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HOUSE BILL NO. 1897

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on January 19, 2015)

(Patron Prior to Substitute—Delegate Cox)

A BILL to amend the Code of Virginia by adding a section numbered 23-1.2, relating to intercollegiate athletics programs.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 23-1.2 as follows:

§ 23-1.2. *Intercollegiate athletics programs.*

A. For the purposes of this section:

"Athletics revenue" means the total revenue received by an institution that is generated by any of the institution's intercollegiate athletics programs. "Athletics revenue" includes contributions; game guarantees; income received from endowments and investments; income received from the sale of food, game programs, novelties, and other concessions at an intercollegiate athletics contest; income received from intercollegiate athletics conferences for participation in bowl games, tournaments, and other intercollegiate athletics contests; income received from the provision of parking at intercollegiate athletics contests or other events associated with intercollegiate athletics; rights and licensing; school funds; student fees; support from third parties guaranteed by the institution, such as income received from athletics camps, income received from television, and housing allowances; and all other income from any other source generated by the institution's intercollegiate athletics programs.

"Contributions" means any income received directly from individuals, corporations, associations, foundations, clubs, or other donors for the operation of an institution's intercollegiate athletics programs. "Contributions" includes amounts paid in excess of the face value of an admissions ticket to an intercollegiate athletics contest or any other event associated with intercollegiate athletics; cash; marketable securities; income generated from preferential seating arrangements at intercollegiate athletics contests or other events associated with intercollegiate athletics; and in-kind contributions such as cars provided to an intercollegiate athletics program by car dealers at no cost and apparel and sports drink products provided to intercollegiate athletes and coaches at no cost.

"Generated revenue" means all athletics revenue with the exception of the subsidy.

"Institution" means a four-year public institution of higher education in the Commonwealth.

"Intercollegiate athletics program" means any athletics program for a particular sport that is operated by an institution and governed by the National Collegiate Athletic Association (NCAA).

"Rights and licensing" includes income from radio and television broadcasts; Internet and e-commerce rights resulting from institution-negotiated contracts; revenue-sharing agreements with the NCAA or an intercollegiate athletics conference; licensing; the sale of advertisements, trademarks, or royalties; corporate sponsorships; and the value of in-kind contributions of products and services provided to an intercollegiate athletics program at no cost as part of such corporate sponsorship, such as equipment, apparel, isotonic sports drinks, other sports drink products, or water.

"School funds" means the direct and indirect financial support provided by the institution to any of its intercollegiate athletics programs. "School funds" includes state funds, tuition, tuition waivers, federal work awards for student athletes, administrative costs, facilities and grounds maintenance, security, risk management, utilities, and depreciation and debt services.

"Student fees" means any fees assessed by an institution against a student that are used to support any of the institution's intercollegiate athletics programs.

"Subsidy" means the sum of school funds and student fees.

"Subsidy percentage" means the subsidy divided by the athletics revenue, provided that revenues allocated to (i) support spirit groups associated with any intercollegiate athletics program, (ii) meet any indirect cost policy requirements, or (iii) debt service for previously approved intercollegiate athletics capital outlay projects may be excluded from the subsidy for the purposes of such calculation.

"Ticket sales" means the sale of the right to gain admission to an intercollegiate athletics contest or any other event associated with intercollegiate athletics. "Ticket sales" includes sums received from any associated shipping and handling charges and includes sales to the public, faculty, and students. "Ticket sales" does not include (i) amounts paid in excess of the face value of an admissions ticket to an intercollegiate athletics contest or any other event associated with intercollegiate athletics such as preferential seating arrangements or (ii) pass-through sales transactions such as sales for admission tickets to bowl games and conference and national tournaments.

B. No later than November 1, 2015, the Auditor of Public Accounts, in collaboration with the State Council of Higher Education for Virginia, the State Comptroller, the Department of Planning and

60 Budget, and each institution, shall develop and implement a standardized reporting format for each
61 institution to annually report its intercollegiate athletics revenues and expenses to the Auditor of Public
62 Accounts that shall include treatment of student fees and classification of specific intercollegiate
63 athletics programs and shall require expenses for spirit groups, indirect cost policy requirements, and
64 debt service for previously approved intercollegiate athletics capital outlay projects and other
65 intercollegiate athletics capital outlay projects to be reported on separate lines.

66 C. The subsidy percentage shall not exceed:

67 1. 20 percent for NCAA Division I-A institutions affiliated with the Atlantic Coast Conference, Big
68 Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern Conference;

69 2. 55 percent for NCAA Division I-A institutions affiliated with conferences other than the Atlantic
70 Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern
71 Conference.

72 3. 70 percent for NCAA Division I-AA institutions;

73 4. 78 percent for NCAA Division I-AAA institutions;

74 5. 81 percent for NCAA Division II institutions that operate intercollegiate football programs;

75 6. 85 percent for NCAA Division II institutions that do not operate intercollegiate football programs;

76 7. 89 percent for NCAA Division III institutions that operate intercollegiate football programs; and

77 8. 92 percent for NCAA Division III institutions that do not operate intercollegiate football
78 programs.

79 D. Any percentage increase in the subsidy at an institution that complies with subsection C shall be
80 matched by a like percentage increase in generated revenue.

81 E. When necessary, each institution shall submit to the Governor and the General Assembly for
82 approval a plan that reduces the subsidy in accordance with targets outlined in the plan over a
83 five-year period until the subsidy percentage complies with the requirements of subsection C.

84 F. The Auditor of Public Accounts shall annually review each institution's progress towards meeting
85 the requirements of each plan approved pursuant to subsection E as part of his annual audit pursuant
86 to § 30-133.

87 G. Failure to meet the progress requirements of each plan approved pursuant to subsection E for
88 one year, as determined by the Auditor of Public Accounts, shall result in such reduction of the
89 financial and administrative operations authority granted to the institution pursuant to the Restructured
90 Higher Education Financial and Administrative Operations Act (§ 23-38.88 et seq.) as the Governor or
91 General Assembly determines.

92 H. Failure to meet the progress requirements of each plan approved pursuant to subsection E for
93 two consecutive years, as determined by the Auditor of Public Accounts, shall result in revocation of all
94 financial and administrative operations authority granted to the institution pursuant to the Restructured
95 Higher Education Financial and Administrative Operations Act (§ 23-38.88 et seq.).

96 I. The board of visitors of any institution that seeks to add a major intercollegiate athletics program
97 such as football or basketball or change the division level of any of its existing intercollegiate athletics
98 programs shall first submit to the General Assembly for approval a plan and recommendations for
99 financing the addition or change. No such addition or change shall be implemented without the
100 approval of the General Assembly. The board of visitors of any institution that adds a non-major
101 intercollegiate athletics program shall report such decision within 15 days of the board's action.

102 2. That for the purposes of this act, Old Dominion University (University) shall be considered a
103 Division I-AA institution until July 1, 2020, and if the University continues to operate a Division
104 I-A intercollegiate football program on July 1, 2020, the University shall subsequently be
105 considered a Division I-A institution.