarbanes-Oxley Act, the recent presidential spending inquiry at American University and other scandals, and now increased managerial responsibility for boards, we are seeing that in the future, higher education boards will have to be savvier, more hands-on, and more strategic, and will have to think in terms of an institution's public responsibilities. Put simply, if a board signs off on a new contract or agreement with a state, the board members had better know and understand what they sign. David Breneman forecasted that this "means a premium on putting really good people on boards. They'll need to be good boards, and they'll need to be public spirited." The heightened responsibility of boards also places a premium on the elimination of political cronyism in board appointments. It will be increasingly important that board members be selected for their qualifications, not for political reasons.

Context Matters

Policy ideas travel from state to state quickly, and sometimes the right level of contextual analysis is absent. It is helpful to remember that context matters. Several things came together to create the moment in time when this bill could enjoy widespread support.

In Virginia, a foundation had already been laid for decentralization. Earlier decentralization pilots and the autonomy at the U.Va. Medical Center had paved the way for further initiatives. There was also widespread agreement that tuition policy had been erratic. Thus key players, such as legislators and cabinet secretaries, were willing to have a serious conversation.

Another critical factor was that, at that moment, Virginia had an entrepreneurial governor who was interested in higher education. The National Collaborative for Postsecondary Education Policy had set the groundwork for thinking about a public agenda in higher education, and had also provided access to national experts for consultation during the process.

Governor Warner's success with the tax increase was a watershed moment. A number of interviewees cited the tax reform, though seemingly unrelated, as a critical component of the negotiations between the state and the institutions. The tax reform buoyed Warner after a difficult task, and built

bipartisan alliances between the governor and key Republican legislators that were important to the negotiations of the Restructuring Act. If the governor had not been able to control the process, there could have been a significantly different outcome, born of an alliance between what Pat Callan referred to as the “strange bedfellows of institutional advocates and privatization advocates,” who together might have succeeded in pushing the state’s interests further out of the higher education system.

The tax increase also resulted in new funding for higher education. Some suggested that without that new funding, there wouldn’t have been “much energy” for a serious conversation between the state and the public colleges. Others believed that further fiscal issues would have strengthened the hand of the institutions, possibly resulting in an outcome more aligned with the institutions’ original charter proposal.

Finally, in a politically astute move, the three universities hired both McGuireWoods Consulting, historically considered a politically conservative firm, and the law firm of Reed Smith, considered a more moderate group, to assist with the lobbying effort and with crafting the legislation. One of the key lawyers from Reed Smith was Lane Kneedler, a former U.Va. faculty member, who brought experience and credibility with both higher education and lawmakers. Thus, by working with these firms, the universities were able to build support on both sides of the aisle and to bridge the chasm between higher education and the Legislature.

Build Ownership

Over the course of the negotiations, there were a lot of cooks in the kitchen. Legislators and their staffs, the governor and his staff, the colleges, the Council of Presidents, the Virginia Community College System, the Virginia Business Higher Education Council, and SCHEV all played critical roles. While to some the number of participants might seem like a recipe for disaster, it was likely absolutely critical to the bill’s ultimate success. In the end, all of those parties took ownership. In interviews, multiple parties felt responsible for various parts of the bill, a sign that people were proud of their work and wanted to see this legislation through to passage. This serves as a helpful reminder that building ownership among multiple parties is often a critical step in shepherding large initiatives.

A Bipartisan Alliance

“It may sound hard to believe, but politics never entered the picture in the discussions about higher education,” said John H. Chichester, a leading Republican in the state Senate. “We started talking with the Governor two years ago about the state of higher education which, at the time, was very rocky. Both sides wanted to improve things and sometimes we had different issues, but it never became a Republican-Democratic thing.”¹⁴⁴

—*National CrossTalk*, Summer 2005

Process Matters

Several people suggested that U.Va., William & Mary, and Va. Tech did not pay enough attention to the process of gaining consensus and moving an agenda. Some speculate that if they had done so, the covered universities might have achieved more of their original chartering goals, and there might have been fewer interventions on the part of the state.

Not including all the public colleges in the system from the start was regularly cited as the first strategic error, even by some internal to the process. The support of the other colleges was critical to getting legislation passed. Creating a closed group of just the three most prestigious universities inevitably led to accusations of elitism. Opening the legislation to other colleges later in the process led to interventions by a number of different stakeholders, all of whom brought their own ideas and opinions to the table. As one observer suggested, the effort to make the legislation inclusive of every public college may have served as a “trigger to broaden SCHEV’s role on behalf of the public obligations for which all universities are now responsible.” This observer felt that the three universities seeking charter status lost control of the process once it was expanded to include all public colleges; had the universities been more in control, so this argument goes, the state might have inserted less accountability.

There were also reservations expressed about U.Va.’s communication to its own faculty and staff. Tension over personnel changes flared and caught the attention of the governor and legislators. In the end, Governor Warner said that his amendments “focus particularly on personnel issues.”¹⁴⁵ One result is that the institutions will have to maintain two separate personnel systems for untold years to come. Meanwhile, the controversy over personnel changes continues to be acrimonious and attract media attention. The president of the Staff Union at U.Va. posted a comment on the union’s Web site about U.Va.’s management agreement that said, simply, “This is truly frightening.”¹⁴⁶ In November 2005, shortly after the release of the management agreement, the issue of how classified staff are treated flared up again. A recruiter in U.Va.’s human resources department was dismissed after she sent an e-mail to a colleague about an analysis prepared by the Albemarle-Charlottesville NAACP on the impact of decentralization on Medical Center employees and the potential impact on staff under the Restructuring Act.¹⁴⁷ The e-mail was eventually forwarded to 275 classified staff at the university. The university’s position is that the employee should not have sent the e-mail from her work

e-mail account, the implication being that she misused her position and title at the university to disseminate information.¹⁴⁸ The employee believes she was fired for expressing her opposition to the restructuring; a U.Va. spokeswoman insisted that “the university would not dismiss anyone for publicly expressing his or her opinion.”¹⁴⁹

There Are Still Many Unknowns

Much ground was covered between the early days of Governor Warner’s meetings with the Collaborative, the original charter proposal, and the passage of HB 2866 and SB 1327. And there is still much ground to cover in the coming years. The General Assembly is amending the management agreements and still has to approve the performance measures. A new governor took office in January 2006. SCHEV, under fairly new leadership, will undertake its first round of certifying the performance of the colleges and universities. At the time of this writing, the jury is still out on whether the overall impact of this legislation will be positive or negative. A series of unknowns will be highly influential in what the history books later say about this experiment.

One question on everyone’s mind is whether the legislators will respect the spirit of the new legislation and remain hands-off on tuition. What will the political cost be if a college raises tuition to a level that is considered too high?¹⁵⁰ Only time will tell, but people are generally optimistic. Some interviewees suggested that the unwritten rule is that the legislators will look the other way as long as the institutions do not seek double-digit tuition increases. U.Va.’s Colette Sheehy said, “They [the legislators] can do anything they want. They have the ultimate power....But history would say that people honor these types of agreements.” John Bennett agreed, viewing the situation as a two-way street: “If the institutions act responsibly and are sensitive to affordability, I think the Legislature will respect the spirit of the agreement.” At the same time, some worry that the state ceded too much of its control over tuition. If the institutions do raise tuition significantly, and the Legislature feels it cannot or should not intervene, what will happen to the students caught in between? Tuition around the country has been rising at rates above inflation for decades. Some see state control as the only arbiter of those increases, believing that tuition ought to be policy driven.

There are similar worries about central government. Even at the time of the final negotiations for the management agreements, one participant noted

that some areas of government were having “trouble understanding that this is a new day,” that the state will no longer manage the institutions in the same way as in the past. The move to post-audit “was a big hump to get over.” Another observer seconded this view, saying, “Talking about changing the existing environment is harder than one might think.”

Another unknown is new leadership. On November 8, 2005, Lieutenant Governor Timothy M. Kaine, a Democrat, won the race for governor. Governor Warner endorsed Kaine and is seen as his mentor, and Kaine voiced his support of the Restructuring Act during his campaign.¹⁵¹ Therefore, most people are assuming he will not alter the legislation. SCHEV also has a new leader, Dan LaVista, who took over the reins in August 2004. The Restructuring Act reasserts a role for SCHEV to coordinate higher education on a state level, breathing new life into an organization that had lost its way over the years.¹⁵² As one observer noted, SCHEV’s intensive role means that the ultimate impact of the accountability systems “depends on how they carry out their duties.” In 2005, William & Mary also got a new president, Gene Nichol. Though most observers agree that these leadership changes shouldn’t

alter the Restructuring Act’s trajectory significantly, their ultimate impact remains to be seen.

Finally, how much the institutions will use their newfound autonomy, especially outside of the three that originally proposed the charter proposal, is an open question. One state official, who was somewhat skeptical about just how bureaucratic the colleges really found the state to be, mused that there hadn’t exactly been an onslaught of calls to Richmond from the colleges trying to figure out how to use the new autonomy. Similarly, as mentioned earlier, in December 2005, one college leader expressed frustration that the colleges had been spending a lot of time on compliance but had not yet received any of the legislation’s autonomy benefits; however, the colleges had in fact been eligible for the new Level I autonomy since August 1.

“Like it or not, the social contract between citizens and public higher education is being rewritten—not just in Virginia but nationally. Optimists hope that fewer constraints will allow the schools to flourish, compensating for erratic state support. Pessimists fear that the ‘public’ part of the mission will be neglected.

That’s not a given. It’s possible that flexibility, coupled with careful scrutiny of performance, will spawn an even better and more egalitarian system. But that’s not a given either.

Upcoming months are critical. Entrepreneurial flexibility is a tool, not an end. The real goal must remain a university system committed to public purposes.”

—Editorial page of the *Virginian-Pilot*, November 15, 2005¹⁵³

A Trend Worth Watching

The Virginia experience offers important lessons. New, more autonomous arrangements will require heightened responsibilities and commitments from public boards of visitors. Reducing government bureaucracy is an argument that gains traction, but public institutions cannot expect to be released from regulation without pledging higher performance in return. The Virginia case also sheds light on the importance of a dialogue—one that includes college leaders, faculty and staff, the governor, the Legislature, business and opinion leaders, and the public—to gain consensus around how public institutions can operate most effectively while serving a public agenda for higher education. Further, we are moving toward an era where more public institutions will be asked to demonstrate their linkages to the state's priorities and will be held accountable for their contributions.

Still, as more and more interest accrues to the idea of renegotiated relationships between higher education and the states, one case will not provide enough lessons that are applicable across state borders. Further research, political attention, and serious dialogue need to take place around this critically important wave of change. There are other examples to draw from here in the United States, from states such as Colorado, Massachusetts, Maryland, and Ohio, but also much that can be learned from contracting arrangements in other countries, such as Austria and Denmark. We are facing an era in which the public mission of higher education is being seriously challenged on many fronts. Only by understanding those challenges, developing solutions proactively, and learning from experience as those solutions are implemented can we ensure that the public mission wins out over individual and institutional self-interest.

Appendix A: Methodology

The author wishes to thank all who generously agreed to be interviewed for this case study. A number of interviewees requested that their comments be kept anonymous, so a listing of names is not included here.

Research for this report was conducted through interviews with 29 people, including college presidents and administrators, cabinet officers, legislative staff, state personnel, personnel with the State Council of Higher Education for Virginia, lawyers, national higher education experts, faculty members, and students. Many people were interviewed more than once. A review of the available literature and documentation pertaining to the legislation itself and the colleges' responses supplemented information gained during the interviews.

Appendix B: Useful Web Sites

State Council of Higher Education for Virginia	www.schev.edu
U.Va.'s Web site on restructuring	www.virginia.edu/restructuring/
Va. Tech's Web site on restructuring	www.vt.edu/restructuring/
William & Mary's Web site on restructuring	www.wm.edu/restructuring/
HB 2866 Restructured Higher Education Financial and Administrative Operations Act	http://leg1.state.va.us/cgi-bin/legp504.exe?ses=051&typ=bil&val=hb2866
SB 1327 Restructured Higher Education Financial and Administrative Operations Act	http://leg1.state.va.us/cgi-bin/legp504.exe?ses=051&typ=bil&val=sb1327
The Staff Union at U.Va. and the Communication Workers of America	www.suuva.org

Appendix C: Evolution of the Legislation, Including URLs

Legislation	Date Presented	Chief Patron	Legislative Action	URL
HB 1359 Chartered Universities and Colleges Act of 2004	January 22, 2004	Delegate Vincent F. Callahan, Jr. (R)	Continued to 2005 in Appropriations, February 4, 2004	http://leg1.state.va.us/cgi-bin/legp504.exe?041+sum+HB1359
SB 638 Chartered Universities and Colleges Act of 2004	January 23, 2004	Senator Thomas K. Norment, Jr. (R)	Continued to 2005 in Education and Health, January 29, 2004	http://leg1.state.va.us/cgi-bin/legp504.exe?041+sum+SB638
SJ90 Senate Joint Resolution No. 90	January 14, 2004	Senator John H. Chichester (R)	Agreed to by Senate, February 17, 2004; Agreed to by House, March 9, 2004	http://leg1.state.va.us/cgi-bin/legp504.exe?041+sum+SJ90 Joint subcommittee to study administrative and financial relationships between the Commonwealth and its institutions of higher education
HB 2034 Higher Education Reform Act of 2005	January 12, 2005	Delegate Phillip A. Hamilton (R)	Incorporated into HB 2866, February 17, 2005	http://leg1.state.va.us/cgi-bin/legp504.exe?ses=051&typ=bil&val=hb2034
SB 1314 Higher Educational Institutions; Governing Boards to Address Plans and Objectives, Reports	January 21, 2005	Senator John H. Chichester (R)	Incorporated into SB 1327, February 17, 2005	http://leg1.state.va.us/cgi-bin/legp504.exe?ses=051&typ=bil&val=sb1314

Legislation	Date Presented	Chief Patron	Legislative Action	URL
SB 1327 Restructured Higher Education Financial and Administrative Operations Act	January 21, 2005	Senator Thomas K. Norment, Jr. (R)	Adopted with governor's amendments, April 6, 2005 (final legislation)	http://leg1.state.va.us/cgi-bin/legp504.exe?ses=051&typ=bil&val=sb1327
HB 2866 Restructured Higher Education Financial and Administrative Operations Act	January 21, 2005	Delegate Vincent F. Callahan, Jr. (R)	Adopted with governor's amendments, April 6, 2005 (final legislation)	http://leg1.state.va.us/cgi-bin/legp504.exe?ses=051&typ=bil&val=hb2866
Virginia HB 346 Restructured Higher Education Financial and Administrative Operations Act; Includes Campus Security	January 11, 2006	Delegate Phillip A. Hamilton (R)	As of this writing, this legislation had passed the House and was in the Senate's Committee on Education and Health	http://leg1.state.va.us/cgi-bin/legp504.exe?061+sum+HB346
HB 1502 Management Agreements with Certain Institutions of Higher Education	January 20, 2006	Delegate Vincent F. Callahan, Jr. (R)	As of this writing, this legislation was under consideration in the House	http://leg1.state.va.us/cgi-bin/legp504.exe?061+sum+HB1502

Appendix D: Timeline

1980s–1990s: Virginia began a piecemeal effort at decentralization in such areas as purchasing, personnel, and capital spending. U.Va., William & Mary, and Va. Tech were especially active in this, participating in several pilot initiatives.¹⁵⁴

2003: Governor Warner turned his attention to an agenda for higher education while the leaders of U.Va., William & Mary, and Va. Tech started talking publicly about proposing a restructuring initiative.

January 2004: Senate Bill 638 and House Bill 1359, the Chartered Universities and Colleges Acts of 2004, were introduced, but due to a major tax reform initiative that was consuming legislators' time, legislative leaders carried the legislation over for consideration in 2005.¹⁵⁵

2004: Much work took place between 2004 and 2005. A joint subcommittee to study administrative and financial relationships between the Commonwealth and its institutions of higher education held hearings to discuss the charter proposal. U.Va., William & Mary, and Va. Tech continued to draft legislation, lobbied political leaders and other college presidents, and held informational sessions on their campuses. The Council of Presidents got involved, and the original charter proposal was expanded to include all of the public colleges. Governor Warner worked with the National Collaborative for Postsecondary Education Policy and solicited input from the state's citizens during town hall meetings around the state.

January 21, 2005: Senate Bill 1327 and House Bill 2866, the Restructured Higher Education Financial and Administrative Operations Acts, were introduced.

April 6, 2005: Both houses of the General Assembly passed SB 1327 and HB 2866 with Governor Warner's amendments.

July 1, 2005: The legislation became law.

August 1, 2005: All institutional boards were required to pass a resolution committing to meet the state goals in the legislation. Once passed, Level I autonomy became available to each institution.

September 30, 2005: The State Council of Higher Education for Virginia approved Institutional Performance Standards, which were then submitted to Governor Warner, who made some changes.

October 1, 2005: All institutions were required to submit six-year plans.

November 8, 2005: Lieutenant Governor Timothy M. Kaine, a Democrat, won the race to succeed Mark Warner as governor.

November 15, 2005: This was the last day for colleges and universities to enter into a management agreement with the Commonwealth (Level III). U.Va., William & Mary, and Va. Tech all did so.

December 20, 2005: Governor Warner's budget was due. It included the performance measures (reflecting the governor's revisions to SCHEV's Institutional Performance Standards, plus the measures his office developed surrounding financial and administrative management) under the title of "Assessment of Institutional Performance" and his recommendation for approval of the management agreements.

January 11, 2006: Delegate Phillip A. Hamilton (R) introduced HB 346, which would add a twelfth performance goal. As written, this goal will require that institutions "[s]eek to ensure the safety and security of the Commonwealth's students on college and university campuses."

January 14, 2006: Tim Kaine was inaugurated as the seventieth governor of the Commonwealth of Virginia.

January 20, 2006: Delegate Vincent F. Callahan, Jr., introduced HB 1502, converting the management agreements into a bill. As of this writing, 99 amendments have been made.

2006 Legislative Session: The General Assembly will act on the management agreements and the performance measures used to assess institutional performance.

July 1, 2006: SCHEV intends to have all institution-specific benchmarks outlined for the annual certification of performance.

July 1, 2007: The first round of financial incentives are available to any institutions meeting SCHEV's annual certification of performance standards.

Appendix E: The State Ask

GOVERNOR WARNER'S 11 ACCOUNTABILITY GOALS

(excerpted directly from the legislation¹⁵⁶)

Note: As of the writing of this case study, legislation to add a twelfth performance goal has passed the House and Senate. As currently written, the goal will require that institutions “[s]eek to ensure the safety and security of the Commonwealth’s students on college and university campuses.”¹⁵⁷

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

1. Consistent with its institutional mission, provide access to higher education for all citizens throughout the Commonwealth, including underrepresented populations...and in accordance with anticipated demand analysis, meet enrollment projections and degree estimates as agreed upon with the State Council of Higher Education for Virginia. Each such institution shall bear a measure of responsibility for ensuring that the statewide demand for enrollment is met;
2. [E]nsure that higher education remains affordable, regardless of individual or family income, and through a periodic assessment, determine the impact of tuition and fee levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment of tuition and fees; [“Each public institution shall give consideration to potential future impacts of tuition increases on the Virginia College Savings Plan.”¹⁵⁸];
3. Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with its mission and assess regularly the extent to which the institution’s curricula and degree programs address the Commonwealth’s need for sufficient graduates in particular shortage areas, including specific academic disciplines, professions, and geographic regions;

4. Ensure that the institution's academic programs and course offerings maintain high academic standards, by undertaking a continuous review and improvement of academic programs, course availability, faculty productivity, and other relevant factors;
5. Improve student retention such that students progress from initial enrollment to a timely graduation, and that the number of degrees conferred increases as enrollment increases;
6. Consistent with its institutional mission, develop articulation agreements that have uniform application to all Virginia community colleges and meet appropriate general education and program requirements at the four-year institution, provide additional opportunities for associate degree graduates to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools;
7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and the area in which the institution is located, and for those institutions subject to a management agreement set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter, in areas that lag the Commonwealth in terms of income, employment, and other factors;
8. Consistent with its institutional mission, increase the level of externally funded research conducted at the institution and facilitate the transfer of technology from university research centers to private sector companies;
9. Work actively and cooperatively with elementary and secondary school administrators, teachers, and students in public schools and school divisions to improve student achievement, upgrade the knowledge and skills of teachers, and strengthen leadership skills of school administrators;
10. Prepare a six-year financial plan consistent with § 23-9.2:3.02; and
11. Conduct the institution's business affairs in a manner that maximizes operational efficiencies and economies for the institution, contributes to maximum efficiencies and economies of state government as a whole, and meets the financial and administrative management standards as specified by the Governor pursuant to § 2.2-5004 and included in the appropriation act that is in effect, which shall include best practices for electronic procurement and leveraged purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair and reasonable consideration of small, women-, and minority-owned business enterprises."

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Checks and Balances at Work: The Restructuring of Virginia's Public Higher Education System, by Lara K. Couturier (June 2006, #06-3). A case study of Virginia's 2005 Restructured Higher Education Financial and Administrative Operations Act. The Restructuring Act represents a significant renegotiation of the relationship between the

Commonwealth of Virginia and its public colleges and universities. It gives more autonomy to the public colleges for conducting certain operations, but checks that autonomy with new accountability targeted directly at the needs of the state.

American Higher Education: How Does It Measure Up for the 21st Century, by James B. Hunt Jr. and Thomas J. Tierney with a Foreword by Garrey Carruthers (May 2006, #06-2). These essays by former Governor James B. Hunt Jr. and business leader Thomas J. Tierney lay out in succinct fashion the requirements of both our nation and our states for new and higher levels of performance from America's colleges and universities.

Claiming Common Ground: State Policymaking for Improving College Readiness and Success, by Patrick M. Callan, Joni E. Finney, Michael W. Kirst, Michael D. Usdan, and Andrea Venezia (March 2006, #06-1). To improve college readiness and success, states can develop policies that better connect their K-12 and postsecondary education systems. However, state action in each of the following policy areas is needed to create college-readiness reform: alignment of coursework and assessments; state finance; statewide data systems; and accountability.

Measuring Up on College-Level Learning, by Margaret A. Miller and Peter T. Ewell (October 2005, #05-8). In this report, the National Forum on College-Level Learning proposes a model for evaluating and comparing college-level learning on a state-by-state basis, including assessing educational capital. As well as releasing the results for five participating states, the authors also explore the implications of their findings in terms of performance gaps by race/ethnicity and educating future teachers.

The Governance Divide: A Report on a Four-State Study on Improving College Readiness and Success, by Andrea Venezia, Patrick M. Callan, Joni E. Finney, Michael W. Kirst, and Michael D. Usdan (September 2005, #05-3). This report, supported by case studies in Florida, Georgia, New York, and Oregon, identifies and examines policy options available to states that are interested in creating sustained K-16 reform.

The Governance Divide: The Case Study for Florida, by Andrea Venezia and Joni E. Finney (May 2006, #05-4).

The Governance Divide: The Case Study for Georgia, by Andrea Venezia, Patrick M. Callan, Michael W. Kirst, and Michael D. Usdan (April 2006, #05-5).

The Governance Divide: The Case Study for New York, by Andrea Venezia, Michael W. Kirst, and Michael D. Usdan (May 2006, #05-6).

The Governance Divide: The Case Study for Oregon, by Andrea Venezia and Michael W. Kirst (April 2006, #05-7).

Borrowers Who Drop Out: A Neglected Aspect of the College Student Loan Trend, by Lawrence Gladieux and Laura Perna (May 2005, #05-2). This report examines the experiences of students who borrow to finance their educations, but do not complete

their postsecondary programs. Using the latest comprehensive data, this report compares borrowers who drop out with other groups of students, and provides recommendations on policies and programs that would better prepare, support, and guide students—especially low-income students—in completing their degrees.

Case Study of Utah Higher Education, by Kathy Reeves Bracco and Mario Martinez (April 2005, #05-1). This report examines state policies and performance in the areas of enrollment and affordability. Compared with other states, Utah has been able to maintain a system of higher education that is more affordable for students, while enrollments have almost doubled over the past 20 years.

Measuring Up 2004: The National Report Card on Higher Education (September 2004). *Measuring Up 2004* consists of a national report card for higher education (report #04-5) and 50 state report cards (#04-4). The purpose of *Measuring Up 2004* is to provide the public and policymakers with information to assess and improve postsecondary education in each state. For the first time, this edition of *Measuring Up* provides information about each state's improvement over the past decade. Visit www.highereducation.org to download *Measuring Up 2004* or to make your own comparisons of state performance in higher education.

Technical Guide Documenting Methodology, Indicators, and Data Sources for Measuring Up 2004 (November 2004, #04-6).

Ensuring Access with Quality to California's Community Colleges, by Gerald C. Hayward, Dennis P. Jones, Aims C. McGuinness, Jr., and Allene Timar, with a postscript by Nancy Shulock (May 2004, #04-3). This report finds that enrollment growth pressures, fee increases, and recent budget cuts in the California Community Colleges are having significant detrimental effects on student access and program quality. The report also provides recommendations for creating improvements that build from the state policy context and from existing promising practices within the community colleges.

Public Attitudes on Higher Education: A Trend Analysis, 1993 to 2003, by John Immerwahr (February 2004, #04-2). This public opinion survey, prepared by Public Agenda for the National Center, reveals that public attitudes about the importance of higher education have remained stable during the recent economic downturn. The survey also finds that there are some growing public concerns about the costs of higher education, especially for those groups most affected, including parents of high school students, African-Americans, and Hispanics.

Responding to the Crisis in College Opportunity (January 2004, #04-1). This policy statement, developed by education policy experts at Lansdowne, Virginia, proposes short-term emergency measures and long-term priorities for governors and legislators to consider for funding higher education during the current lean budget years. *Responding to the Crisis* suggests that in 2004, the highest priority for state higher education budgets should be to protect college access and affordability for students and families.

With Diploma in Hand: Hispanic High School Seniors Talk About Their Future, by John Immerwahr (June 2003, #03-2). This report by Public Agenda explores some of the primary obstacles that many Hispanic students face in seeking higher education—barriers that suggest opportunities for creative public policy to improve college attendance and completion rates among Hispanics.

Purposes, Policies, Performance: Higher Education and the Fulfillment of a State's Public Agenda (February 2003, #03-1). This essay is drawn from discussions of higher education leaders and policy officials at a roundtable convened in June 2002 at New Jersey City University on the relationship between public purposes, policies, and performance of American higher education.

Measuring Up 2002: The State-by-State Report Card for Higher Education (October 2002, #02-7). This report card, which updates the inaugural edition released in 2000, grades each state on its performance in five key areas of higher education. *Measuring Up 2002* also evaluates each state's progress in relation to its own results from 2000.

Technical Guide Documenting Methodology, Indicators, and Data Sources for Measuring Up 2002 (October 2002, #02-8).

State Policy and Community College–Baccalaureate Transfer, by Jane V. Wellman (July 2002, #02-6). This report recommends state policies to energize and improve higher education performance regarding transfers from community colleges to four-year institutions.

Fund for the Improvement of Postsecondary Education: The Early Years (June 2002, #02-5). The Fund for the Improvement of Postsecondary Education (FIPSE) attained remarkable success in funding innovative and enduring projects during its early years. This report, prepared by FIPSE's early program officers, describes how those results were achieved.

Losing Ground: A National Status Report on the Affordability of American Higher Education (May 2002, #02-3). This national status report documents the declining affordability of higher education for American families, and highlights public policies that support affordable higher education. It provides state-by-state summaries as well as national findings.

The Affordability of Higher Education: A Review of Recent Survey Research, by John Immerwahr (May 2002, #02-4). This review of recent surveys by Public Agenda confirms that Americans feel that rising college costs threaten to make higher education inaccessible for many people.

Coping with Recession: Public Policy, Economic Downturns, and Higher Education, by Patrick M. Callan (February 2002, #02-2). This report outlines the major policy considerations that states and institutions of higher education face during economic downturns.

Competition and Collaboration in California Higher Education, by Kathy Reeves Bracco and Patrick M. Callan (January 2002, #02-1). This report argues that the structure of California's state higher education system limits the system's capacity for collaboration.

Measuring Up 2000: The State-by-State Report Card for Higher Education (November 2000, #00-3). This first-of-its-kind report card grades each state on its performance in higher education. The report card also provides comprehensive profiles of each state and brief states-at-a-glance comparisons.

Beneath the Surface: A Statistical Analysis of the Major Variables Associated with State Grades in Measuring Up 2000, by Alisa F. Cunningham and Jane V. Wellman (November 2001, #01-4). Using statistical analysis, this report explores the "drivers" that predict overall performance in *Measuring Up 2000*.

Supplementary Analysis for Measuring Up 2000: An Exploratory Report, by Mario Martinez (November 2001, #01-3). This supplement explores the relationships within and among the performance categories in *Measuring Up 2000*.

Some Next Steps for States: A Follow-up to Measuring Up 2000, by Dennis Jones and Karen Paulson (June 2001, #01-2). This report suggests a range of actions that states can take to bridge the gap between state performance identified in *Measuring Up 2000* and the formulation of effective policy to improve performance in higher education.

A Review of Tests Performed on the Data in Measuring Up 2000, by Peter Ewell (June 2001, #01-1). This review describes the statistical testing performed on the data in *Measuring Up 2000* by the National Center for Higher Education Management Systems.

Recent State Policy Initiatives in Education: A Supplement to Measuring Up 2000, by Aims McGuinness, Jr. (December 2000, #00-6). This supplement highlights education initiatives that states have adopted since 1997–1998.

Assessing Student Learning Outcomes: A Supplement to Measuring Up 2000, by Peter Ewell and Paula Ries (December 2000, #00-5). This report is a national survey of state efforts to assess student learning outcomes in higher education.

Technical Guide Documenting Methodology, Indicators, and Data Sources for Measuring Up 2000 (November 2000, #00-4).

A State-by-State Report Card on Higher Education: Prospectus (March 2000, #00-1). This document summarizes the goals of the National Center's report-card project.

Great Expectations: How the Public and Parents—White, African-American, and Hispanic—View Higher Education, by John Immerwahr with Tony Foleno (May 2000, #00-2). This report by Public Agenda finds that Americans overwhelmingly

see higher education as essential for success. Survey results are also available for the following states:

Great Expectations: How Pennsylvanians View Higher Education (May 2000, #00-2b).

Great Expectations: How Floridians View Higher Education (August 2000, #00-2c).

Great Expectations: How Coloradans View Higher Education (August 2000, #00-2d).

Great Expectations: How Californians View Higher Education (August 2000, #00-2e).

Great Expectations: How New Yorkers View Higher Education (October 2000, #00-2f).

Great Expectations: How Illinois Residents View Higher Education (October 2000, #00-2h).

State Spending for Higher Education in the Next Decade: The Battle to Sustain Current Support, by Harold A. Hovey (July 1999, #99-3). This fiscal forecast of state and local spending patterns finds that the vast majority of states will face significant fiscal deficits over the next eight years, which will in turn lead to increased scrutiny of higher education in almost all states, and to curtailed spending for public higher education in many states.

South Dakota: Developing Policy-Driven Change in Higher Education, by Mario Martinez (June 1999, #99-2). This report describes the processes for change in higher education that government, business, and higher education leaders are creating and implementing in South Dakota.

Taking Responsibility: Leaders' Expectations of Higher Education, by John Immerwahr (January 1999, #99-1). This paper reports the views of those most involved with decision-making about higher education, based on focus groups and a survey conducted by Public Agenda.

The Challenges and Opportunities Facing Higher Education: An Agenda for Policy Research, by Dennis Jones, Peter Ewell, and Aims McGuinness (December 1998, #98-8). This report argues that due to substantial changes in the landscape of postsecondary education, new state-level policy frameworks must be developed and implemented.

Higher Education Governance: Balancing Institutional and Market Influences, by Richard C. Richardson, Jr., Kathy Reeves Bracco, Patrick M. Callan, and Joni E. Finney (November 1998, #98-7). This publication describes the structural relationships that affect institutional effectiveness in higher education, and argues that state policy should strive for a balance between institutional and market forces.

Federal Tuition Tax Credits and State Higher Education Policy: A Guide for State Policy Makers, by Kristin D. Conklin (December 1998, #98-6). This report examines the implications of the federal income tax provisions for students and their families, and makes recommendations for state higher education policy.

The Challenges Facing California Higher Education: A Memorandum to the Next Governor of California, by David W. Breneman (September 1998, #98-5). This

memorandum argues that California should develop a new Master Plan for Higher Education.

Tidal Wave II Revisited: A Review of Earlier Enrollment Projections for California Higher Education, by Gerald C. Hayward, David W. Breneman, and Leobardo F. Estrada (September 1998, #98-4). This review finds that earlier forecasts of a surge in higher education enrollments were accurate.

Organizing for Learning: The View from the Governor's Office, by James B. Hunt Jr., chair of the National Center for Public Policy and Higher Education, and former governor of North Carolina (June 1998, #98-3). This publication is an address to the American Association for Higher Education concerning opportunity in higher education.

The Price of Admission: The Growing Importance of Higher Education, by John Immerwahr (Spring 1998, #98-2). This report is a national survey of Americans' views on higher education, conducted and reported by Public Agenda.

Concept Paper: A National Center to Address Higher Education Policy, by Patrick M. Callan (March 1998, #98-1). This concept paper describes the purposes of the National Center for Public Policy and Higher Education.

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