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HOUSE BILL NO. 1959

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 25, 2015)

(Patron Prior to Substitute—Delegate Toscano)

A BILL to amend and reenact § 23-4.4 of the Code of Virginia, relating to reports required from public institutions of higher education regarding intellectual property and externally sponsored research.

Be it enacted by the General Assembly of Virginia:

1. That § 23-4.4 of the Code of Virginia is amended and reenacted as follows:

§ 23-4.4. Authorization to transfer interest; Governor's approval required under certain circumstances.

A. The boards of visitors, the State Board for Community Colleges, or their designees are authorized to assign any interest they possess in intellectual property or in materials in which the institution claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual property policies adopted pursuant to subsection A of § 23-4.3. However, the Governor's prior written approval shall be required for transfers of such property developed wholly or predominately through the use of state general funds, exclusive of capital assets, and either (i) such property was developed by an employee of the institution acting within the scope of his assigned duties, or (ii) such property is to be transferred to an entity other than the Innovation and Entrepreneurship Investment Authority, an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations, colleges and universities, or an entity whose purpose is to benefit the respective institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials shall remain the property of the respective institutions and may be used and developed in any manner permitted by law.

B. The president of each state-supported institution of higher education, including the chancellor of the Virginia Community College System, shall report annually to the Governor and the Joint Commission on Technology and Science regarding the assignment of any intellectual property interests by that institution, beginning with fiscal year 2016, include in its six-year plan adopted pursuant to § 23-38.87:17 the following for the most recently ended fiscal year: (i) the assignment during the year of any intellectual property interests to a person or nongovernmental entity by the institution, any foundation supporting the intellectual property research performed by the institution, or any entity affiliated with the institution; (ii) the value of externally sponsored research funds received during the year from a person or nongovernmental entity by the institution, any foundation supporting the intellectual property research performed by the institution, or any entity affiliated with the institution; and (iii) the number and types of patents awarded during the year to the institution, any foundation supporting the intellectual property research funded by the institution, or any entity affiliated with the institution that were developed in whole or part from externally sponsored research provided by a person or nongovernmental entity. The plan shall report separate aggregate data on (a) those persons or nongovernmental entities that have a principal place of business in Virginia as reflected in the assignment agreement or awarding documents and (b) those persons or nongovernmental entities that do not have a principal place of business in Virginia as reflected in the assignment agreement or awarding documents.