

15104095D

**HOUSE BILL NO. 1897**  
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by Delegate Cox  
on January 22, 2015)

(Patron Prior to Substitute—Delegate Cox)

A BILL to amend the Code of Virginia by adding a section numbered 23-1.2 and adding in Title 30 a chapter numbered 57, consisting of sections numbered 30-359 through 30-361, relating to intercollegiate athletics programs; Intercollegiate Athletics Review Commission.

**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 and adding in Title 30 a chapter numbered 57, consisting of sections numbered 30-359 through 30-361 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.

HOUSE SUBSTITUTE

HB1897H2

60 B. No later than November 1, 2015, the Auditor of Public Accounts, in collaboration with the State  
 61 Council of Higher Education for Virginia, the State Comptroller, the Department of Planning and  
 62 Budget, and each institution, shall develop and implement a standardized reporting format for each  
 63 institution to annually report its intercollegiate athletics revenues and expenses to the Auditor of Public  
 64 Accounts that shall include treatment of student fees and classification of specific intercollegiate  
 65 athletics programs and shall require expenses for spirit groups, indirect cost policy requirements, and  
 66 debt service for previously approved intercollegiate athletics capital outlay projects and other  
 67 intercollegiate athletics capital outlay projects to be reported on separate lines.

68 C. The subsidy percentage shall not exceed:

69 1. 20 percent for NCAA Division I-A institutions affiliated with the Atlantic Coast Conference, Big  
 70 Ten Conference, Big 12 Conference, Pac-12 Conference, or Southeastern Conference;

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

74 3. 70 percent for NCAA Division I-AA institutions;

75 4. 78 percent for NCAA Division I-AAA institutions;

76 5. 81 percent for NCAA Division II institutions that operate intercollegiate football programs;

77 6. 85 percent for NCAA Division II institutions that do not operate intercollegiate football programs;

78 7. 89 percent for NCAA Division III institutions that operate intercollegiate football programs; and

79 8. 92 percent for NCAA Division III institutions that do not operate intercollegiate football  
 80 programs.

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

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

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

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

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

98 I. The board of visitors of any institution that seeks to add a major intercollegiate athletics program  
 99 such as football or basketball or change the division level of any of its existing intercollegiate athletics  
 100 programs shall first submit to the Intercollegiate Athletics Review Commission (Commission) established  
 101 pursuant to Chapter 57 (§ 30-359 et seq.) of Title 30 a plan and recommendations for financing the  
 102 addition or change. The institution shall not in any way undertake any such addition or agree or  
 103 commit to any such change until it has received the findings and recommendations of the Commission  
 104 pursuant to § 30-360. Any such addition or change shall be subject to the approval of the General  
 105 Assembly expressed in the general appropriation act. The board of visitors of any institution that adds a  
 106 non-major intercollegiate athletics program shall report such decision within 15 days of the board's  
 107 action.

#### 108 CHAPTER 57.

#### 109 INTERCOLLEGIATE ATHLETICS REVIEW COMMISSION.

110 § 30-359. **Intercollegiate Athletics Review Commission; purpose; membership; terms; compensation**  
 111 **and expenses.**

112 A. As used in this chapter, "Commission" means the Intercollegiate Athletics Review Commission.

113 B. The Commission is established as an advisory commission in the legislative branch of state  
 114 government. The purpose of the Commission is to review the plan and financing recommendations of the  
 115 board of visitors of any public institution of higher education in the Commonwealth relating to the  
 116 institution adding a major intercollegiate athletics program such as football or basketball or changing  
 117 the division level of any of its existing intercollegiate athletics programs as set forth in subsection I of  
 118 § 23-1.2.

119 C. The Commission shall consist of twelve members as follows: the chair of the House Committee on  
 120 Appropriations, or his designee, and four members of the House Committee on Appropriations appointed  
 121 by the chair and the chair of the Senate Committee on Finance, or his designee, and two members of

122 the Senate Committee on Finance appointed by the chair. In addition, the Auditor of Public Accounts,  
123 the Secretary of Education, the Secretary of Finance, and the Director of the State Council of Higher  
124 Education for Virginia shall serve as ex officio, nonvoting members of the Commission.

125 D. Members shall serve terms coincident with their terms of office. Vacancies for unexpired terms  
126 shall be filled in the same manner as the original appointments.

127 E. The members of the Commission shall elect a chairman and vice-chairman annually. A majority of  
128 the voting members of the Commission shall constitute a quorum. The meetings of the Commission shall  
129 be held at the call of the chairman or whenever the majority of the members so request.

130 F. Members of the Commission shall receive such compensation and reimbursement of expenses as  
131 provided in the general appropriation act.

132 **§ 30-360. Review of plans to add a major intercollegiate athletics program or change the division**  
133 **level of an existing intercollegiate athletics program.**

134 A. Within two business days of receipt of a plan and financing recommendations for changing the  
135 division level of any existing intercollegiate athletics program pursuant to subsection I of § 23-1.2, the  
136 Commission shall review the plan and notify the board of visitors of the public institution of higher  
137 education of its findings and recommendations.

138 B. Within 45 business days of receipt of a plan and financing recommendations for adding a major  
139 intercollegiate athletics program such as football or basketball pursuant to subsection I of § 23-1.2, the  
140 Commission shall review the plan and notify the board of visitors of the public institution of higher  
141 education of its findings and recommendations.

142 C. Findings and recommendations of the Commission may relate to (i) the potential financial impact  
143 of the addition of a major intercollegiate athletics program or a change in the division level of an  
144 existing intercollegiate athletics program upon the Commonwealth and students, (ii) the potential impact  
145 on the subsidy percentage, as that term is defined in § 23-1.2, or (iii) the policy aspects of such an  
146 addition or change. Review by the Commission shall not be construed to constitute approval of any  
147 appropriations necessary to implement any portion of the plan.

148 D. Findings and recommendations of the Commission shall require an affirmative vote by three of  
149 the five members from the House Committee on Appropriations and two of the three members from the  
150 Senate Committee on Finance.

151 **§ 30-361. Staff; cooperation from other state agencies.**

152 Administrative staff support shall be provided by the staffs of the House Committee on  
153 Appropriations and the Senate Committee on Finance. Additional assistance as needed shall be provided  
154 by the State Council of Higher Education for Virginia.

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