

# Virginia Tech Board of Visitors Meeting

## June 7, 2004

### Minutes

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AA: Emeritus Status (4)

BB: Faculty Leaves: Study-Research (1) Research Assignments (1)

CC: Resolution to Name a University Facility

DD: Resolution for the Ratification of the Personnel Changes Report

EE: Resolution for Ratification of Research and Development Disclosure Report

FF: Resolution for Approval of the 2004-2005 Promotion, Tenure, and Continued Appointment Program

GG: Resolution for Exception to the Virginia Conflict of Interest Act

HH: Resolution for Approval on Virginia Bioinformatics Institute Policy Advisory Board Re-Appointment

II: Resolution for Ratification of the NCAA Women's Basketball Tournament Bonuses

**MINUTES**  
June 7, 2004

The Board of Visitors of Virginia Polytechnic Institute and State University met on Monday, June 7, 2004, at 1:05 p.m. in the Torgersen Hall Board Room at Blacksburg, Virginia.

**Present**

Mr. Michael Anzilotti  
Mr. Mitchell O. Carr  
Mr. Ben J. Davenport, Jr.  
Mr. L. Bruce Holland  
Mr. John R. Lawson, II  
Mr. T. Rodman Layman  
Ms. Sandra Stiner Lowe  
Mr. Jacob A. Lutz, III  
Mr. Thomas L. Robertson  
Mr. John G. Rocovich, Jr.  
Mr. James W. Severt, Sr.  
Mr. Philip S. Thompson  
Dr. Diane L. Zahm, President, Faculty Senate  
Mr. Allan J. Bradley, Undergraduate Student Representative  
Ms. Myrna Callison, Graduate Student Representative

**Absent**

Dr. Hemant Kanakia  
Mr. A. Ronald Petera

Also present were the following: Dr. Charles Steger, Mr. Erv Blythe, Mr. Ralph Byers, Mr. Jerry Cain, Ms. Melinda Cep, Dr. Lanny Cross, Mr. Ron Daniel, Dr. Karen DePauw, Dr. Ben Dixon, Dr. John Dooley, Dr. Brad Fenwick, Dr. Elizabeth Flanagan, Dr. David Ford, Ms. Laura Fornash, Ms. Kay Heidbreder, Mr. Larry Hincker, Dr. Pat Hyer, Mr. Kurt Krause, Mr. Paul Lancaster, Mr. Marcus Ly, Dr. Mark McNamee, Mr. Stuart Mease, Dr. Anne Moore, Ms. Kim O'Rourke, Ms. Ellen Plummer, Mr. Minnis Ridenour, Ms. Kathy Sanders, Mr. Dwight Shelton, Mr. Ken Smith, Ms. Sandy Smith, Dr. Ray Smoot, Dr. Ed Spencer, Mr. Jeb Stewart, Dr. Tom Tillar, Ms. Teresa Wright, faculty, staff, students, and reporters.

Mr. Rocovich asked for a motion of approval of the minutes of the March 29, 2004, meeting as distributed. The motion was made by Mr. Layman and seconded by Mr. Lutz. The minutes were approved. Note: Ms. Lowe was not in the meeting during this vote.

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## **REPORT OF THE AD HOC COMMITTEE ON THE NARROW-TAILORING CONCEPT**

Mr. Rocovich called on Mr. Davenport for the final report of the Ad hoc Committee on the Narrow-Tailoring Concept. (Copy filed with the permanent minutes and marked Attachment A.)

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As part of the Ad hoc Committee on the Narrow-Tailoring Concept Committee report, the following resolution was moved by Mr. Davenport, seconded by Mr. Lutz, and approved unanimously. (Copy filed with the permanent minutes and marked Attachment B.)

### **Resolution to Accept the Recommendations by the Ad Hoc Committee on the Narrow-Tailoring Concept and Dissolving the Ad hoc Committee**

**That the resolution accepting the recommendations of the *Ad Hoc* Committee on the Narrow-Tailoring Concept and Dissolving the *Ad Hoc* Committee be approved.**

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## **REPORTS OF THE SPECIAL COMMITTEE ON RESEARCH**

Mr. Rocovich called on Mr. Thompson for a report of the Special Committee on Research. (Copy filed with the permanent minutes and marked Attachment C.)

Mr. Thompson introduced Dr. Brad Fenwick, new Vice President for Research.

Mr. Thompson is firmly convinced that we can achieve Top 30. While the hurdle seems significant at the moment, the direction is right and our strategies are good. From 10-15 categories that could be considered, four areas with very strong leadership positions relative to Top 30 have been selected for which funding will be sought. Mr. Thompson commended the team for their hard work and for the focus going forward.

President Steger responded to questions by Board members in regard to how many new faculty this means by referring to a review by Mr. Ridenour, Dr. McNamee and Mr. Shelton, indicating there will be approximately 80 new faculty on line this coming year.

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## REPORT OF THE ACADEMIC AFFAIRS COMMITTEE

Mr. Rocovich called on Mr. Davenport for a report of the Academic Affairs Committee. Minutes of May 20, 2004 and June 7, 2004 were both reported. (Copies filed with the permanent minutes and marked Attachment D.)

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As part of the Academic Affairs Committee report, the following resolution was moved by Mr. Davenport, seconded by Ms. Lowe, and approved unanimously.

### **Resolution for Approval to Establish a Master of Fine Arts (MFA) In Creative Writing Degree Program in the Virginia Tech College of Liberal Arts and Human Sciences**

**That the proposed MFA in Creative Writing be approved and forwarded to the State Council for Higher Education for their consideration.** (Copy filed with the permanent minutes and marked Attachment E.)

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As part of the Academic Affairs Committee report, the following resolution was moved by Mr. Davenport, seconded by Mr. Layman, and approved unanimously.

### **Resolution for Approval to Create Clinical Track Faculty Ranks**

**That the proposed clinical faculty ranks be approved effective July 1, 2004.** (Copy filed with the permanent minutes and marked Attachment F.)

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As part of the Academic Affairs Committee report, the following resolution was moved by Mr. Davenport, seconded by Mr. Severt, and approved unanimously.

### **Resolution for Approval of Changes To Promotion and Tenure Policies**

**That the proposed changes to the Faculty Handbook concerning promotion and tenure processes and criteria be approved.** (Copy filed with the permanent minutes and marked Attachment G.)

\* \* \* \* \*

As part of the Academic Affairs Committee report, the following resolution was moved by Mr. Davenport, seconded by Ms. Lowe, and approved unanimously.

### **Resolution for Approval of Amendments to the University Council Constitution**

**That the resolution to amend the University Council Constitution to accommodate organizational and administrative changes of the university and to adopt a different parliamentary authority and process for changing the parliamentary authority be approved.** (Copy filed with the permanent minutes and marked Attachment H.)

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### **REPORT OF THE BUILDINGS AND GROUNDS COMMITTEE**

Mr. Rocovich called on Mr. Carr for a report of the Buildings and Grounds Committee (Copy filed with the permanent minutes and marked Attachment I.)

\* \* \* \* \*

As part of the Buildings and Grounds Committee report, the following resolution was moved by Mr. Lawson, seconded by Mr. Severt, and approved with one abstention. [Note: Due to a possible conflict of interest, Mr. Carr recused himself from the discussion and vote regarding the McCormick Memorial Plot Feasibility Study and left the room, asking Mr. Lawson to present this item to the Board.]

### **Resolution for Approval of the McCormick Memorial Plot Feasibility Study**

**That the resolution for a feasibility study with the Frontier Culture Museum of Virginia, subject to any applicable Commonwealth of Virginia rules and regulations, and subject to the requirement that the Frontier Culture Museum of Virginia or the project's governing entity assume full financial responsibility for the project, be approved.** (Copy filed with the permanent minutes and marked Attachment J.)

[Mr. Carr returned to the meeting following the vote.]

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As part of the Buildings and Grounds Committee report, the following resolution was moved by Mr. Carr, seconded by Mr. Lawson, and approved unanimously:

**Resolution for Approval for Southside Electric Cooperative Easement**

**That the resolution authorizing the Vice President for Business Affairs to execute the easement to Southside Electric Cooperative be approved.** (Copy filed with the permanent minutes and marked Attachment K.)

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As part of the Buildings and Grounds Committee report, the following resolution was moved by Mr. Carr, seconded by Mr. Lawson, and approved unanimously:

**Resolution for Approval for the Atmos Energy Corporation Easement**

**That the resolution authorizing the Vice President for Business Affairs to execute the easement to the Atmos Energy Corporation be approved.** (Copy filed with the permanent minutes and marked Attachment L.)

\* \* \* \* \*

As part of the Buildings and Grounds Committee report, the following resolution was moved by Mr. Carr, seconded by Mr. Lawson, and approved unanimously:

**Resolution for Transfer of Federal Land – Fort Pickett**

**That the resolution authorizing the Vice President for Business Affairs to execute the necessary documents to effect the transfer of title of real property in accordance with applicable state procedures be approved.** (Copy filed with the permanent minutes and marked Attachment M.)

\* \* \* \* \*

There was discussion about the idea under consideration to raise the designation of the new alumni hotel and conference center from a three-star to a four-star rating. Mr. Robertson questioned whether doing so would result in higher operating costs. He noted that the VT Foundation owns the Hotel Roanoke, a four-star property, and the cost of competing with ourselves must be considered. He added that having the Donaldson Brown Center, which is a three-star facility with a lower cost structure, has been beneficial for faculty initiatives in which money was not available to pay a standard rate at a four-star facility.

Mr. Carr commented that the committee feels the new alumni hotel and conference center will be a centerpiece of the campus. This facility is much needed and should be first class. In regard to whether a three-, four-, or five-star designation is appropriate, he indicated that there does not appear to be a substantial corresponding increase in cost. The four-star designation is being considered because of the center's prominence on campus and the long-term benefits. This may be a marketing tool as well.

Mr. Krause responded that a study will be conducted to look at various measures, such as case goods, facilities, and service levels. Using the facility as a lab for students in the HTM department, who would then help to deliver services, is being considered.

Mr. Lawson noted that there was considerable discussion regarding graduate student housing. The committee decided to make a recommendation to the Board to place a very high priority on reviewing the Top 30 research institutions and their approach to graduate housing. It is important to look at focus groups and a study of our graduate students and faculty in regard to their needs and develop concepts for those future, and we feel immediate, needs in order to have a very good plan promptly in place as this effort is pursued. President Steger will assume this obligation and follow up with the Board.

Mr. Carr added that the Donaldson Brown Center is being planned to be renovated for graduate student use. A study is needed and a sensible plan developed for the overall concept for graduate housing. Mr. Lawson added that the purpose is to provide an important feature to attract the very best students. Across the country, facilities are increasingly a factor in the students' selection process.

Mr. Layman asked if the soccer field restrooms are going to be expanded. Mr. Carr responded that the bids came in quite high and the Athletic Department, responsible for raising the money, elected to delay it and bring forth a larger plan that would include approximately 1,000 more seats and do it all as one bid. Combining both projects should result in a more competitive bid.



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## REPORT OF THE FINANCE AND AUDIT COMMITTEE

Mr. Rocovich called on Mr. Lutz for the report of the Finance and Audit Committee  
(Copy filed with the permanent minutes and marked Attachment N.)

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As part of the Finance and Audit Committee report, the following resolution was moved  
by Mr. Lutz, seconded by Mr. Thompson, and approved unanimously:

### **Resolution for Approval of Year-to-Date Financial Performance Report (July 1, 2003-March 31, 2004)**

**That the report of income and expenditures for the University Division and  
the Cooperative Extension/Agriculture Experiment Station Division for the  
period July 1, 2003 through March 31, 2004, and the Capital Outlay report  
be accepted.** (Copy filed with the permanent minutes and marked Attachment  
O.)

\*\*\*\*\*

As part of the Finance and Audit Committee report, the following resolution was moved  
by Mr. Lutz, seconded by Mr. Thompson, and approved unanimously:

### **Resolution for Approval of the 2004-2005 Faculty Compensation Plan**

**That the proposed 2004-2005 Faculty Compensation Plan for Teaching and  
Research, Administrative and Professional, and Special Research Faculty  
be approved.** (Copy filed with the permanent minutes and marked Attachment  
P.)

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As part of the Finance and Audit Committee report, the following resolutions were  
moved by Mr. Lutz and seconded by Mr. Thompson, and approved unanimously.

### **Resolution for Approval of the 2004-2005 University Budget**

**University Budget – That the proposed 2004-2005 operating and capital  
budgets, as displayed on Schedules 1, 2, and 3, be approved**

(Copy filed with the permanent minutes and marked Attachment Q.)

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As part of the Finance and Audit Committee report, the following resolution was moved by Mr. Lutz and seconded by Mr. Thompson, and approved unanimously.

**Student Financial Assistance  
General Fund Appropriation**

**Student Financial Assistance – That the recommended allocations for student financial assistance for the fiscal year 2004-2005 be approved.**

(Copy filed with the permanent minutes and marked Attachment R.)

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As part of the Finance and Audit Committee report, the following resolution was moved by Mr. Lutz and seconded by Mr. Thompson, and approved unanimously.

**Hotel Roanoke Conference Center Commission Budget**

**That the budget for the Hotel Roanoke Conference Center Commission for 2004-2005 be approved.**

(Copy filed with the permanent minutes and marked Attachment S.)

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As part of the Finance and Audit Committee report, the following resolutions were moved by Mr. Lutz and seconded by Mr. Thompson, and approved unanimously:

**Resolution for Approval of the Proposed  
2004-2005 Auxiliary Systems Budgets**

**Dormitory and Dining Hall Systems Budget – That the recommended budget for the fiscal year July 1, 2004 to June 30, 2005 for the operation of the Dormitory and Dining Hall System and the report of the Annual Inspection be approved.**

**Electric Service Budget – That the recommended budget for the fiscal year July 1, 2004 to June 30, 2005 for the operation of the Electric Service System and the report of the Annual Inspection be approved.**

**University Services System Budget – That the recommended budget for the fiscal year July 1, 2004 to June 30, 2005 for the operation of the University Services System and the report of the Annual Inspection be approved.**

**Intercollegiate Athletics Systems Budget – That the recommended budget for the fiscal year July 1, 2004 to June 30, 2005 for the operation of the Intercollegiate Athletics System and the report of the Annual Inspection be approved.**

(Copy filed with the permanent minutes and marked Attachment T.)

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As part of the Finance and Audit Committee report, and with the endorsement of the Academic Affairs Committee, the following resolution was moved by Mr. Lutz and seconded by Mr. Thompson, and approved unanimously:

**Resolution for Approval of the Proposed 2004-2005 Pratt Fund Budgets**

**That the proposed 2004-2005 allocation and use of Pratt Funds be approved.**  
(Copy filed with the permanent minutes and marked Attachment U.)

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As part of the Finance and Audit Committee report, the following resolution was moved by Mr. Lutz and seconded by Mr. Thompson, and approved unanimously:

**Resolution for Approval of the Appointments to the Hotel Roanoke Conference Center Commission**

**That the resolution appointing the Executive Vice President and Chief Operating Officer of Virginia Tech, the Chief Operating Officer and Secretary-Treasurer of the Virginia Tech Foundation, and the Vice Provost for Outreach and International Affairs as the university's representatives on the Hotel Roanoke Conference Center Commission be approved.** (Copy filed with the permanent minutes and marked Attachment V.)

\* \* \* \* \*

As part of the Finance and Audit Committee report, the following resolution was moved by Mr. Lutz and seconded by Mr. Thompson, and approved unanimously:

**Resolution for Approval of Revisions to and Renewal of Related Corporation Affiliation Agreements**

**That the affiliation agreements for the Virginia Tech Alumni Association, Inc., Virginia Tech Athletic Fund, Inc., Virginia Tech Corps of Cadets Alumni, Inc., Virginia Tech Foundation, Inc., Virginia Tech Intellectual Properties, Inc., and Virginia Tech Services, Inc. be revised and extended for a four-year period, terminating on June 30, 2008. (Copy filed with the permanent minutes and marked Attachment W.)**

Mr. Carr asked if this achieves a major need. Mr. Lutz responded that there are affiliation agreements between each of these units and the university that defines the relationship, allocation of funds, liability, responsibility and so forth. The terms of existing agreements end June 30, 2004. It is necessary to put new agreements into place. The old agreements were sent to General Counsel to be reviewed and some minor amendments were made. The form of the new agreement is substantially the same as the prior agreement.

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**REPORT OF THE STUDENT AFFAIRS COMMITTEE**

Mr. Rocovich called on Mr. Layman for the report of the Student Affairs Committee (Copy filed with the permanent minutes and marked Attachment X.)

Mr. Layman requested that a copy of the re-seating plan for Cassell Coliseum for men's and women's basketball games be distributed to all Board members.

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## **PRESIDENT'S REPORT ITEMS FOR BOARD APPROVAL AND INFORMATION**

Mr. Rocovich called on President Steger for his report.

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As part of the President's report, the following resolution was moved by Mr. Thompson and seconded by Mr. Lutz, and approved unanimously:

### **Resolution for Approval of Chartered University Initiative Project Plan**

**That the University Administration under the direction of the President be authorized to establish work teams to establish appropriate autonomy principles and statements, to negotiate with state officials regarding the specifics of autonomy agreements as a part of the Chartered University initiative, and to bring specific autonomy proposals to the Board of Visitors for consideration. (Copy filed with the permanent minutes and marked Attachment Y.)**

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As part of the President's report, the following resolution was presented by President Steger, moved by Rector Rocovich, seconded by Mr. Lutz, and approved unanimously:

### **Resolution Honoring Minnis Ridenour for Thirty Years of Exceptional Service to Virginia Tech**

**That the resolution honoring Minnis E. Ridenour be approved. (Copy filed with the permanent minutes and marked Attachment Z.)**

A signed version was presented to Mr. Ridenour, who was recognized by all in attendance with a standing ovation.

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Mr. Layman commented that at the end of Mr. Don Huffman's term Mr. Huffman requested that permanent facilities be established for the Honor Court. President Steger responded that the facilities have been significantly upgraded for the Honor System in response to Mr. Huffman's request. Mr. Layman commented that Mr. Huffman and Mr. Clisham were heavily involved as officers.

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### **Motion to begin Closed Session**

Mr. Lutz moved that the Board convene in a closed meeting, pursuant to § 2.2-3711, Code of Virginia, as amended, for the purposes of discussing:

1. Appointment of faculty to Emeritus status, the consideration of individual salaries of faculty, consideration of Endowed Professors, approval of the conflict of interest report, review of departments where specific individuals' performance will be discussed, and consideration of personnel changes including appointments, resignations, and salary adjustments of specific employees.
2. The status of current litigation and briefing on actual or probable litigation.
3. Consideration of special awards.

all pursuant to the following subparts of 2.2-3711 (A), Code of Virginia, as amended, .1, .7, and .10.

The motion was seconded by Mr. Thompson and passed unanimously.

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### **Motion to Return to Open Session**

Following the Closed Session, members of the press, students, and the public were invited to return to the meeting. Mr. Rocovich called the meeting to order and asked Mr. Lutz to make the motion to return to open session.

Mr. Lutz made the following motion:

WHEREAS, the Board of Visitors of Virginia Polytechnic Institute and State University has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the Board of Visitors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board of Visitors of Virginia Polytechnic Institute and State University hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Visitors.

The motion was seconded by Mr. Thompson and passed unanimously.

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On recommendation of Mr. Rocovich, and after motion by Mr. Davenport and second by Mr. Thompson, unanimous approval was given to the resolutions for approval of **Emeritus Status** (4), as considered in Closed Session. (Copies filed with the permanent minutes and marked Attachment AA.)

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On recommendation of Mr. Rocovich, and after motion by Mr. Davenport and second by Mr. Lutz, unanimous approval was given to the resolutions for approval of **Faculty Leaves: Study-Research** (1) **Research Assignments** (1) as considered in Closed Session. (Copies filed with the permanent minutes and marked Attachment BB.)

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On recommendation of Mr. Rocovich, and after motion by Mr. Thompson and second by Mr. Layman, unanimous approval was given to the resolutions for approval to **Name a University Facility**, as considered in Closed Session. (Copy filed with the permanent minutes and marked Attachment CC.)

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On recommendation of Mr. Rocovich, and after motion by Mr. Lutz and second by Mr. Layman, unanimous approval was given to the **Resolution for the Ratification of the Personnel Changes Report**, as considered in Closed Session. (Copy filed with the permanent minutes and marked Attachment DD.) This item has been reviewed by the Academic Affairs Committee and the Finance and Audit Committee.

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On recommendation of Mr. Rocovich, and after motion by Mr. Lutz and second by Ms. Lowe, approval was given to the **Resolution for Ratification of Research and Development Disclosure Report** as considered in Closed Session. (Copy filed with the permanent minutes and marked Attachment EE.) This item has been reviewed by the Academic Affairs Committee and the Finance and Audit Committee.

\* \* \* \* \*

On recommendation of Mr. Rocovich, and after motion by Mr. Lutz and second by Mr. Layman, approval was given to the **Resolution for Approval of the 2004-2005 Promotion, Tenure, and Continued Appointment Program**, as considered in Closed Session. (Copy filed with the permanent minutes and marked Attachment FF.) This item has been reviewed by the Academic Affairs Committee and the Finance and Audit Committee.



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On recommendation of Mr. Rocovich, and after motion by Mr. Lutz and second by Mr. Thompson, approval was given to the **Resolution for Exception to the Virginia Conflict of Interest Act**, as considered in Closed Session. (Copy filed with the permanent minutes and marked Attachment GG.) This item has been reviewed by the Academic Affairs Committee and the Finance and Audit Committee.

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On recommendation of Mr. Rocovich, and after motion by Mr. Lutz and second by Mr. Thompson, approval was given to the **Resolution for Approval on Virginia Bioinformatics Institute Policy Advisory Board Re-Appointment**, as considered in Closed Session. (Copy filed with the permanent minutes and marked Attachment HH.)

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On recommendation of Mr. Rocovich, and after motion by Mr. Lutz and second by Mr. Thompson, approval was given to the **Resolution for Ratification of the NCAA Women's Basketball Tournament Bonuses**, as considered in Closed Session. (Copy filed with the permanent minutes and marked Attachment II.)

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### REPORT OF THE NOMINATING COMMITTEE

At the March 2004 meeting, Mr. Rocovich appointed the nominating committee, consisting of Mr. Carr as chair and Mr. Severt and Mr. Petera as members. Due to illness, Mr. Petera was absent from the June 7 meeting. Mr. Rocovich called on Mr. Carr, Chair of the Nominating Committee, who reported that the current Rector, Vice Rector and Secretary had all agreed to continue in their roles if the Board wanted them to do so. Mr. Carr nominated these three individuals to continue for another year, in addition to the Executive Committee that will consist of Chairs of the Academic Affairs Committee, Buildings and Grounds Committee, Finance and Audit Committee, and Student Affairs Committee, as has been done in the past.

Mr. Severt then noted that he had served on many nominating committees of various boards and commissions and felt a need to do his homework since the recommendation of this committee will have ongoing influence on the future leadership of this Board. In this case the homework included a review of the By-laws, contact with and information from some long-term Board members, and a survey of all Board members. Based on this research, Mr. Severt presented an alternate slate: for Rector, Ben Davenport; for Vice Rector, Jake Lutz; and for Secretary, Kim O'Rourke.

Mr. Rocovich called for a vote on the new leadership. Ms. O'Rourke was elected as Secretary, Mr. Davenport was elected as Rector, and Mr. Lutz was elected as Vice Rector. Mr. Rocovich congratulated the new leadership and said he is sure they will do a good job.

Based upon Mr. Severt's statement that during the survey he learned many of the Board members are interested in studying the possibility of term limits, Mr. Rocovich then appointed an ad hoc committee to study the possibility of amending the By-laws to include term limits and report back at the next meeting. This committee will consist of: James Severt as chair; Mike Anzilotti; and Sandra Lowe.

Mr. Rocovich thanked the Board for the opportunity to serve as Rector for the last two years. He has served for the university for 40 years and looks forward to his final year on the Board next year.

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**AUDIT REPORT  
CLOSED SESSION ITEM**

**Heard Audit Report. No Board Action Required.**

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**LITIGATION REPORT  
CLOSED SESSION ITEM**

**Heard Litigation Report. No Board Action Required.**

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Dates for the next meeting are August 22-23, 2004.

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The meeting adjourned at 3:00 p.m.

*Handwritten initials: A P M D*

**Executive Summary**  
of the Report of the *Ad Hoc* Committee on the Narrow-Tailoring Concept  
June 2004

**Background:** In April 2003, the Virginia Tech Board of Visitors appointed an *ad hoc* committee to review recommendations regarding steps to bring race and ethnicity conscious activities of the university into compliance with state and federal laws and the rulings of the U. S. Supreme Court. Over the past year, the university has conducted a comprehensive internal review of all activities that considered race or ethnicity in any way and has made recommendations to bring activities into compliance as needed.

**Major Issues:** Following the review of all programs, adjustments were made to some programs and many were deemed to be fully compliant. Five major areas were identified for further analysis in the internal review. These were undergraduate admissions, private scholarships and financial aid, the Multicultural Academic Opportunities Program, the McNair Scholars Program and other selected federally-sponsored activities. The administration presented recommendations for modifying or continuing the present practices in these areas to the Commonwealth of Virginia's Office of the Attorney General for their advice and to the *ad hoc* committee for their approval.

**Recommendations:** Incorporating feedback from the Office of the Attorney General and the *ad hoc* committee, the university has developed an implementation plan to address each of the five major areas and the broader network of activities that may be targeted to particular students.

- The university will seek to increase the number, quality, and diversity of applicants for admission and will seek to increase the percentage of minority applicants who accept our offer of admission. The recruiting capacity of the undergraduate admissions office will be enhanced and the university will make additional investments in student support programs, pipeline programs, and the Presidential Campus Enrichment Grants scholarship program.
- The university will continue to secure the educational benefits of a diverse student body through its long-standing practice of the narrowly-tailored consideration of race and ethnicity in undergraduate admissions. This practice was confirmed by the 2003 Supreme Court rulings on admissions and a review by the Virginia Office of the Attorney General.
- A joint working group of board members, university administrators, and undergraduate student representatives will annually review the progress of the university in achieving its diversity goals through a comprehensive annual

review of all aspects of undergraduate admissions. This working group may make recommendations for incremental changes in admissions practice, policy, or funding to best achieve the goals of the university.

- The development office is working with donors to modify the small percentage of private scholarships that have restricted awards or expressed a preference on the basis of race or ethnicity. These scholarships will now incorporate in the application procedures a personal statement on contribution to diversity or other non-racial, non-ethnic criteria that meet the intent of the donor.
- The Multicultural Academic Opportunities Program has been modified to no longer include race or ethnicity as a selection criterion and will rely on low-income, first-generation status and an essay as part of the selection criteria.
- The university will continue to comply with the provisions of federally-sponsored programs that stipulate the involvement of underrepresented groups as a condition for participation. This includes the McNair Scholars Program. The university will not apply restrictions or conditions beyond those required by the sponsoring agency.
- Other activities of the university will be open to students regardless of race or ethnicity in accordance with the university's "Standards for Inclusive Policies, Programs, and Practices." Student support programs and activities may be promoted to various groups of students who may benefit most from the specific program. However, these types of activities are considered components of an overall system of academic support designed to meet the specific needs of all students. A periodic review of existing programs and the needs of students will identify areas of unmet need.

The *ad hoc* committee approves these recommendations and supports the university's efforts to become a leader in innovative approaches for creating a more diverse campus and obtaining the valuable benefits that students gain from a diverse learning environment.



**VirginiaTech**  
VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

**Report of the *Ad Hoc* Committee on the Narrow-Tailoring Concept**

**Virginia Tech Board of Visitors**

**June 2004**

## Executive Summary

**Background:** In April 2003, the Virginia Tech Board of Visitors appointed an *ad hoc* committee to review recommendations regarding steps to bring race and ethnicity conscious activities of the university into compliance with state and federal laws and the rulings of the U. S. Supreme Court. Over the past year, the university has conducted a comprehensive internal review of all activities that considered race or ethnicity in any way and has made recommendations to bring activities into compliance as needed.

**Major Issues:** Following the review of all programs, adjustments were made to some programs and many were deemed to be fully compliant. Five major areas were identified for further analysis in the internal review. These were undergraduate admissions, private scholarships and financial aid, the Multicultural Academic Opportunities Program, the McNair Scholars Program and other selected federally sponsored activities. The administration presented recommendations for modifying or continuing the present practices in these areas to the Office of the Attorney General for their advice and to the *ad hoc* committee for their approval.

**Recommendations:** Incorporating feedback from the Office of the Attorney General and the *ad hoc* committee, the university has developed an implementation plan to address each of the five major areas and the broader network of activities that may be targeted to particular students.

- The university will seek to increase the number, quality, and diversity of applicants for admission and will seek to increase the percentage of minority applicants who accept our offer of admission. The recruiting capacity of the undergraduate admissions office will be enhanced and the university will make additional investments in student support programs, pipeline programs, and the Presidential Campus Enrichment Grants scholarship program.
- The university will continue to secure the educational benefits of a diverse student body through its long-standing practice of the narrowly-tailored consideration of race and ethnicity in undergraduate admissions. This practice was confirmed by the 2003 Supreme Court rulings on admissions and a review by the Virginia Office of the Attorney General.
- A joint working group of board members, university administrators, and undergraduate student representatives will annually review the progress of the university in achieving its diversity goals through a comprehensive annual review of all aspects of undergraduate admissions. This working group may

make recommendations for incremental changes in admissions practice, policy, or funding to best achieve the goals of the university.

- The development office is working with donors to modify the small percentage of private scholarships that have restricted awards or expressed a preference on the basis of race or ethnicity. These scholarships will now incorporate in the application procedures a personal statement on contribution to diversity or other non-racial, non-ethnic criteria that meet the intent of the donor.
- The Multicultural Academic Opportunities Program has been modified to no longer include race or ethnicity as a selection criterion and will rely on low-income, first-generation status and an essay as part of the selection criteria.
- The university will continue to comply with the provisions of federally sponsored programs that stipulate the involvement of underrepresented groups as a condition for participation. This includes the McNair Scholars Program. The university will not apply restrictions or conditions beyond those required by the sponsoring agency.
- Other activities of the university will be open to students regardless of race or ethnicity in accordance with the university's "Standards for Inclusive Policies, Programs, and Practices" established by the Commission on Equal Opportunity and Diversity. Student support programs and activities may be promoted to various groups of students who may benefit most from the specific program. However, these types of activities are considered components of an overall system of academic support designed to meet the specific needs of all students. A periodic review of existing programs and the needs of students will identify areas of unmet need.

The *ad hoc* committee approves these recommendations and supports the university's efforts to become a leader in innovative approaches for creating a more diverse campus and obtaining the valuable benefits that students gain from a diverse learning environment.

## Report of the *Ad Hoc* Committee on the Narrow-Tailoring Concept

### Historical Context

The Commonwealth of Virginia is one of several states that operated a racially segregated system of higher education during most of the 20<sup>th</sup> century. In 1969, the U.S. Department of Education notified Virginia that its segregated system of higher education violated federal law and must end. In response to this charge, the commonwealth prepared a multi-step plan known as The Virginia Plan to dismantle the segregated system and to ensure equal access to education for all citizens of Virginia. The state documented the completion of the various requirements of this plan over the next thirty years and in November of 2001 came to an agreement with the U.S. Department of Education – Office of Civil Rights regarding the completion of the plan.

### Legal Context

This agreement, referred to as the 2001 Accord (Appendix A), changed the legal basis on which Virginia institutions of higher education could practice affirmative action in higher education admissions and other student programs. Any use of affirmative action must be practiced within very specific legal guidelines because any attempt by states to classify individuals on the basis of race or ethnicity is inherently suspect under the 14<sup>th</sup> Amendment to the U.S. Constitution. Policies that treat individuals differently on the basis of race or ethnicity are therefore subject to strict scrutiny and may only be practiced when they meet a compelling interest of the state. Prior to the completion of the 2001 Accord, higher education institutions in Virginia could consider race and ethnicity in admissions and other programs in order to address the compelling interest of remediating the lingering effects of past discriminatory practices. With the completion of the Accord, remediation is no longer a legal basis for affirmative action in Virginia higher education.

The Virginia Office of the Attorney General notified universities of the legal impact of the Accord on admissions and other activities in an April 22, 2002 memorandum (Appendix B). This memorandum stated that the legal rationale of remediation was no longer valid in Virginia and could not be used as a justification for considering race or ethnicity in admissions or any other programs that conferred a benefit. However, an alternative basis for compelling interest—the educational benefit to students of a diverse campus—remained valid. This alternative basis for affirmative action was first outlined by Justice Lewis Powell in *Regents of the University of California v. Bakke* (1978) and was



confirmed in July of 2003 in *Grutter v. Bolinger*. Powell held that the educational experiences of university students can be enhanced by the presence of individuals with differing backgrounds, abilities, and experiences and that universities could claim under their broad first amendment rights that there is a compelling interest in creating this type of academic environment. This compelling interest is described in *Grutter* as “the educational benefits that flow from a diverse student body.”

Even so, where a compelling interest is met, programs designed to achieve the benefits of a diverse educational environment through the selective use of race or ethnicity must be “narrowly-tailored.” To meet the conditions of narrow-tailoring, the activity must: consider the feasibility of alternatives that are race and ethnicity neutral and may be used to achieve the same ends; consider the whole individual in making decisions for selections; have a limited impact on third parties; and have a limited duration.

#### Creation of *Ad Hoc* Committee on Narrow-Tailoring

The April 22, 2002 memorandum from the Virginia Office of the Attorney General recommended that institution presidents and their boards assess existing programs to determine if narrow-tailoring requirements were being met. On December 15, 2002, the Virginia Tech Board of Visitors passed a resolution affirming that recruitment, admissions, and student support programs at the university should comply with federal and state laws, as well as the advice of the Office of the Attorney General regarding those activities (Appendix C). Following this resolution, the university initiated a preliminary review of activities in January of 2003. University Counsel was the primary group responsible for this review. While awaiting formal feedback from the Office of the Attorney General, the Board of Visitors passed a second resolution effectively eliminating all consideration of race or ethnicity in university activities. This second resolution was rescinded at a special meeting of the Board on April 6, 2003. At that meeting, the Board reconfirmed the university’s commitment to increasing the diversity of the student population and created an *ad hoc* committee to review recommendations from the university administration on achieving diversity and on the application of narrow-tailoring requirements in existing university programs (Appendix D). The full charge of the *ad hoc* committee was as follows:

*FURTHER BE IT RESOLVED that an ad hoc committee of the Board will be appointed and charged with reviewing the recommendations developed by the university administration regarding the narrow-tailoring legal requirement applicable to race-conscious programs and acceptable steps for achieving diversity in accordance with federal and state laws and rulings of the United*

*States Supreme Court, and for presenting these recommendations to the full Board at a future meeting.*

### Composition of the Ad Hoc Committee

Rector John Rocovich appointed Vice-Rector Ben Davenport to chair the *ad hoc* committee and appointed the following board members and student and faculty representatives to serve on the committee: Mitchell Carr, William Latham, Jacob Lutz III, Thomas Robertson, Phillip Thompson, Brian Montgomery, Christian Rieser, and Ed Sewell. On July 1, 2003 the composition of the committee changed due to changes in the student and faculty representation. Student representatives Brian Montgomery and Christian Reiser were replaced by Alan Bradley and Myrna Callison, respectively. Faculty representative Edd Sewell was replaced by Diane Zahm.

University President Charles Steger asked Provost Mark McNamee to work closely with the *ad hoc* committee and to oversee a complete internal review of programs in coordination with General Counsel Jerry Cain. Provost McNamee asked staff member Ken Smith to structure and manage the internal review and to staff the *ad hoc* committee.

### Comprehensive Review of Activities

While a preliminary internal review had been started in January of 2003, a more complete review of all departments and activities was needed to make valid recommendations regarding the applicability of narrow-tailoring on a program-by-program basis. In the interest of resolving possible impacts on existing programs as quickly as possible, the university administration began this comprehensive review immediately and on April 9, 2003, the provost issued a memorandum to all university administrators. The provost asked all departments to review the information submitted in the initial January review and to submit a more complete and updated description of any activities that considered race or ethnicity in any way. This request for information included the questionnaire designed by the Office of the Attorney General intended to identify the legal issues surrounding the use of race or ethnicity in the activity (see last pages of Appendix B). Due to the high level of interest in the area of admissions, the provost requested that the three admissions processes of the university (undergraduate, graduate, and veterinary medicine) submit complete descriptions of their selection processes. In addition, units that had not previously submitted information in the January review were asked to officially document that there were no activities in their area that considered race or ethnicity order to ensure a complete response from all areas. Finally, the memorandum asked that departments avoid the use of race

or ethnicity conscious factors in any programs until the university received further legal guidance.

Departments submitted their official responses to the general counsel's office on April 16, 2003. The initial review of the information found that of the 408 departments in the administrative structure of the university, 364 departments reported no race-conscious activities. Forty-four departments reported one or more activities with a race conscious aspect for a total of 71 separate activities.

Committee staff compiled and summarized the submitted information to identify the salient programs and issues. In reviewing programs, staff looked at the detailed description of the program with a particular focus on the use of race or ethnicity as a selection criterion for participation in the program or activity. Where programs were demonstrably open to all eligible participants regardless of race or ethnicity or relied on non-racial factors such as low-income, first-generation, or geographic information to identify and select participants, there was no need for modification. Activities that were open only to racial or ethnic minorities or had selection processes that considered racial or ethnic status were identified for further review or modification. Most programs did not use race or ethnicity as a selection criterion for participation. In many instances, departments had already recognized the need to modify their programs and had implemented the necessary changes to remove the use of race or ethnicity in selections.

#### Findings of the Comprehensive Internal Review

The internal review of the 71 identified activities sorted them into three broad categories. Most of the identified activities (50) appeared to be acceptable and did not require further review or modification. Sixteen activities that initially identified issues in their selections had been modified to no longer consider race or ethnicity or discontinued altogether. The administration identified five major areas for further review and advice. These five areas were undergraduate admissions, privately funded financial aid programs, the Minority Academic Opportunities Program (MAOP), selected federally sponsored activities, and the McNair Scholars Program.

The university forwarded a summary table of all identified programs and activities, along with a summary description of each activity's treatment of race and ethnicity in selections to the Virginia Office of the Attorney General on May 27, 2003. The university also provided copies of the detailed responses from each department and a cross-referenced log of those responses documenting that all areas of the university had responded to the request for information.

### First Meeting of the Ad Hoc Committee

On June 1, 2003, the *ad hoc* committee convened for its first meeting and received a report from Provost McNamee on the status of the internal review. The provost shared preliminary information on the findings of the internal review and the plan for addressing the five major areas. Dr. David Ford, Vice Provost for Academic Affairs, provided an overview of the undergraduate admissions process at Virginia Tech and both Dr. Ford and Ms. Karen Torgersen, Director of Undergraduate Admissions, responded to questions from members of the committee.

The committee also invited external consultants to provide different perspectives on the importance of diversity in higher education. Dr. David Colburn, Provost and Senior Vice President of the University of Florida, related the experiences of that university in moving to a totally race-neutral admissions policy. Mr. M. Farook Sait, Special Assistant in the Office of Civil Rights at the U.S. Department of Agriculture, provided a historical context for the importance of continued affirmative action efforts in college admissions. Mr. Charles (Chip) Blankenship, a Virginia Tech alumnus and engineer with the General Electric Corporation, provided an overview of the *amicus curiae* brief submitted in the *Michigan* case by Fortune 500 industries, including General Electric. Mr. Gerald Parks, Manager of Fair Employment Practices at General Electric, provided additional information regarding the corporate level equal opportunity programs at that company.

Chairman Davenport closed the first meeting by charging the administration to move quickly to develop recommendations for both narrowly-tailored and race-neutral practices in the five major areas.

### Detailed Review and Recommendations in the Five Major Areas

The provost asked each senior manager overseeing the five major areas of review to form a working group to consider the activity in detail and to determine the feasibility of using non-racial and non-ethnic criteria for selections or whether the program could be modified to meet narrow-tailoring requirements or otherwise brought into compliance with state and federal laws and the advice of the Office of the Attorney General. During the period in which each working group was preparing its recommendations, the U. S. Supreme Court announced its rulings in the Michigan university admissions cases. To ensure that these latest rulings were fully incorporated into the recommendations, Mr. Mel Gillespie, director of the university Office for Equal Opportunity, and Mr. Fain Rutherford, an attorney in that office, provided legal assistance to each of the working groups.

Groups completed their review and recommendations by mid-July. The provost mailed a written summary of the recommendations in the five major areas to the *ad hoc* subcommittee on July 18, 2003. On the same day, the detailed recommendations were sent to State Solicitor General William Hurd for review and advice. The university requested preliminary feedback prior to the next planned meeting of the *ad hoc* committee in late August.

### Second Meeting of the Ad Hoc Committee

The *ad hoc* committee reconvened for its second meeting on August 24, 2003 and received an update from Provost McNamee on the status of the review and the recommendations that had been forwarded to the attorney general's office. The provost shared two broad principles that guided the university in its on-going review and modification of activities. The first principle was that the activities and benefits of the university should be open to all, regardless of race or ethnicity, and there should be no activities where a student feels they need not apply to participate because of their race or ethnicity. Second, while a diverse student body is important to the educational environment at Virginia Tech, the narrowly-tailored use of race or ethnicity in selections should be limited to those activities most critical to creating a diverse campus environment. These principles are parallel to and were ultimately subsumed into the Standards for Inclusive Policies, Programs and Practices approved by the Commission for Equal Opportunity and Diversity in April of 2004 (Appendix E).

Committee discussion at this August meeting focused on the need to increase the number and quality of diverse applicants to Virginia Tech, as well as the percentage of qualified minority candidates who accept our offer of admission. Chairman Davenport stressed the importance of cooperative actions with K-12 education providers to improve the "pipeline" of potential applicants to the university. President Steger highlighted the university's on-going cooperation with the Virginia Office of the Attorney General. The committee also planned an open forum for all Virginia Tech faculty, staff, and students to learn about and ask questions regarding the internal review and the overall issue of diversity at the university.

### Additional Guidance and Feedback from the Office of the Attorney General

On August 27, 2003 the Virginia Office of the Attorney General issued a follow-up memorandum to their April 22, 2002 guidance incorporating the findings of the U.S. Supreme Court in the July 2003 *Michigan* rulings (Appendix F). The memorandum clarified the conditions necessary to meet narrow-tailoring

requirements in admissions programs and recommended that universities intending to continue the use of the narrowly-tailored consideration of race or ethnicity should mirror the admissions processes approved by the U.S. Supreme Court for the Michigan law school. The approved process included a whole file review of individuals without the assignment of points or weights to a person's ethnic background and used a written statement to provide all applicants an opportunity to identify how they, as an individual, might contribute to the diversity of the educational environment. The memorandum did not expand the application of the high court's rulings to areas other than admissions and specifically recommended against the continued consideration of race and ethnicity in the awarding of student financial aid.

On October 17, 2003, Provost McNamee was invited to Richmond to meet with State Solicitor General William Hurd and Deputy State Solicitor Maureen Matsen to discuss Virginia Tech's internal review and to receive advice on the five major areas of review. A cordial meeting of nearly two hours resolved the outstanding issues in the five major areas of review.

In the area of undergraduate admissions, the university's existing process of an individualized review, where race or ethnicity is one factor out of many considered in determining an applicant's contribution to campus diversity, was found to be in compliance with the recent Supreme Court rulings. Mr. Hurd suggested that the university consider adding an additional written statement to the undergraduate application to allow all applicants to provide information on how they, as an individual, might contribute to campus diversity. In addition to these findings, the university stated that it would seek to increase the number and quality of diverse applicants and to increase the percentage of minority applicants who accept our offer of admission.

In the area of private scholarships and financial aid, the university recognized the need to modify privately-funded scholarships and fellowships that were restricted to or expressed a preference for certain races or ethnic groups. The university agreed to work with donors to modify the donor agreements behind these scholarships and fellowships in a manner that targets the donation toward supporting diversity or the donor's specific area of interest but in a manner that complied with state laws, federal laws, and the advice of the attorney general's office.

The Multicultural Academic Opportunities Program (formerly titled the Minority Academic Opportunities Program) was a key point of discussion. While this activity was originally designed with a remediation focus, over the past several years it had become a key component of the university's efforts to diversify its student body and to ensure the success of students. Since MAOP's inception, the number of colleges participating in the activity has increased, the U.S.

Department of Agriculture has provided grant funds to augment the activity, and the selection criteria have expanded to include financial need, first-generation, and geographic considerations.

Given the importance of this program to the university's overall diversity efforts, the administration recommended the continued, narrowly-tailored consideration of race and ethnicity in selections. Mr. Hurd advised against this approach because the narrowly-tailored use of race and ethnicity in non-admissions programs had not been clarified in the high court rulings.

In the area of federally sponsored programs, including the McNair Scholars program and federally-funded aspects of the MAOP program, the university reached agreement with Mr. Hurd that it could continue to comply with federal grant requirements while federal sponsoring agencies modify their programs to comply with the recent legal changes.

#### Third Meeting of the Ad Hoc Subcommittee

The *ad hoc* committee reconvened on November 1, 2003. Chairman Davenport opened the meeting citing the good progress that had been made and the positive feedback received from the Office of the Attorney General. The provost informed the committee of the advice received from the Office of the Attorney General in the five major areas and the plans for implementing changes. Plans for the open forum announced in August and now planned for November 10, 2003 were also discussed.

#### November 10, 2003 University-Wide Open Forum

The two-hour forum was attended by more than 300 faculty, staff, students, and the local press. Rector John Rocovich, committee chair Ben Davenport and Board member T. Rodman Layman also attended. In the first hour, President Steger opened the forum by confirming the Board of Visitors' and the university administration's commitment to achieving the diversity goals outlined in the university strategic plan. Mr. Davenport discussed the role of the *ad hoc* committee and its pro-active approach to dealing with the issues identified in the internal review. He also discussed the importance of diversity to the educational environment at Virginia Tech. Provost McNamee presented an overview of the changes in the legal environment, the process and outcomes of the internal review, and the plan for moving forward now that the review was complete. For almost one hour, the provost and Vice President for Multicultural Affairs Ben Dixon responded to questions from those in attendance. (The provost's

presentation and questions and responses from the forum are included as Appendix G.)

### Implementation of Recommendations

The university then moved quickly to implement the recommendations of the internal review and the advice received from the Office of the Attorney General.

*Undergraduate Admissions:* The administration has developed a three-year resource plan to enhance the recruiting capacity of the undergraduate admissions office, provide support for the implementation of an optional statement by applicants regarding their contribution to diversity, and to strengthen pipeline programs and the Presidential Campus Enrichment Grants that contribute to the diversity of the university. This plan will be incorporated into the university budget, as resources are available.

The university's practice of consideration of race and ethnicity as one component of a whole file review of individuals is an acceptably narrowly-tailored approach for making admissions selections and will continue as long as needed to enhance campus diversity.

At the recommendation of Chairman Davenport, the university has formed an Undergraduate Admissions Advisory Committee consisting of Board of Visitors members, university administrators, and student representatives. This group will convene at the conclusion of each admissions cycle to review current admissions practices and their outcomes and may make recommendations to the provost for evolutionary changes in policy, practice, and funding. This group is intended to address the need for periodic review of the consideration of race or ethnicity in a narrowly-tailored admissions program. Since undergraduate admissions is the only area in which the university intends to continue the narrowly-tailored use of race or ethnicity, this advisory committee will subsume the responsibilities of the *ad hoc* committee.

*Private Scholarships and Financial Aid:* In the area of private scholarships and financial aid, the university has developed and reviewed with the Virginia Office of the Attorney General alternative language for use in modifying donor agreements or establishing new agreements targeted toward diversity. Any modification will be made in cooperation with donors. The following paragraph could replace racial or ethnic preferences and would be in addition to academic, financial, or other criteria.

*This fund is intended to assist the university in maintaining and improving the educational benefits that all students receive from a*



*diverse student body. The university defines diversity broadly to include a variety of individual backgrounds, experiences, and characteristics. In making awards from this fund, consideration may be given to students who offer a meaningful potential contribution to the diversity of the campus as demonstrated by a written statement from the applicant.*

If this proposed language does not meet the giving goals of the donor, the university will work with them to identify alternative methods within the university and its foundation for achieving their goals without the use of race or ethnicity. If a donor finds this language unacceptable and the donor's intent to include a racial or ethnic preference in the agreement is a mandatory condition of their donation, the university and its foundation will probably be unable to accept and administer the funds on behalf of the donor.

*Multicultural Academic Opportunities Programs:* The Multicultural Academic Opportunities Program has been modified to no longer include race or ethnicity as a selection criterion and will rely on financial need, first-generation status, and a diversity essay in its selection criteria, along with academic and program considerations.

*Federally-Sponsored Programs, including the McNair Scholars Program:* The university will continue to comply with the provisions of federally sponsored programs that stipulate the involvement of underrepresented groups as a condition for participation. This includes the McNair Scholars Program. The university will not apply restrictions or conditions beyond those required by the sponsoring agency.

*Student Support Programs:* In the broad area of student support programs targeted to selected populations of students, the provost asked Dr. Karen Sanders, Director of the Virginia Tech Center for Academic Enrichment and Excellence, to oversee the implementation of a systematic approach to the provision of student academic support. Working through the Academic Support Roundtable (a standing committee of student support providers from the different colleges, student affairs, and central academic administration), Dr. Sanders has identified more than 47 existing programs available to students to address the specific needs of those students. Dr. Sanders and the Academic Support Advisory Committee will continue to work to highlight and promote the wide variety of programs available to all students with needs, regardless of race or ethnicity. This group will also oversee and recommend systematic reviews of student performance and the availability of programs to meet identified student support needs. As comparisons are made, this group will advocate for resources to address unmet needs.

*Training for Managers:* In April of 2004, the university sponsored a two-part workshop to provide managers of programs that contribute to diversity with the tools they need to structure, promote, and administer their activities in the current legal environment. More than 80 managers participated in the two-part workshop and received guidance from external experts, including a representative from the Virginia Office of the Attorney General. In the second session, managers received guidance on issues specific to Virginia Tech programs and the application of the University Standards for Inclusive Programs, Policies and Practices. These workshops were planned and presented jointly by the Office of the Provost, the Office of the Vice President for Multicultural Affairs, the Office for Equal Opportunity, and the Center for Academic Enrichment and Excellence. Staff from these units will continue to plan and provide educational and technical assistance opportunities for managers working in these types of activities.

#### Final Meeting and Dissolution of the *Ad Hoc* Committee

The *ad hoc* committee met for a final time on March 28, 2004. Provost McNamee shared the status of implementation of recommendations described above. Committee members agreed that the work of the *ad hoc* committee could be subsumed into the proposed Undergraduate Admissions Advisory Committee and that the work of the *ad hoc* committee was complete. The committee challenged the university to continue to implement plans to increase campus diversity through aggressive recruiting and continued cooperation with K-12 providers and to become a recognized leader in methods to successfully achieve the educational benefits of a diverse student body.

With the close of this final meeting, the function of the *ad hoc* committee was completed. The committee presented this report to the full Board of Visitors at the June 7, 2004 open session, along with the following resolution:

#### Resolution Accepting the Recommendations of the *Ad Hoc* Committee on the Narrow-Tailoring Concept and Dissolving the *Ad Hoc* Committee

WHEREAS, in a resolution adopted April 6, 2003 the Board of Visitors created an *ad hoc* committee to review recommendations developed by the university administration regarding the narrow-tailoring legal requirement applicable to race-conscious programs and acceptable steps for achieving diversity in accordance with federal and state laws and the rulings of the United States Supreme Court and to present these recommendations to the full Board at a future meeting.

WHEREAS, over the past 14 months, the university administration has completed a comprehensive review of all programs and activities that considered

race or ethnicity in any way and has made recommendations for modification, continuance, or discontinuance of activities in accordance with state and federal laws and with the advice of the Virginia Office of the Attorney General.

WHEREAS, the recommendations of the administration have been reviewed and approved by the *ad hoc* committee and are presented to the full Board of Visitors in "The Report of the *Ad Hoc* Committee on the Narrow-Tailoring Concept."

WHEREAS, the administration has recommended the creation of an Undergraduate Admissions Advisory Committee, to include Board of Visitors members, senior university administrators, and undergraduate students, for the purpose of annually reviewing the admissions process, including the progress of the university in achieving its diversity efforts through the continued narrowly-tailored consideration of race and ethnicity in admissions selections, and for making recommendations for incremental changes in practice, policy, and funding for undergraduate admissions.

NOW, THEREFORE, BE IT RESOLVED that, the Board of Visitors hereby accepts the recommendations and report of the committee and the *ad hoc* committee on the narrow-tailoring concept is hereby dissolved.

## Appendices

Appendix A: Accord between the Commonwealth of Virginia and the U.S. Department of Education Office of Civil Rights. (November 11, 2001)

Appendix B: Memorandum from the Virginia State Solicitor explaining the impact of the Accord on higher education practices in Virginia. (April 22, 2002)

Appendix C: Resolution of the Virginia Tech Board of Visitors directing that the university comply with federal and state laws, and the advice of the Office of the Attorney General with regard to the recruitment, admission, and support of students, and in the application of the university's employment practices for faculty and staff. (December 15, 2002)

Appendix D: Resolution of the Virginia Tech Board of Visitors creating the *Ad Hoc* Committee on the Narrow-Tailoring Concept. (April 6, 2003)

Appendix E: Standards for Inclusive Policies, Practices, and Programs approved by Commission for Equal Opportunity and Diversity. (April 2004)

Appendix F: Memorandum from the Virginia State Solicitor explaining the impact of the U.S. Supreme Court rulings in the Michigan university admissions cases on Virginia institutions of higher education. (August 27, 2003)

Appendix G: Presentation and summary of question and answer session from November 10, 2003 open forum.

**Appendix A**

Accord between the Commonwealth of Virginia and the U.S. Department of  
Education Office of Civil Rights  
(November 11, 2001)

**ACCORD BETWEEN THE COMMONWEALTH OF  
VIRGINIA AND UNITED STATES DEPARTMENT OF  
EDUCATION, OFFICE FOR CIVIL RIGHTS**

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# ACCORD BETWEEN THE COMMONWEALTH OF VIRGINIA AND UNITED STATES DEPARTMENT OF EDUCATION. OFFICE FOR CIVIL RIGHTS

## I. Preamble

The Commonwealth of Virginia has been, and remains, committed to ensuring equal access to high quality education for all of the Commonwealth's citizens regardless of race, color or national origin, and is mindful of its obligations under the Fourteenth Amendment to the Constitution and Title VI of the Civil Rights Act of 1964.

Consistent with this commitment, in the Fall of 1999, the Commonwealth of Virginia and the United States Department of Education, Office for Civil Rights ("OCR"), began a dialogue and collaborative process to review the educational opportunities afforded citizens in Virginia's public institutions of higher education. As a part of this collaborative process, over a two and one-half year period, OCR reviewed voluminous records and documents, and made many visits to numerous campuses in Virginia.

During this collaborative process it has become clear that Virginia, Governor James S. Gilmore, III, Secretary of Education Wilbert Bryant, Attorney General Mark L. Earley and Attorney General Randolph A. Beales have taken and continue to take steps to ensure that all of its citizens are provided equal access to the Commonwealth's public higher education system. This collaborative process has resulted in this Accord, which was jointly prepared by the parties.

## PART I

## II. History

In December 1969, the United States Department of Education, Office for Civil Rights (OCR), issued a letter to the Commonwealth of Virginia stating that OCR regarded the Commonwealth as operating a public system of higher education segregated by race and that such a system was violative of federal law. In response to a request from OCR, the Commonwealth developed a plan for its public institutions of higher education intended to dismantle any such dual system of education and eliminate any vestiges of *de jure* segregation. This plan, finalized in 1978, and approved by OCR that same year, ultimately became known as the *Virginia Plan for Equal Opportunity in State-Supported Institutions of Higher Education* (the "Virginia Plan").



In 1983, the Virginia Plan was amended to include certain additional programs and activities.

In May 1988, OCR notified the Commonwealth that there were 13 specific measures that had to be fulfilled by December 31, 1988, in order to complete the provisions of the Virginia Plan.

In April 1990, OCR notified the Commonwealth that four issues remained unresolved. Subsequently, three of those four matters were completed.

In January 1994, OCR published a Notice in the Federal Register outlining the procedures and analysis that the agency planned to follow in future reviews of states with a history of *de jure* segregated systems of higher education. At that time, the Assistant Secretary for Civil Rights for the U. S. Department of Education informed the Commonwealth of OCR's intent to re-examine the status of Virginia's desegregation efforts in its state-supported system of higher education.

In April 1998, the Commonwealth of Virginia was notified that, pursuant to the mandate of *United States v. Fordice*, 505 U.S. 717, 112 S.Ct. 2727 (1992), OCR was attempting to ascertain whether certain states, including Virginia, had eliminated all vestiges of their formerly *de jure* segregated systems of public higher education.

In May 1998, members of OCR met with Virginia's representatives for the purpose of introducing this initiative and affirming the mutual desire to proceed as efficiently and cooperatively as possible. Toward that end, this process has been a joint and collaborative effort.

### III. Relevant Jurisprudence

In *Fordice*, the Supreme Court considered the State of Mississippi's public system of higher education, a state which — like Virginia — once maintained a racially segregated system of higher education. Eventually, Mississippi replaced its policy of segregation and implemented race-neutral admissions standards. The Fifth Circuit Court of Appeals reasoned that, having made these changes, the state "need do no more."<sup>1</sup> The Supreme Court, however, rejected this approach as overly simplistic:

[E]ven after a State dismantles its segregative *admissions* policy, there may still be state action that is traceable to the State's prior *de jure* segregation and that continues to foster segregation. The Equal Protection Clause is offended by sophisticated as well as simple-

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<sup>1</sup> See 505 U.S. at 728; see also 914 F.2d 676 (5th Cir. 1990).

minded modes of discrimination. If policies traceable to the *de jure* system are still in force and have discriminatory effects, those policies too must be reformed to the extent practicable and consistent with sound educational practices.<sup>2</sup>

Accordingly, the *Fordice* Court articulated the following legal standard:

If the State perpetuates policies and practices traceable to its prior system that continue to have segregative effects — whether by influencing student enrollment decisions or by fostering segregation in other facets of the university system — and such policies are without sound educational justification and can be practicably eliminated, the State has not satisfied its burden of proving that it has dismantled its prior system.<sup>3</sup>

The *Fordice* Court also made it plain that, in applying this standard, it “examine[s] a wide range of factors to determine whether the State has perpetuated its formerly *de jure* segregation in any facet of its institutional system.”<sup>4</sup>

Plainly stated, *Fordice* addresses those duties arising from those present policies and practices that are rooted in a prior, segregated system (including policies and practices that are racially neutral on their face) and that result in continuing discriminatory effects. *Fordice* does not imply any constitutional defect in policies and practices that are neutral on their face and that have no such historical antecedents, so long as they have no discriminatory purpose. 505 U.S. at 733 n.8.

## PART II

### IV. OCR’s Federal Register Notice

On January 31, 1994, OCR published a Notice in the Federal Register, 59 Fed. Reg. 4271 (1994). This Notice was issued in response to inquiries concerning the effect of the *Fordice* decision. The Notice outlined the procedures and analysis that the agency planned to follow in future reviews of states with a history of *de jure* segregated systems of higher education.

The Notice stated that OCR planned to apply the *Fordice* standard to all of its pending Title VI reviews of statewide higher education systems with OCR-accepted desegregation plans that previously had expired (Kentucky, Maryland, Pennsylvania, Texas, Virginia and Florida). Specifically, the Notice explained

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<sup>2</sup> 505 U.S. at 729 (internal quotation marks and citations omitted) (emphasis in original).

<sup>3</sup> *Id.* at 731.

<sup>4</sup> *Id.* at 728.

that OCR planned to examine a wide range of factors to ensure that the vestiges of segregation in these States' systems have been eliminated. The comprehensive array of factors that OCR planned to consider included those addressed in *Fordie* and those reflected in the criteria for acceptable desegregation plans specified in the Department's "Revised Criteria Specifying the Ingredients of Acceptable Plans to Desegregate State Systems of Public Higher education," published in the Federal Register on February 12, 1978 (43 Fed. Reg. 6658 (1978)).

The Notice asserted that States may not place an unfair burden upon African-American students and faculty in the desegregation process and that State systems of higher education may be called upon to strengthen and enhance historically black institutions. Further, OCR announced that it planned to "strictly scrutinize state proposals to close or merge traditionally or historically black institutions, and any other actions that might impose undue burdens on black students, faculty, or administrators or diminish the unique roles of those institutions." 59 Fed. Reg. 4272.

## V. OCR's Review

During this collaborative process, and in order to determine whether there are any vestiges of past *de jure* discrimination in Virginia's institutions of higher education, OCR reviewed a number of institutional policies, practices and conditions at the Commonwealth's formerly white institutions ("FWIs"), historically black institutions ("HBIs"), and one institution formed after the end of *de jure* segregation (post *de jure* institution, George Mason University).

OCR conducted reviews of the following FWIs: the University of Virginia; James Madison University; Virginia Polytechnic Institute and State University; Virginia Commonwealth University; Old Dominion University; Mary Washington College; Longwood College; Christopher Newport University; Radford University; and the College of William and Mary.

OCR reviewed the Commonwealth's two HBIs: Virginia State University ("VSU") and Norfolk State University ("NSU").

For the purpose of this review, OCR treated Virginia's institutions of higher education as a single statewide system, and evaluated them as such. OCR reviewed policies, practices and conditions at these institutions in areas such as institutional missions, program offerings and duplication, facilities, admissions, boards of governance, funding, recruitment, retention, graduation, articulation and financial aid.

OCR's review of the FWIs did not reveal any institutional policies or practices that can be traced to the former segregated *de jure* system and that continue to have a discriminatory effect. Similarly, OCR's review of the post *de jure*

institution did not reveal any institutional policies or practices that can be traced to the former segregated system and that continue to have a discriminatory effect.

Insofar as Virginia's institutions of higher education may be regarded as a single statewide system — and subject to the qualification relating to VSU and NSU set forth in the next paragraph — OCR's review did not reveal any current system-wide policies or practices that can be traced to the former segregated system and that continue to have discriminatory effects.

With respect to VSU and NSU, OCR's review raised concerns about the possibility that these institutions may be subject to policies and/or practices that can be traced to the former segregated system, continue to have discriminatory effects, and could have an impact on the system as a whole. While Virginia does not regard either VSU or NSU as being subject to policies or practices that can be traced to the former segregated system and that continue to have discriminatory effects, Virginia believes that sound educational policy calls for these institutions to be enhanced as described in Section VII below. Notwithstanding OCR's concerns, in lieu of pursuing further investigation, OCR acknowledges Virginia's plan of improvements as described below and finds that the implementation of such plan will relieve OCR's concerns.

### PART III

#### VI. Progress To Date

As part of its continuing efforts to create the best possible higher education opportunities for all students seeking postsecondary education, the Commonwealth of Virginia voluntarily agreed to enter into this collaborative process with OCR.

The Commonwealth of Virginia has been, and continues to be, committed to ensuring equal access to high quality education for all of her citizens regardless of race, color or national origin. Additionally, the Commonwealth recognizes its charge under the Fourteenth Amendment to the United States Constitution and Title VI of the Civil Rights Act of 1964 and other applicable law. Virginia has been and will continue to be engaged in ongoing efforts to provide all of its students with equal access to educational opportunity in the Commonwealth's public higher education system.

OCR hereby acknowledges that the Virginia Plan has been completed, with the exception of one item, the accreditation of the Business School of Virginia State University. OCR also acknowledges that beginning in 1998, and independent of OCR's review, the Commonwealth of Virginia substantially increased funding and made quality improvements at the two historically black universities — VSU and NSU.

Beginning with his amendments to Virginia's biennial budget in 1999, Governor Jim Gilmore provided an additional \$5.5 million in general fund support for Virginia State University.

The Governor's funding initiative allowed Virginia to take the historic step of becoming the first state in the nation to provide a one hundred percent match of federal funds for VSU, a "1890" land-grant institution. In 1998, the United States Congress passed "The Agricultural Research, Extension, and Education Reform Act of 1998." This new law required each state to provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of formula funds to be distributed to the eligible institution. The Commonwealth of Virginia exceeded this goal by committing to provide a one hundred percent match of federal funds for the cooperative extension program at VSU over a three-year period. The additional funds were used to set up demonstration farms to assist tobacco farmers in producing alternative products, increase salaries to recruit and retain highly qualified faculty for research, and purchase modern research equipment.

VSU's funding increases also provided funds to establish four new technology labs, hire additional faculty, and renovate Virginia Hall Auditorium and build a Life Sciences annex in order to meet program needs. The additional funds also permitted VSU to renovate a portion of the Hunter McDaniel building to accommodate the life sciences programs. In addition to these renovations, VSU received approximately \$938,000 to address deferred maintenance needs and \$378,000 to complete the University's efforts to bring its student information system in compliance with Year 2000 requirements.

Governor Gilmore's 1999 amendments to the budget also provided a total of \$4.2 million in additional general fund support for Norfolk State University. These funds included \$1.1 million to complete NSU's network infrastructure for its academic facilities, \$360,000 to support the lease and operating costs for the University's space at the Applied Research Center in Newport News, Virginia, and nearly \$700,000 to increase emphasis on new methods and techniques for the delivery of instruction in the high demand areas of science and technology. This funding helped purchase state-of-the-art laboratory equipment as well as fund faculty to provide computer-based and Internet instruction.

To help maintain and extend the useful life of facilities, NSU received an additional \$234,772 to address deferred maintenance needs and \$2.5 million to complete the University's efforts to bring its student information system into compliance with Year 2000 requirements. The funding also provided for software upgrades and installation of a new financial and accounting system.

At the same time, as part of his effort to expand educational opportunity for all Virginians, Governor Gilmore initiated a 20 percent rollback on tuition and

mandatory fees at Virginia's public colleges for in-state undergraduates. To make up for lost tuition and fee revenue at Virginia State and Norfolk State, the Commonwealth increased general fund support to VSU by nearly \$813,000 and to NSU by more than \$1.6 million. As a result of the tuition rollback, each in-state VSU student received an average annual decrease in tuition and fees of \$397 per year while each in-state NSU student received an average discount of \$387 per year.

The Commonwealth's 2000-2002 budget allocated \$12.5 million in additional funds for Norfolk State University. Included in this amount is \$6.5 million to enhance library resources, support the Applied Research Center, support faculty and staff development, and enhance the delivery of instruction through technology.

Similarly, the 2000-2002 budget allocated \$13.2 million in additional funding for Virginia State University. This amount included \$6.8 million to improve the quality of academic programs, complete the last phase of campus-wide electronic communications, and expand three existing and create two new undergraduate programs. The funding increase also continued the phase-in of the 100 percent state match of federal funds for cooperative extension programs.

This Governor's commitment to enhancing the quality of education at Virginia's historically black universities led to the creation of a task force in the Summer of 2000 to work directly with the Boards of Visitors and administrations of VSU and NSU to prepare strategic plans for VSU and NSU. Led by Secretary of Education Wil Bryant and comprised of representatives from the Office of Attorney General Mark L. Earley, the House of Delegates, the Virginia Senate, the State Council of Higher Education, the Department of Planning and Budget, and the Governor's Blue Ribbon Commission on Higher Education, this task force has been engaged in the process of developing pedagogically and financially responsible ideas for improving existing academic programs, expanding programs offerings, and addressing each institution's capital needs.

In sum, from 1999-2002, Governor Gilmore and Virginia's General Assembly have increased funding for targeted initiatives at VSU and NSU by \$18.5 million in operating funds and \$29.6 million in capital funds. General fund support per in-state FTE at Virginia State University has increased from \$7,567 in 1997 to \$10,602 in 2002—or an increase of forty percent. Similarly, general fund support per in-state student at Norfolk State University has increased from \$5,416 in 1997 to \$9,314 in 2002—or an increase of seventy-two percent. As a result of this Governor's efforts, VSU and NSU rank number one and two respectively among the comprehensive institutions in the Commonwealth based on general fund appropriation per in-state FTE.

## VII. Virginia's Commitments

Subsequent to the execution of the Accord by the parties, the Governor will advocate the legislature's adoption of a budget in conformance with this Accord. The Commonwealth will begin implementation of measures not requiring funding or other legislative action as soon as practicable, and in no event later than the Fall of 2002. The Commonwealth will begin implementation of measures requiring legislative action or funding as soon as practicable after legislative action and the provision of necessary appropriations, with all commitments funded no later than the Fall of 2004 (FY 2005).

In the interest of further enhancing VSU and NSU in accordance with sound educational policy, and in pursuit of the Commonwealth's commitment to all citizens regardless of race, Virginia also will undertake the following enhancements of VSU and NSU — at the appropriate spending and resource levels:

### A. Academic Programs

In order to offer the students of NSU and VSU a full range of high quality and high demand academic programs, and to make each institution's degree offerings attractive to all students desiring a well-rounded education, the Commonwealth, in conjunction with the institutions, will initiate the following academic program enhancements no later than September 30, 2004, devoting sufficient additional general funds and non-general funds to initiate such programs and reserving the right to reallocate existing institutional resources to such programs as appropriate.

The Secretary of Education and the State Council of Higher Education shall work with the institutions to ensure successful implementation of these academic programs:

*Academic Programs for Norfolk State University:*

<u>Degree Program</u>	<u>Target Start Date for Enrollment</u>
1. B.S. in Electronics Engineering (Microelectronics and Computers)	Fall 2003
2. B.S. in Optical Engineering (Optical Materials and Optical Networking)	Fall 2003
3. M.S. in Electronics Engineering (Microelectronics and Computers)	Fall 2004
4. M.S. in Optical Engineering (Optical Materials and Optical Networking)	Fall 2004
5. M.S. in Computer Science	Fall 2003
6. M.A. in Criminal Justice	Fall 2003

*Academic Programs for Virginia State University:*

<u>Degree Program</u>	<u>Target Start Date for Enrollment</u>
1. Accreditation of School of Business	Fall 2003
2. B.S. in Computer Engineering	Fall 2003
3. B.S. in Computer Science	Fall 2003
4. B.S. in Manufacturing Engineering	Fall 2003
5. B.S. in Mass Communications	Fall 2003
6. B.S. in Criminal Justice	Fall 2003
7. Ed.D. in Educational Administration	Fall 2004



B. Facilities Enhancements

In order to enhance facilities and campus environments at VSU and NSU and make the institutions physically appealing to all students, and in order to ensure facilities are adequate to support educational programs at each institution, the Commonwealth, in conjunction with the institutions, and devoting both general fund and non-general fund revenue sources, will initiate the following facility enhancements no later than September 30, 2004:

*Facilities at Virginia State University:*

1. Construction of an addition to Eggleston Dormitory or one new dormitory in lieu of an addition to Eggleston Dormitory
2. Renovation of Johnson Library
3. Renovation of Owens Hall with upgraded equipment
4. Renovation of Rogers Stadium
5. Campus-wide Internet wiring
6. Study to review and examine the methodology used to determine maintenance reserve needs
7. Financial plan to address all maintenance and renovation backlog needs verified in the study, including dormitories
8. Implementation of a plan for facility prevention and maintenance program.

*Facilities at Norfolk State University:*

1. Renovation of Madison Hall with upgraded equipment
2. Renovation of the heating and air conditioning systems throughout the campus as needed
3. Networking for all educational buildings
4. Study to review and examine the methodology used to determine maintenance reserve needs
5. Financial plan to address all maintenance and renovation backlog needs verified in the study, including dormitories

6. Implementation of a plan for facility prevention and maintenance program.

For purposes of this Accord, the obligations to initiate physical enhancements (VSU 1-5 and NSU 1-3) shall be deemed to have been met when (a) funding has been committed in a sum reasonably sufficient to complete the enhancement, and (b) ground has been broken or other physical alteration has been commenced. The obligation to develop and implement facility prevention and maintenance plans (VSU 6-8 and NSU 4-6) shall be deemed to have been met when a) the studies to review and examine the methodologies have been completed; b) the financial plans have been established and c) operation under the plans has begun.

## VIII. OCR Commitments

- A. OCR agrees to communicate with and through the Office of the Attorney General, as legal counsel to the Commonwealth, Norfolk State University and Virginia State University, regarding all issues of compliance with this Accord. Any communication by OCR with officials of the Commonwealth, NSU or VSU will be coordinated through the Office of the Attorney General.
- B. OCR agrees to confer in good faith with the Office of the Attorney General to resolve any disagreement regarding implementation or interpretation of this Accord.
- C. OCR agrees that, in response to any request of the Governor or his designee, it will promptly provide technical assistance in the implementation of this Accord.

## IX. Implementation and Certification of Compliance

- A. The Commonwealth commits to achieving implementation of the undertakings contained herein and fulfilling its commitments under this Accord no later than September 30, 2004. All other implementation dates contained in this Accord are for planning purposes only and shall not constitute commitments under this Accord. Virginia shall not be deemed to have breached this Accord if any failure to implement its commitments by September 30, 2004, is due to any circumstances beyond its control; however, any such failure shall entitle OCR to extend the final completion date from year to year until all commitments have been implemented.
- B. In order to confirm implementation of its commitments, the Commonwealth agrees to submit to OCR bi-annual reports on the status of implementation of this Accord; said reports to be submitted in January and July of each year. Such status reports shall specifically address, inter alia, each of the facilities

enhancement projects listed in Part VII(B) and, for each such project shall provide the following information:

- budget requests submitted by the Governor in support of the project;
- appropriation of funds by the legislature for any phase of the project;
- the date of initiation of planning;
- the date of architectural firm selection;
- the date of primary contractor selection; and
- the projected completion date for the project.

In addition, the Commonwealth shall provide OCR copies of the studies and financial plans required by Part VII(B) (NSU projects 4-6 and VSU projects 6-8). Such status reports shall also address each of the new programs listed in Part VII(A) and, for each such program shall report:

- the administration's projected start-up costs (as projected by the Virginia Department of Planning and Budget) for the program;
- the Governor's budget request;
- the appropriation of additional funds directed to establishment of the program; and
- the staffing commitments of the institution in support of each program.

Each report will cover only the period from the last report submitted by the Commonwealth to the date of the report. OCR shall promptly notify the Commonwealth in writing of any specific concerns it might have concerning the implementation efforts reported within sixty (60) calendar days of receipt of the Commonwealth's report. Where OCR determines that additional information is necessary in order to determine if it has any concerns regarding the implementation efforts in a particular report, OCR will identify the necessary information within fifteen (15) business days of its receipt of the report. OCR will then have forty-five (45) calendar days from receipt of the identified information to identify any concerns. To the extent that no concerns are identified in response to a report within sixty (60) calendar days, the contents of that report will be deemed consistent with OCR's expectations with regard to implementation and the representations contained therein shall be accepted as accurate for all purposes. Any concerns raised by OCR shall be expeditiously resolved in a manner consistent with the intent of this document.

- C. OCR agrees that, so long as Virginia is proceeding in good faith to implement its commitments under this Accord, that OCR shall take no action that it would otherwise be entitled to take based upon a finding by OCR that there are vestiges of *de jure* segregation in Virginia's system of higher education. In the event that Virginia does not implement its commitments under this Accord in good faith, OCR shall be entitled to pursue all such remedies with respect to the unimplemented portion of the plan as OCR would be entitled to take in the absence of this agreement.

D. At such time as the Commonwealth has fully implemented the commitments contained herein — but not later than September 30, 2004 (subject to the extension provisions of Part IX(A) of this Accord) — the Commonwealth will deliver a final certificate of completion to OCR which shall constitute final notice. Following receipt of a certificate of completion from the Commonwealth, OCR shall have an opportunity to verify any representations made therein and not previously resolved under paragraph B above. During this verification period, OCR shall make such inquiries and engage in such discussions with the Commonwealth as necessary to assure itself that the undertakings that are the subject of this document and not previously resolved under paragraph B above have, in fact, been completed. Within ninety (90) calendar days of receipt of the Commonwealth's certification, OCR shall provide the Commonwealth with a letter confirming its achievement of complete implementation of the commitments contained herein, or, if it cannot do so, with a comprehensive statement of any reasons for believing that implementation is not complete. If OCR does not respond to the Commonwealth's certification within 90 calendar days, the certification shall be deemed accurate in all its respects and for all purposes. Subject to the foregoing procedures, this final notice shall mean that all the Title VI and *Fordice* issues are resolved and, in return, OCR will promptly acknowledge in writing that Virginia has eliminated all vestiges of segregation in its public system of higher education in accordance with *Fordice*, Title VI and all other applicable federal law and regulations.<sup>5</sup> Acceptance by OCR of partial performance of this Accord shall not discharge the Commonwealth of its full responsibilities under the Accord.

## X. Miscellaneous

This entire document shall be deemed to have been mutually drafted by the parties and shall not be construed against either party as the author thereof.

No change, modification, extension, termination, discharge, abandonment or waiver of this accord or any of the provisions hereof, nor any representation, promise or condition relating to this accord shall be binding upon the parties hereto unless made in writing and signed by the parties or their counsel.

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<sup>5</sup> In the event the physical enhancements described in Part VII(B) (VSU 1-5 and NSU 1-3) are not completed within a reasonable time after OCR's written acknowledgement, then OCR may, in its discretion, call upon the Commonwealth to provide reasonable assurances that said enhancements will be promptly completed. Failure by the Commonwealth to provide such assurances or to complete said enhancements in accordance therewith shall entitle OCR to withdraw its acknowledgement with respect to physical facilities at VSU and NSU.

This Accord contains the entire agreement between the Commonwealth and OCR with respect to the Commonwealth's obligation to eliminate the vestiges of its former *de jure* segregation of its system of higher education. All previous negotiations, agreements and discussions between OCR and the Commonwealth are superceded hereby with the exception of the accreditation of the VSU School of Business which is reincorporated in this Accord. Nothing herein shall be construed to limit or diminish the obligation of the Commonwealth to abide by the Fourteenth Amendment to the United States Constitution, Title VI and other applicable law; however, OCR acknowledges that implementation by Virginia of the commitments undertaken herein, subject to the procedures described in Part IX(C), will fully discharge Virginia's obligation to eliminate any vestiges of past discrimination in its system of higher education.

Nothing herein shall be construed as an admission or evidence against the Commonwealth or used by any person or party as the basis for establishing any liability of Virginia or to create any judicial remedy that would not have been available to OCR in the absence of the agreement. Nothing contained herein shall be construed to constitute agreement by the Commonwealth to any notice or statement by OCR with respect to the state of the law or with respect to any alleged unconstitutional conditions in the Commonwealth of Virginia.

*For the Commonwealth of Virginia:*

[Redacted] 11/07/01  
Date  
James S. Gilmore, III  
Governor of Virginia

[Redacted] 11/07/01  
Date  
Wilbert Bryant  
Secretary of Education

[Redacted] 11/07/01  
Date  
Randolph A. Beales  
Attorney General of Virginia

[Redacted] 11/07/01  
Date  
William H. Hurd  
Solicitor General

[Redacted] 11/07/01  
Date  
Bernard L. McNamee  
Deputy Attorney General

[Redacted] 11/07/01  
Date  
Ashley L. Taylor, Jr.  
Special Counsel for the  
Commonwealth of Virginia

*For the U.S. Department of Education:*

[Redacted] 11/09/01  
Date  
Rod Paige  
Secretary of Education

[Redacted] 11/9/01  
Date  
C. Todd Jones  
Deputy Assistant Secretary for Civil Rights

[Redacted] 11-9-01  
Date  
Susan Bowers  
Enforcement Director - East  
Office for Civil Rights

[Redacted] 11-9-01  
Date  
Alice B. Wender  
Director, District of Columbia Office  
Office for Civil Rights



**Appendix B**

Memorandum from the Virginia State Solicitor explaining the impact of the  
Accord on higher education practices in Virginia  
(April 22, 2002)



# COMMONWEALTH of VIRGINIA

Office of the Attorney General  
Richmond 23219

Jerry W. Kilgore  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
804-371-8946 TDD

## MEMORANDUM

**TO:** Presidents, Boards of Visitors and Counsel of  
Virginia's Public Colleges and Universities;  
  
The Chancellor, Board and Counsel of the  
Virginia Community College System; and  
  
The Director and Members of the  
State Council of Higher Education for Virginia

**FROM:** William H. Hurd  
State Solicitor

**DATE:** April 22, 2002

**RE:** The Accord Between the Commonwealth of Virginia and United  
States Department of Education, Office for Civil Rights

In November of last year, Virginia reached an important milestone in our efforts to provide educational opportunity for all citizens of the Commonwealth. After an in-depth, collaborative process spanning four years, the U.S. Secretary of Education and the Governor of Virginia executed an agreement addressing Virginia's efforts to remove the effects of past discrimination from our system of higher education. This agreement – entitled "Accord between the Commonwealth of Virginia and United States Department of Education, Office for Civil Rights" – marks an historic achievement by the Commonwealth and by each of our public colleges and universities.



In the months since the Accord was announced, this Office has received a number of inquiries from colleges and universities about what the Accord means for race-conscious admissions and scholarship programs administered by our institutions of higher education. This memorandum has been prepared in order to respond to those inquiries.

## I. EQUAL PROTECTION – A CONSTITUTIONAL MANDATE

Any analysis of race-conscious measures by a public institution must begin with the 14th Amendment, which provides that States shall not deny to any person “the equal protection of the laws.” In interpreting this constitutional guarantee, the U.S. Supreme Court has ruled that any attempt by States to classify citizens based on race is inherently “suspect” and is subject to “strict scrutiny” by the courts. This same standard applies whether the racial classification is invidious or “benign.” See, e.g., *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 227 (1995); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 493-94 (1989); *Wygant v. Jackson Board of Education*, 476 U.S. 267, 274 (1986) (plurality); *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978).

In order to meet the legal test of strict scrutiny, the program<sup>1</sup> in question must: (i) serve a compelling state interest, and (ii) be narrowly tailored to further that interest. See, e.g., *Adarand*, 515 U.S. at 227; *Tuttle v. Arlington County School Board*, 195 F.3d 698 (4th Cir. 1999). Two state interests have been proffered as sufficiently compelling to justify race-conscious programs at institutions of higher education. They are: (i) the state’s interest in eradicating vestiges of a prior educational system segregated by law (remediation); and (ii) the state’s interest in providing educational institutions that offer a diverse student body (diversity). These are fundamentally different concepts. To explain, a brand new public college would have no past unconstitutional conduct in need of remediation; however, its administration may believe that the educational

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<sup>1</sup> Throughout this memorandum, the term “program” will be used in a broad sense, to include policies, practices and other government conduct.

environment would be enhanced by attracting a diverse student body. These two government interests – remediation and diversity – will be discussed in turn.

## II. REMEDIATION – A COMPELLING STATE INTEREST

There can be no doubt that remediation – *i.e.*, eliminating present effects of past discrimination – qualifies as a compelling state interest. *See, e.g., Wygant*, 476 U.S. at 274; *Podberesky v. Kirwan*, 956 F.2d 52, 55 (4th Cir. 1992) (*Podberesky I*). The question is how this broad principle translates into the specifics of what must be done – and what may not be done – by our institutions of higher education. It is a question largely answered by the courts in *United States v. Fordice*, 505 U.S. 717 (1992) and *Podberesky v. Kirwan*, 38 F.3d 147 (4th Cir. 1994) (*Podberesky II*), *cert. denied*, 514 U.S. 1128 (1995).<sup>2</sup>

These two decisions were discussed at length by Virginia's Secretary of Education, Beverly H. Sgro, in a 1996 advice letter written at the direction of the General Assembly. *See* Ch. 912, item 129(B), 1996 Va. Acts (Reg. Sess.) 1823; and letter of B. Sgro to Presidents and Boards of Visitors of Virginia's Colleges and Universities, dated Dec. 3, 1996 ("Secretary's Letter"). Because the Secretary's Letter was sent to state institutions pursuant to legislative mandate – and because it accurately analyzed both cases – we will quote from it at length.

### A. The *Fordice* Decision

The Secretary's Letter explained the impact of *Fordice* as follows:

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<sup>2</sup> *Podberesky* was before the Fourth Circuit twice and resulted in two separate opinions from the Court. The first decision, *Podberesky I*, recognized remediation of past discrimination as a compelling state interest and remanded the case. In *Podberesky II*, the Court considered whether the University of Maryland had established, as an evidentiary matter, that there existed present effects of past discrimination sufficient to justify a race-conscious remedy and concluded it had not.

“It has been many years since the Commonwealth required its institutions of higher education to be racially segregated; but, as *Fordice* makes clear, one cannot simply assume, based on the passage of time, that the remedial obligations arising from that by-gone era are necessarily completed. *Fordice* involved the State of Mississippi, a state which – like Virginia – once maintained a racially segregated system of higher education. Eventually, Mississippi replaced its policy of segregation and implemented race-neutral admissions standards. The Fifth Circuit Court of Appeals reasoned that, having made these changes, the state ‘need do no more.’<sup>3</sup> The Supreme Court, however, rejected this approach as overly simplistic:

We do not agree with the Court of Appeals or the District Court, however, that the adoption and implementation of race-neutral policies alone suffice to demonstrate that the State has completely abandoned its prior dual system. That college attendance is by choice and not by assignment does not mean that a race-neutral admissions policy cures the constitutional violation of a dual system. In a system based on choice, student attendance is determined not simply by admissions policies, but also by many other factors. Although some of these factors clearly cannot be attributed to state policies, many can be. Thus, even after a State dismantles its segregative *admissions* policy, there may still be state action that is traceable to the State’s prior *de jure* segregation and that continues to foster segregation. The Equal Protection Clause is offended by sophisticated as well as simple-minded modes of discrimination. If policies traceable to the *de jure* system are still in force and have discriminatory effects, those policies too must be reformed to the extent practicable and consistent with sound educational practices.<sup>4</sup>

“Accordingly, the *Fordice* Court articulated the following legal standard:

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<sup>3</sup> See 505 U.S. at 728; see also 914 F.2d 676 (5th Cir. 1990).

<sup>4</sup> 505 U.S. at 729 (internal quotations marks and citations omitted) (emphasis in original).

If the State perpetuates policies and practices traceable to its prior system that continue to have segregative effects – whether by influencing student enrollment decisions or by fostering segregation in other facets of the university system – and such policies are without sound educational justification and can be practicably eliminated, the State has not satisfied its burden of proving that it has dismantled its prior system.<sup>5</sup>”

Secretary’s Letter at 2-3.

### B. The *Podberesky* Decision

The Secretary’s Letter also discussed the *Podberesky* decision at great length, saying:

“You should also be aware of the decision by the Fourth Circuit Court of Appeals in *Podberesky v. Kirwan*.<sup>6</sup> This decision, which is binding in Virginia, sets some limits on what the courts will recognize as lingering effects of past discrimination and demonstrates that institutions may be subject to liability when they use race-conscious remedial measures inappropriately. In *Podberesky*, the Fourth Circuit invalidated a race-restricted scholarship program, known as Banneker scholarships, offered by the University of Maryland at College Park only to African-Americans. The plaintiff, a nineteen year old Hispanic, filed suit contending unconstitutional ‘reverse discrimination’ by the school in excluding him for this financial aid program because of his race. College Park defended its scholarship program as a partial remedy for past discrimination by the State of Maryland.

“The case went before the Fourth Circuit on two separate occasions. In ‘Round 1,’ the Court recited the state’s interest in ‘ameliorating, or eliminating

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<sup>5</sup> *Id.* at 731.

<sup>6</sup> 38 F.3d 147 (4th Cir. 1994), *cert. denied*, 115 S.Ct. 2001 (1995)[*Podberesky II*]

where feasible' the present effects of past state segregation in Maryland. Nevertheless, the Court ruled that College Park failed to show sufficient lingering present effects of past state segregation that justified its race-restricted program. The fact that Maryland – like Virginia – historically operated a dual system was not enough. Nor was it sufficient that Maryland's higher education system was being monitored by the Office of Civil Rights ('OCR'), or that the president of College Park testified generally about the continuing need for race-based measures because of 'the lingering effects of historic discrimination.'<sup>8</sup>

"Because there was no showing by College Park of *present* effects of past discrimination, the Fourth Circuit remanded the case to the District Court for further proceedings. In so doing, the Fourth Circuit stated:

In determining whether a voluntary race-based affirmative action program withstands scrutiny, one cannot simply look at the numbers reflecting enrollment of black students and conclude that the higher educational facilities are desegregated and race-neutral or vice-versa.<sup>9</sup>

"On remand, College Park contended that present effects or vestiges of prior segregation were shown by (1) the poor reputation of the University in the African-American community; (2) the underrepresentation of African-Americans in its student population; (3) low retention and graduation rates of African-American students; and (4) a hostile climate on campus to African-Americans.<sup>10</sup> The University argued for its program to compensate for past injury and attract black student leaders as role models or 'magnets' for further enrollment and retention of other black students. When the case returned to the Fourth Circuit Court of Appeals ('Round II'), the court concluded that to survive the 'strict scrutiny' analysis applicable to any race-based remedy:

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<sup>7</sup> 956 F.2d at 56 [*Podberesky I*].

<sup>8</sup> *Id.* at 57.

<sup>9</sup> *Id.* at 57.

<sup>10</sup> 38 F.3d at 152.

[T]he party seeking to implement the program must, at a minimum, prove that the effect it proffers is caused by the past [state] discrimination and that the effect is of sufficient magnitude to justify the program.<sup>11</sup>

“The Fourth Circuit found a number of deficiencies in College Park’s scholarship program. First, the Banneker program was not ‘narrowly tailored’ to compensate for past state segregation since the financial aid was available to both residents and nonresidents. Second, the Court rejected the notion that race-base[d] remedies can be justified today to redress poor reputation of a public institution in the community, or a hostile climate on its campus. The Court observed that such racially discriminatory programs, even if well-intentioned, only breed racial hostility rather than cure it. The Court stated that ‘these tensions and attitudes are not a sufficient ground for employing a race-conscious remedy at the University of Maryland.’<sup>12</sup> Third, and importantly, College Park failed to show that the statistical underrepresentation of blacks at its institution in the 1990s was, in fact, due to prior state or institutional discrimination.

“Following *Podberesky*, it appears that statistical numbers reflecting racial imbalance in an institution’s student population will not, by itself, justify race-based measures purporting to remedy prior state segregation. The institution must examine the underlying causes for the numerical disparity and factor out, to the extent practicable, other explanations unrelated to state discrimination. In Maryland’s case, for example, it failed to make any effort to account for African-Americans who ‘(1) [choose] not to go to any college; (2) [choose] to apply only to out-of-state colleges; (3) [choose] to postpone application to a four-year institution for reasons relating to economics or otherwise, such as spending a year or so in a community college to save money; or (4) voluntarily limited their applications to Maryland’s predominantly African-American institutions.’<sup>13</sup>

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<sup>11</sup> *Id.* at 153.

<sup>12</sup> *Id.* at 155.

<sup>13</sup> *Id.* at 159-160.

“The Fourth Circuit went on to say that:

[T]he failure to account for these, and possibly other, nontrivial variables cannot withstand strict scrutiny. In analyzing underrepresentation, disparity between the composition of the student body and the composition of a reference pool is significant in this case only to the extent that it can be shown to be based on present effects of past discrimination. In more practical terms, the reference pool must factor out, to the extent practicable, all nontrivial, non-race-based disparities in order to permit an inference that such, if any, racial considerations contributed to the remaining disparity.<sup>14</sup>

“The Fourth Circuit also criticized use of race-based financial aid measures without preliminary consideration of the effectiveness of race-neutral measures:

[T]he University has not made any attempt to show that it has tried, without success, any race-neutral solutions to the retention problem. Thus, the University’s choice of a race-exclusive merit scholarship program as a remedy cannot be sustained.<sup>15</sup>

“The *Podberesky* decision is *not* an invalidation of the state’s interest in redressing lingering effects of historical *de jure* segregation. Indeed, under *Fordice* and other applicable law, remedial action is *required* when such lingering effects are found. *Podberesky*, however, illustrates the burden on institutions to justify race-based remedies both in scope and in purpose. In other words, the ends will not justify the means if the means are not closely tailored to the end of redressing present effects of past segregation. Moreover, after *Podberesky*, the federal courts in Virginia will reject claims of present effects based on gross statistical enrollment data without a reasoned analysis of the underlying causes. Unless and until *Podberesky* is overruled or modified, if race-based remedies are to

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<sup>14</sup> *Id.* at 160.

<sup>15</sup> *Id.* at 161.

be employed, institutions must also be prepared to show that less intrusive race-neutral alternatives would likely be ineffective.”

Secretary’s Letter at 4-8.

### C. Application of *Fordice* and *Podberesky*

The question that must be addressed is whether – in light of *Fordice* and *Podberesky* – public institutions of higher education may lawfully use remediation as a basis for race-conscious programs. The answer to this question turns upon the facts as they may be found to exist at any given institution; however, we are aware of no facts that would justify *any* Virginia college or university in using remediation as a basis for race-conscious admissions or scholarship programs. Upon a review of the law and the facts, it appears that any institution that operates race-conscious admissions or scholarship programs – based on a remedial justification – is almost surely acting unlawfully and is exposed to substantial legal liability.<sup>16</sup> We base this conclusion on the following:

1. **Self-Assessments:** In her 1996 letter, Secretary Sgro called upon each institution to conduct a self-assessment. She directed Virginia’s institutions of higher education to:

carefully examine their present policies, practices and conditions to determine if any of the policies or practices are “traceable to the *de jure* system,” and/or “were originally adopted for a discriminatory purpose” and have “present discriminatory effects.” If such practices or policies are found, then the institution should take steps to

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<sup>16</sup> While sovereign immunity preclude awards of monetary damage against the Commonwealth, its institutions and officials (in their official capacity), courts may award injunctive and declaratory relief as well as attorneys’ fees, which can be substantial. Additionally, monetary damages and attorneys’ fees may be assessed against officials in their individual capacity if they act in a manner that violates a clearly established constitutional right. *Wilson v. Layne*, 526 U.S. 603 (1999).



eliminate them insofar as practicable and in accordance with sound educational policy and constitutional limitations.

Secretary's Letter at 3.

More than five years have passed since those self-assessments were to have been conducted. This Office is unaware of *any* institution that identified any policies, practices or conditions that implicate *Fordice*. Indeed, during the course of OCR's review, many institutions affirmatively represented to OCR that they had no such policies, practices or conditions.

**2. The Accord:** Before executing the Accord, OCR spent years conducting an independent and comprehensive review of the policies, practices and conditions at a majority of Virginia's institutions of higher education.<sup>17</sup> OCR examined, *inter alia*, institutional missions, program offerings and duplication, facilities, admissions, boards of governance, funding, recruitment, retention, graduation, articulation and financial aid. It visited campuses, met with institutional officials, examined tens of thousands of pages of institutional and system-wide records and researched historical funding and statutory governance practices.

As reflected in the Accord, "OCR's review of [formerly white institutions] did not reveal *any* institutional policies or practices that can be traced to the former *de jure* system and that continue to have a discriminatory effect." Accord at 4

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<sup>17</sup> OCR conducted reviews of the following formerly white institutions: the University of Virginia, James Madison University, Virginia Polytechnic Institute and State University, Virginia Commonwealth University, Old Dominion University, Mary Washington College, Longwood College, Christopher Newport University, Radford University, and the College of William and Mary.

OCR also reviewed the Commonwealth's two historically black institutions, Virginia State University ("VSU") and Norfolk State University ("NSU"), as well as one institution, George Mason University, formed after the end of *de jure* segregation.

(emphasis added). OCR reached a similar conclusion about George Mason University, an institution that was not organized until after the end of *de jure* segregation. *Id.* at 4-5. Moreover, as stated in the Accord:

Insofar as Virginia's institutions of higher education may be regarded as a single statewide system — and subject to the qualification relating to VSU and NSU set forth in the next paragraph — OCR's review did not reveal any current system-wide policies or practices that can be traced to the former segregated system and that continue to have discriminatory effects.

*Id.* at 5. While OCR also expressed “concerns” about VSU and NSU, both OCR and the Commonwealth agreed that any such concerns would be remedied by the non-race-based measures to which the Commonwealth committed in the Accord.<sup>15</sup>

In sum, with the exception of specific enhancements for VSU and NSU, the Accord demonstrates that Virginia has successfully eliminated the effects of its past discrimination at its institutions of higher education. While factual determinations by OCR are not dispositive, they are persuasive, especially when no problems are found. The fact that a federal agency charged with civil rights enforcement did not find effects of past discrimination after so comprehensive a review makes it exceedingly difficult to argue that such effects still exist.

3. **The Virginia Plan:** In 1978, the Commonwealth adopted a detailed plan for redressing conditions that OCR then identified as traceable to the prior dual system of higher education. This plan was known as the “Virginia Plan for Equal Opportunity in State-Supported Institutions of Higher Education” (or, more commonly, “the Virginia Plan”). As described by the Secretary's Letter, the

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<sup>15</sup> OCR's review “raised *concerns* about the *possibility* that these institutions may be subject to policies and practices that can be traced to the former segregated system, continue to have discriminatory effects, and could have an impact of the system as a whole.” Accord at 5 (emphasis added). The Commonwealth did not share this assessment. *Id.*

Virginia Plan included “facilitating changes in the racial composition of its student bodies through affirmative measures designed to attract ‘other race’ students to the historically black and white institutions... [and] incorporated separate ‘affirmative action plans’ of each of the institutions....” Secretary’s Letter at 9. In 1983, the Virginia Plan was amended to include certain additional programs and activities.

As reported by the Accord, “[i]n May 1988, OCR notified the Commonwealth that there were 13 specific measures that had to be completed by December 31, 1988, in order to complete the provisions of the Virginia Plan.” Accord at 2. By April 1990, only four items remained, three of which were later completed. *Id.* By the time of the execution of the Accord, only one item in the Virginia Plan remained to be completed. This one item was expressly incorporated into the Accord and the Virginia Plan was otherwise superceded and is no longer of any force or effect:

This Accord contains the entire agreement between the Commonwealth and OCR with respect to the Commonwealth’s obligation to eliminate the vestiges of its former *de jure* segregation of its system of higher education. All previous negotiations, agreements and discussions between OCR and the Commonwealth are superceded hereby with the exception of the accreditation of the VSU School of Business which is reincorporated in this Accord.

Accord at 14.

Before the Accord was signed, it may not have been clear whether measures forming a part of the Virginia Plan were still necessary or permissible under *Fordice* and *Podberesky*. See, e.g., Secretary’s Letter at 10. Many institutions continued to rely on the Virginia Plan – and continued legislative funding of its programs – as the justification for various race-conscious programs. As explained, the Virginia Plan has now been expressly superceded; and, as a result, legislative funding for the Plan has now been ended. Accordingly, the Virginia Plan no longer supports the administration of race-conscious policies or practices.

In sum, we are unaware of any facts or any credible legal theory that would support the use of race-conscious programs – for *remedial* purposes – at any of Virginia’s public institutions of higher education. Circumstances today no longer support such remedial programs and they must be discontinued as contrary to law.<sup>19</sup> Whether race-conscious policies or practices may be administered for *diversity* purposes is a separate question on which the Accord has no effect one way or the other. It is to that question that the discussion will now turn.

### III. DIVERSITY – A POSSIBLE STATE INTEREST

There has been much debate in legal and academic circles about whether “diversity” qualifies as a compelling governmental interest so as to permit the use of narrowly tailored, race-conscious measures at institutions of higher education. Both sides can point to precedent supporting their position.

Those who argue in favor of such race-conscious measures typically base their position on the concurring opinion of Justice Lewis F. Powell, Jr., in *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978). In that opinion,

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<sup>19</sup> This advice should not be construed to require revoking or discontinuing individual scholarship awards already made using racially preferential criteria. In our opinion, institutions should act in good faith to fulfill any scholarship commitments already made to these individuals, including any implied commitment to consider renewing an individual’s scholarship for a later semester during the same course of study.

We recognize that some institutions may administer scholarship funds – including privately donated funds – that are expressly earmarked for minority students; however, such race-based programs can no longer be justified on grounds of remediation. Whether they can be justified on grounds of diversity – and, if not, what to do with the money – are separate questions addressed later in this memorandum.

Justice Powell relied on principles of academic freedom to conclude that diversity is a compelling interest, and that a university may take race into account – along with other factors – as it goes about selecting its student body. *See id.* at 312-19. Yet, as the Fourth Circuit has noted, a majority of the Court has not addressed the issue, and it remains unresolved. *Tuttle v. Arlington County School Board*, 195 F.3d 698, 704-05 (4th Cir. 1999).

Those who argue against such race-conscious measures frequently point to the decision in *Hopwood v. Texas*, 78 F.3d 932 (5th Cir. 1996), *cert. denied*, 518 U.S. 1033 (1996). There, the Fifth Circuit said that using racial classifications, even for purposes of diversity, “simply replicates the very harm that the Fourteenth Amendment was designed to eliminate.” *Id.* at 946. Thus, it held unequivocally that “[a]ny consideration of race or ethnicity... for the purpose of achieving a diverse student body is not a compelling interest under the Fourteenth Amendment.” *Id.* at 944. Yet, Virginia is not in the Fifth Circuit, and *Hopwood* is not the law here.<sup>20</sup>

The Fourth Circuit aptly summarized the unsettled state of our law when it observed: “Although no other Justice joined the diversity portion of Powell’s concurrence, nothing in *Bakke* or subsequent Supreme Court decisions clearly forecloses the possibility that diversity may be a compelling interest.” *Tuttle*, 195 F.3d at 705. It is not within the scope of this memorandum to analyze which argument is stronger, or to predict which way the Supreme Court or Fourth Circuit will ultimately rule. Instead, this memorandum will simply assume, without deciding, that diversity may be a compelling governmental interest and will address those factors likely to affect whether race-based programs will be deemed narrowly tailored. This focus on the second prong of strict scrutiny is consistent

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<sup>20</sup> *Hopwood* has not gone unrebuted. In *Smith v. University of Washington*, 233 F.3d 1188 (9th Cir. 2000), the Ninth Circuit took a position contrary to *Hopwood*, holding that Justice Powell’s opinion in *Bakke* establishes diversity as a compelling state interest that satisfies the first prong of strict scrutiny. But, just as Virginia is not governed by the Fifth Circuit, neither is it governed by the Ninth.

with the approach that the Fourth Circuit has announced it will use in considering challenges to race-conscious measures based on diversity in the context of education. *Id.*

#### A. What “Diversity” Means

In order to decide whether any particular program is narrowly tailored to achieve diversity, it is first necessary to be clear about what diversity is – and what it is not. Diversity does *not* mean achieving a remedial goal, such as removing lingering effects of past discrimination by the institution or, more broadly, compensating for present or past discrimination by society at large.<sup>21</sup> Likewise, diversity is *not* racial balancing. The Supreme Court and the Fourth Circuit have both been very clear about this. *See, e.g., Freeman v. Pitts*, 503 U.S. 467, 494 (“Racial balance is not to be achieved for its own sake.”); *Tuttle*, 195 F.3d at 705 (“[N]onremedial racial balancing is unconstitutional.”) Nor is diversity solely a question of racial or ethnic diversity. Despite his emphatic support for diversity as a compelling state interest, Justice Powell was also emphatic that a program “focused *solely* on ethnic diversity... would hinder rather than further attainment of *genuine* diversity.” *Bakke*, 438 U.S. at 315 (emphasis added).

According to Justice Powell in *Bakke*, “diversity” means a student body composed of persons drawn from a variety of different backgrounds, life experiences and qualities, so as to enhance the exchange of ideas. Justice Powell’s opinion suggests that examples of background may include geographic origin or whether the student was raised in an urban or rural setting. *Id.* at 316. Other examples could include “exceptional personal talents, unique work or

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<sup>21</sup> To the extent that an institution’s purpose may be to remedy past discrimination by the institution, the constitutional issues concerning race-based measures have been discussed in Part II of this memorandum. To the extent that the purpose may be to compensate for discrimination by society at large, the Fourth Circuit has been clear that such an objective – while laudable – cannot justify use of race-conscious measures by government. *Podberesky I*, 956 F.2d at 55. *See also Podberesky II*, 38 F.3d at 155.

service experience, leadership potential, maturity, demonstrated compassion, a history of overcoming disadvantage, ability to communicate with the poor, or other qualifications deemed important.” *Id.* at 317. In short, diversity is not just about race and ethnicity. Instead, as Justice Powell wrote, “the diversity that furthers a compelling state interest encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is but a single though important element.” *Id.* at 315.

### **B. Narrow Tailoring – Five Factors**

In *Tuttle*, the Fourth Circuit found that the race-conscious admissions policy used by Arlington County at one of its alternative schools was invalid because it was not narrowly tailored to further diversity. In so deciding, the Court considered five factors, which it drew from *United States v. Paradise*, 480 U.S. 149 (1987). See *Tuttle*, 195 F.3d at 706. The Fourth Circuit reviewed the Arlington County program under all five factors before concluding that “on balance” the challenged policy was “not narrowly tailored.” *Id.* at 707. The five factors are:

(1) the efficacy of alternative race-neutral policies, (2) the planned duration of the policy, (3) the relationship between the numerical goal and the percentage of minority group members in the relevant population or work force, including the provision of waivers if the goal cannot be met, (4) the flexibility of the policy, and (5) the burden of the policy on innocent third parties.

*Id.*

Any Virginia institution of higher education that proffers diversity as a justification for race-conscious practices will likely face a similar analysis. Thus, it is important to have a clear understanding of what the factors require. Each will be discussed in turn.

1. **“The efficacy of alternative race-neutral policies.”** Under this factor, the institution must show that there are no race-neutral alternatives available to promote diversity or, to put it another way, that race-neutral alternatives would not be effective. This is likely to prove difficult if there has been no experience with race-neutral measures and no study of their likely results.

2. **“The planned duration of the policy.”** Any use of racial classifications to accomplish diversity “cannot continue in perpetuity but must have a ‘logical stopping point.’” *Id.* (quoting *Croson*, 488 U.S. at 498 (1980)). An institution that uses race-conscious measures, but has not articulated a logical stopping point, risks a finding that it has not complied with narrow tailoring. In order to comply with this factor, an institution must be able to explain its goal and have some way of determining when it has achieved it, with the intention of abandoning the use of racial classifications when the goal has been accomplished.

3. **“The relationship between the numerical goal and the percentage of minority group members in the relevant population or work force....”** Given the Fourth Circuit’s explicit rejection of racial balancing, it is unclear whether numerical race-conscious goals have any legitimate role in achieving diversity. As the Fourth Circuit has acknowledged, the five factors from *Paradise* are “particularly difficult to assess” in a diversity context. *Tuttle*, 195 F.3d at 706 (quoting *Hayes v. North State Law Enforcement Officers Ass’n*, 10 F.3d 207, 216 n.8). Such difficulty is evident here. It is clear, however, that a public institution acts unlawfully if it “explicitly set[s] aside spots solely for certain minorities” or “skew[s] the odds of selection in favor of certain minorities,” at least where diversity is not sought on any basis other than race or ethnicity.

Assuming that numerical goals have some legitimate role in achieving diversity, there is an additional problem of defining the relevant population. It is not clear what definition of “relevant population” would be acceptable to the Fourth Circuit in the context of a higher education diversity analysis. In *Podberesky II*, the Fourth Circuit said that, for an institution of higher education, the relevant population – or “reference pool” – may not be equated with the



population of high school graduates eligible to attend a particular institution. Instead, the Fourth Circuit said that other variables that might reduce the size of the reference pool must also be considered, and that a failure to do so precludes a finding of narrow tailoring. *Podberesky II*, 38 F.3d at 159.

*Podberesky* was a remediation case – not a diversity case. It is unclear whether the Fourth Circuit would assess “relevant population” in the same way for diversity as it did for remediation. But, it seems unlikely that the Court would apply a less stringent analysis, especially since remediation is a constitutional duty, while diversity is never constitutionally required.

4. **“The flexibility of the policy.”** In explaining what it means by “flexibility,” the Fourth Circuit turned to *Bakke*, where “Justice Powell explained that constitutionally permissible programs such as the Harvard College admissions program promote diversity by ‘treating each applicant as an individual in the admissions process.’” *Tuttle*, 195 F.3d at 707 (quoting *Bakke*, 438 U.S. at 318). The Court then criticized the Arlington County policy on the grounds that it “does *not* treat applicants as individuals. The race/ethnicity factor grants preferential treatment to certain applicants *solely* because of their race.” *Id.* (emphasis added).

Given the Fourth Circuit’s reliance of Justice Powell’s statement about individualized determinations, it is useful to examine *Bakke* more deeply to see just what he had in mind.<sup>22</sup> Justice Powell said that “race or ethnic background may be deemed a ‘plus’ in a particular applicant’s file, yet it does not insulate the individual from comparison with all other candidates for the available seats.” *Bakke*, 438 U.S. at 317. Justice Powell carefully described what he meant:

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<sup>22</sup> Such examination must be accompanied by two observations. On the one hand, the deeper one goes into *Bakke*, beyond what the Fourth Circuit expressly recognized, the less certain one can be that the Court will ultimately agree with Justice Powell. On the other hand, it would be surprising if the Fourth Circuit – or any other appellate court – were to allow a broader role for diversity than what was approved by Justice Powell, whose opinion in *Bakke* has been the touchstone for advocates of diversity.

The file of a particular black applicant may be examined for his *potential contribution* to diversity without the factor of race being decisive when compared, for example, with that of an applicant identified as an Italian-American if the latter is thought to exhibit qualities more likely to promote beneficial educational pluralism. Such qualities could include exceptional personal talents, unique work or service experience, leadership potential, maturity, demonstrated compassion, a history of overcoming disadvantage, ability to communicate with the poor, or other qualifications deemed important. In short, an admissions program operated in this way is flexible enough to consider *all pertinent elements of diversity* in light of the particular qualifications of each applicant, and to place them on the *same footing* for consideration, although not necessarily according them the same weight.

*Id.* at 317 (emphasis added).

There are at least two important lessons to be drawn from this passage. First, under the approach described by Powell, the files of minority applicants must not be approached in a *per se* manner, but be *examined* to determine their *potential* contributions to diversity. Second, in considering how competing applicants may contribute to diversity, Justice Powell said that the factor of race must be placed in the same mix with an array of non-racial factors, so that the applicants are on the same footing. In other words, just as apples must be compared with apples, diversity must be compared with diversity.

In sum, it is unlawful to provide minority applicants with an advantage having no counterpart for applicants making contributions to diversity for reasons other than race or ethnicity. Moreover, in evaluating any use of race-conscious measures, courts are likely to look not only at what diversity factors an institution considers, but how they are weighted and the practical effect on admissions. A diversity policy that purports to use a wide range of factors may still be held

unconstitutional if it gives undue weight to race and ethnicity or if the policy changes the outcome for few applicants other than minorities.

5. **“The burden of the policy on innocent third parties.”** This final factor may well present the most difficult obstacle for institutions seeking to justify race-conscious measures. Admission to the college of one’s choice is an extremely valuable benefit that can have important consequences for the rest of one’s life. If applicants are denied admission as a result of race-conscious measures, then the burden they bear will be substantial and the race-conscious measures at work will be less likely to survive judicial scrutiny.

### C. Virginia Law – An Additional Requirement

In addition to surviving constitutional scrutiny, any race-conscious program administered by a public college or university must also conform to state law. Virginia Code § 23-7.1:02 provides:

Participation in and eligibility for state-supported financial aid or other higher education programs designed to promote greater racial diversity in state-supported institutions of higher education shall not be restricted on the basis of race or ethnic origin and any person who is a member of any federally recognized minority shall be eligible for and may participate in such programs, if all other qualifications for admission to the relevant institution and the specific programs are met.

Therefore, any diversity program that involves classifications on the basis of race must be open to all federally recognized minorities.<sup>23</sup> Even where

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<sup>23</sup> The U.S. Department of Education, Office of Post Secondary Education, recognizes seven minority groups. *See, e.g.*, 34 CFR 364.4 (“Minority student means a student who is Alaskan Native, American Indian, Asian American, Black (African American), Hispanic American, Native Hawaiian, or Pacific Islander.”).

discrimination among minorities might be *constitutionally* permissible, this statutory provision limits the discrimination that may be employed.

#### IV. CONSTITUTIONAL COMPLIANCE

Given the Accord, public colleges and universities cannot credibly defend race-conscious programs on the theory that they are needed to remedy the effects of past discrimination. Moreover, while the Accord does not affect the diversity rationale, no race-conscious program administered to achieve diversity can survive legal challenge if it runs afoul of the narrow tailoring requirement. It is critical that each Virginia institution of higher education assure itself that it is not administering any program that is legally indefensible. Thus, colleges and universities administering race-conscious programs to advance diversity should examine these programs using the five factors to determine whether – on balance – such programs are narrowly tailored.

If a program is clearly not narrowly tailored, then it should be modified or discontinued as a matter of constitutional obligation. On the other hand, if it appears that a program *is* narrowly tailored – or if it is arguably so – then institutional presidents and boards of visitors should assess how much risk – and expense – they are willing to accept in the event such program is challenged in court. Such assessments necessarily involve the careful application of legal standards to particular sets of facts. This Office is prepared to assist state colleges and universities in making these assessments on a case-by-case basis. Additionally, this Office can offer the following general guidance about revising race-conscious scholarships created for remedial purposes and about achieving diversity through race-neutral measures.

##### A. Scholarship Programs

Faced with the need to revise a race-conscious scholarship program, an institution may find itself confronted with a conflicting obligation to private donors, whose funding of the scholarship program may have been made with the

understanding that the program would be administered using race as a selection criteria. In such a situation, the alternatives are: (i) to persuade the donor to modify or discontinue the restrictions placed on the funds; (ii) to make arrangements for the funds to be administered privately in a manner that does not involve any participation by the institution or by related foundations; (iii) to return the funds to the donor; or (iv) where the donor is no longer living, to use the *cy pres* doctrine to modify or discontinue the restrictions. This Office is available to assist with the details of what is required to achieve any one of these goals.

### **B. Race-Neutral Measures**

This Office recognizes that our Virginia colleges and universities are committed to maintaining student bodies that are diverse, and that the General Assembly has signaled its own appreciation of diversity when it enacted § 23-7.1:02. The challenge is to square the achievement of that objective with methods that comply with the constitutional mandate of equal protection and state statutory limitations. As part of that process, it is important that every effort is made to identify measures that will promote diversity without engaging in racial discrimination. Such measures may include the following:

- Special consideration may be given to applicants who grew up in homes without a college-educated parent, and whose academic performance may thus understate their true potential.
- Special consideration may be given to applicants who graduated at the top of their high school class, even though their individual test scores may lag behind the scores of top graduates elsewhere.
- As the Fourth Circuit suggested in *Tuttle*, some sort of geographic diversity may constitute a plausible alternative to race-conscious measures.

- Without changing admission standards, an institution may seek to enhance its applicant pool by informational efforts targeted to high schools or localities that are under-represented in the existing applicant pool.

Such measures would be racially-neutral. While the effectiveness of these and other race-neutral measures is primarily a matter for educational expertise, this Office is prepared to work with institutions of higher education in identifying and evaluating race-neutral alternatives that promote genuine diversity.

**PRIVILEGED AND CONFIDENTIAL  
ATTORNEY-CLIENT COMMUNICATION<sup>1</sup>**

Please provide the following information separately for each “race-conscious program” administered by the institution or by any school, department, or other component of the institution.

The term “race-conscious program” includes any and *all* institutional programs, practices and policies that provide a benefit to students or prospective students and that take race or ethnicity into account in any manner. Such programs may include but are not necessarily limited to, recruitment, admissions, scholarships, fellowships, grants, entitlements, courses of study, academic support, residence or other programs, whether written or not, in which the race of a student or applicant for the benefit is taken into account in any manner by the institution, its agents or employees.

To the extent that your responses employ terms that may be subject to different interpretations – such as “diversity” or “under-representation” – please define the term as you intend it.

1. Identify the program by its name or by a short descriptive label.
2. Identify the persons responsible for administration of the program. (Please include name, title, address, phone number and e-mail.)
3. Identify the person completing this questionnaire about the program. (Please include name, title, address, phone number and e-mail.)
4. Describe the purpose of the program, and the purpose of using race in the program.
5. Describe the operation of the program, including details regarding the role of race as a factor in decision-making in the program. Include in you answer:
  - a. What race(s) are favored/disfavored in decision-making.
  - b. How race is used as a factor in decision-making.
  - c. What other criteria are used in decision-making.
  - d. What is the relative weight given to each factor, including each racial factor and each non-racial factor.
  - e. How long has race been a decision-making factor for this program?
  - f. Has the purpose or operation of the program changed since race first became a factor? If so, how?

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<sup>1</sup> The information sought by this questionnaire is being gathered at the direction of the Board of Visitors, upon advice of legal counsel and for delivery to counsel for the purpose of obtaining legal advice. Therefore, this questionnaire and all information thus provided should be treated as confidential.

6. Explain how the use of race (as explained in paragraph 5) advances the purpose of the program (as explained in paragraph 4).
7. Describe all race-neutral measures that were used or considered in an effort to accomplish the purpose of the program (as explained in paragraph 4). For each such race-neutral measure, provide the following:
  - a. State whether the race-neutral measure was used or considered before or after beginning use of the race-conscious criteria.
  - b. Describe the results of using the race-neutral measure; or, if not used, explain why.
8. Does the program – or the use of race in the program – have an established limit based on time or based on any other logical stopping point? If so, please explain. If not, please explain.
9. By what measure will you assess when the program – or the use of race in the program – has achieved its purpose?
10. Do numerical goals play any part in your assessment of the program? That is to say, is there a number or percentage or minority population that you seek to achieve. If so, please provide the following:
  - a. What is the number, percentage or population that you seek to reach?
  - b. Explain the basis for adoption of that number, that percentage or population goal.
  - c. What relevant population is used to determine that goal?
  - d. What is the racial and ethnic composition of that population?
11. Please provide the following information for each of the last five years:
  - a. By race, how many students applied or other sought to participate in the program?
  - b. By race, how many students were selected to participate in the program?
  - c. By race, how many similarly-situated non-minority students were not selected for or offered the opportunity to participate in the program, or were ineligible to participate or seek participation because of race?
12. Please provide any other information that you believe may be helpful in evaluating the lawfulness of using race as a factor in this program.



### **Appendix C**

Resolution of the Virginia Tech Board of Visitors directing that the university comply with federal and state laws, and the advice of the Office of the Attorney General with regard to the recruitment, admission, and support of students, and in the application of the university's employment practices for faculty and staff  
(December 15, 2002)

**Resolution on University Policies Pertaining to the Recruitment,  
Admission, and Support of Students; Employment Practices; and the  
Involvement of All Segments of the University Community in the Operation  
of the University**

WHEREAS, the *Code of Virginia* and the By-laws of the Board of Visitors of Virginia Polytechnic Institute and State University state that as public trustees, the members of the Board have the responsibility and authority, subject to constitutional and statutory limitations, for the continuing operation and development of the institution as a state land-grant university, and for the evolving policies within which it must function; and

WHEREAS, the Board has the responsibility to ensure that the University abides by all Federal and state laws; and

WHEREAS, the University has an obligation to ensure that it follows all existing Federal and state laws, rules, regulations, and opinions of the office of the Attorney General of Virginia in the recruitment, admission, and support programs of students, and in the employment of University faculty and staff; and

WHEREAS, shared participation in the operation of the University through the involvement of faculty, staff, and students in the discussion and formulation of policies and procedures that guide academic matters and student life within an institution is an integral component of the culture of higher education and the University; and

WHEREAS, the involvement of faculty, staff, and students in the formulation of policies and procedures encourages University-wide input and acceptance by the University community of Board-approved policies and University-issued procedures; and

WHEREAS, there is full recognition by the faculty, staff, and students that the final approval of University policy governing academic affairs and student life rests with the Board of Visitors; and

WHEREAS, the University, as a land-grant university, should represent broad segments of society, and under the concept of shared operation of the University, it is essential that all segments of the University be represented in the operation of the University; and based on this premise, it is important to develop a commission in the operation of the University that provides for discussion of issues associated with the involvement of individuals from groups that represent the composition and nature of a leading research university that draws its population from an international setting; and

WHEREAS, the *Code of Virginia* and the By-laws of the Board provide further that the formulation of the basic policies under which every aspect of the University's operations is carried out, as well as the implementation of those policies, consequently are subject to the Board's review, modification, and ultimate approval;

NOW, THEREFORE, BE IT RESOLVED that the Board of Visitors of Virginia Polytechnic Institute and State University directs that the University shall at all times be in compliance with Federal and state laws, regulations, rules, and opinions of the office of the Attorney General of Virginia with regard to the recruitment, admission, and support of students, and in the application of the University's employment practices for faculty and staff; and

FURTHER, that the Board encourages the University to develop, as appropriate through a process involving faculty, staff, and students, University policies and procedures that provide for the implementation of programs pertaining to the recruitment, admission, and support of students, and to the employment, promotion, and development of its faculty and staff, in accordance with this policy of the Board of Visitors and existing Federal and state laws and in compliance with all rules and regulations based upon official interpretations of those laws by the office of the Attorney General of Virginia; and

FURTHER, that the Board fully supports and approves the development of a commission that ensures the representation and involvement of all segments of the University community in the operations of the University; and

FURTHER, that the President of the University, working through senior administrators and with University legal counsel, will be accountable to the Board of Visitors for ensuring that all University policies, procedures, and programs are in full compliance with this policy of the Board; and

FURTHER, that the President, working through the senior administrators and with University legal counsel shall review, in accordance with the guidelines of the Virginia Attorney General's office, all programs with regard to the recruitment, admission, and support of students, and in the application of the University's employment practices for faculty and staff; and shall provide a full report to the Board at its March 2003 meeting.

FURTHER, that the Board retains ultimate authority for approving university policies.



**Appendix D**

Resolution of the Virginia Tech Board of Visitors creating the *Ad Hoc* Committee  
on the Narrow-Tailoring Concept  
(April 6, 2003)

**RESOLUTION RESCINDING THE "RESOLUTION ... ARTICULATING  
THE UNIVERSITY'S POLICY AGAINST DISCRIMINATION"  
ADOPTED BY THE BOARD OF VISITORS ON MARCH 10, 2003**

WHEREAS, Virginia Tech's Strategic Plan 2001-06, approved unanimously by the Board of Visitors in August 2001, includes goals of increasing the diversity of the student population and welcoming and nurturing diversity of people and ideas at the University; and

WHEREAS, Virginia Tech is now and always has been committed to a policy that prohibits discrimination by Virginia Tech or any of its officers, employees, or students; and

WHEREAS, the Board of Visitors re-affirmed its resolve in a Resolution adopted December 15, 2002, on "University Policies Pertaining to the Recruitment, Admission, and Support of Students; Employment Practices; and the Involvement of all Segments of the University Community in the Operation of the University"; and

WHEREAS, the Board of Visitors approved the creation of a Commission on Equal Opportunity and Diversity at its March 10, 2003, meeting thereby demonstrating its commitment to inclusiveness; and

WHEREAS, at its March 10, 2003 meeting, the Board of Visitors also approved a "Resolution ... Articulating the University's Policy Against Discrimination"; and

WHEREAS, the Office of the Attorney General of Virginia has since provided further clarification that the Fourth Circuit Court of Appeals has identified a "narrow tailoring" requirement in the event race is considered in the administration of University programs; other Circuits are split on whether race is a permissible factor to consider under the law; and it is expected that the United States Supreme Court will shed light on this issue when it rules on the pending cases on the University of Michigan student admission policy;

NOW, THEREFORE, BE IT RESOLVED that, in light of this further clarification received from the Office of the Attorney General of Virginia, the Board of Visitors hereby rescinds its "Resolution...Articulating the University's Policy Against Discrimination" adopted March 10, 2003; and

FURTHER, BE IT RESOLVED that the Board of Visitors re-affirms its commitment to the Resolution adopted December 15, 2002, on "University Policies Pertaining to the Recruitment, Admission, and Support of Students, Employment Practices; and the Involvement of All Segments of the University Community in the Operation of the University"; and

FURTHER, BE IT RESOLVED that, consistent with the spirit of the Board's resolution adopted on December 15, 2002, and the "Resolution to Establish the Commission on Equal Opportunity and Diversity" adopted on March 10, 2003, which demonstrate the Board's support for the inclusion of individuals from all segments of the university community, nothing in this action shall prohibit the university from issuing policies and procedures that further ensure diversity, provided such policies and procedures are in accordance with Federal and state laws and court rulings on these matters; and

FURTHER, BE IT RESOLVED that an ad hoc committee of the Board will be appointed and charged with reviewing recommendations developed by the university administration regarding the narrow tailoring legal requirement applicable to race-conscious programs and acceptable steps for achieving diversity in accordance with Federal and state laws and rulings of the United States Supreme Court, and for presenting these recommendations to the full Board at a future meeting.



## **Appendix E**

Standards for Inclusive Policies, Practices, and Programs approved by the  
Commission for Equal Opportunity and Diversity  
(April 2004)

# STANDARDS FOR INCLUSIVE POLICIES, PROGRAMS, AND PRACTICES

Adopted by the Commission on Equal Opportunity and Diversity  
April 26, 2004

## Background:

This current draft of the Standards for Inclusive Policies, Programs, and Practices (SIPPP) emerges from the extended and comprehensive review process that took place over a period of nearly two years beginning in fall of 2002. The university community has had an opportunity to comment on the draft at numerous points, including the two Diversity Summits in January 2003 and 2004, and through publication in the *Virginia Tech Conductor* in February 2003. Various drafts have incorporated not only comments from students, faculty, staff, and administrators, but also evolving legal advice.

The Standards are intended to be broad in concept but flexible in application, providing a framework of expectation but leaving the details to those with the expertise and responsibility for program development and oversight. The Commission on Equal Opportunity and Diversity endorses and adopts these Standards as a guide to the university community for developing or revising a wide variety of programs, services, or practices that touch on the diversity of our community.

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## Preamble

“The core values of Virginia Polytechnic Institute and State University are freedom of inquiry, personal integrity, mutual respect, promoting personal and professional growth, fostering a lifelong commitment to learning, and contributing to society.” (University Strategic Plan)

These Standards for Inclusive Policies, Programs, and Practices are established to guide the development, implementation and assessment of university programs and activities designed to support both the mission of the university, and these values, which address the common bond between, and the diversity among, all the members of the community.



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## Legal Standard

**The policy, procedure, or practice should not restrict or exclude any individual from accessing, participating in, or contributing to any program solely on the basis of race, sex, disability, age, veteran status, national origin, religion, sexual orientation, or political affiliation in accordance with federal and state laws and university policy.**

*Race exclusive programs are legally suspect and therefore generally prohibited. In the University of Michigan cases, the Supreme Court has upheld the use of race as a factor in admissions under certain narrowly defined conditions. Virginia Tech will adhere to the limited use of race as one of many factors in a whole-file review of applicants for undergraduate admissions. Except as federal and state law may allow, race will not be used as a factor in selection for other university programs or benefits, including private scholarship aid.*

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## Inclusion Standard

**Virginia Tech seeks to be an inclusive community that prides itself on the full participation of students, faculty, and staff from a wide variety of backgrounds. A sense of inclusion rather than exclusion should be conveyed to potential applicants or participants through program materials and the selection process and criteria.**

*The university recognizes that particular students or employees will have special needs or concerns that may be addressed most effectively by a targeted (but not exclusive) program. Research can identify and document the justification for a more focused approach. The university's obligation in such instances is to assure that targeted programs are only a part of a comprehensive array of services or programs addressing a wide variety of student or employee needs. Best educational practices would suggest that program directors are continually monitoring critical measures, adapting programs to meet identified needs very broadly defined, and looking for categories that reach beyond race, ethnicity, and gender whenever possible. The commitment to inclusion should also extend to the critical review of programs or policies that are race neutral in language and intent but result in outcomes that unfairly privilege select groups.*

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## Climate Standard

**University programs or activities should be designed to operate in and to promote a positive, welcoming educational and work environment, characterized by mutual respect, the right to express freely one's opinion, civility, cultural sensitivity, multiple perspectives, and a focus on creating and sustaining a just community.**

*High quality, productive and creative higher education programs are typically found in open, engaging, and inclusive teaching, learning and/or working environments.*

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### **Competency Standard**

**The program or activity should foster the individual and collective pursuit of excellence and effectiveness in all learning, teaching, research, outreach and/or support endeavors. Both excellence and effectiveness are enhanced by inclusiveness and sensitivity to justice and fairness issues.**

*By also attending to equity issues, individuals and groups increase their appreciation and understanding of differences (cultural, racial, gender, disabilities, religious, etc.), and develop their knowledge and skills in managing or negotiating relationships and other interactions within a diverse global environment. Development of inter-cultural competence should be a priority for all members of the university community and the responsibility of both programs and individuals to achieve.*

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### **Accountability Standard**

**A diverse university community is important to the educational environment at Virginia Tech. University entities at all levels must take responsibility for identifying the ways in which they can contribute to the diversity of the student body, faculty, staff, curriculum, pedagogy, research and outreach agendas, and be held accountable for such contributions.**

*Documentation of the contribution that diverse backgrounds and perspectives make to the vitality of our classrooms and work environments is a critical priority. Internal assessments and external reviews should reflect the unit's goals and progress with respect to equity and diversity issues. Senior administrators should also be held accountable for fostering achievement of a diverse working and learning environment as part of their required annual and periodic reviews.*

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### **Student Development Standard**

**Programs, activities, or services should foster constructive and frequent opportunities for students with different backgrounds and perspectives to engage in meaningful dialogue and reflection, and to acquire the understanding, knowledge, and skills to be proactive, competent contributors to a welcoming and just community. While**

**student development is a primary goal of our work as an educational institution, this standard of personal development is equally appropriate for faculty and staff.**

*Research shows that learning outcomes and social development are enhanced when students encounter perspectives that depart from their own worldview and past experience, causing them to think actively and to reassess long-held, and perhaps unexamined, assumptions. Greater exposure to diversity has been associated with gains in critical thinking, higher levels of motivation and engagement, and greater satisfaction with the college experience. Such gains are the result of active engagement rather than mere coexistence. To maximize the educational benefits of diversity, programs both in and out of the classroom should be designed to encourage interaction among a diverse group of peers, to model civil discourse, and to engage all members of the university community in considering perspectives different from their own.*

**Appendix F**

Memorandum from the Virginia State Solicitor explaining the impact of the U.S.  
Supreme Court rulings in the Michigan university admissions cases on  
Virginia institutions of higher education  
(August 27, 2003)



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

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## MEMORANDUM

**TO:** Presidents, Rectors and Counsel of Virginia's Public Colleges and Universities;  
Chancellor and Counsel of Virginia Community College System; and  
Director of State Council of Higher Education for Virginia

**FROM:** William H. Hurd *WHH*  
State Solicitor  
Maureen R. Matsen  
William E. Thro  
Deputy State Solicitors

**DATE:** August 27, 2003

**RE:** U.S. Supreme Court Decisions in *Grutter v. Bollinger* and *Gratz v. Bollinger*

### I. INTRODUCTION

As you know, the United States Supreme Court recently decided a landmark pair of cases dealing with the constitutionality of racial preferences at institutions of higher education. In *Grutter v. Bollinger*, 123 S. Ct. 2325 (2003), the Court upheld the affirmative action program used by the University of Michigan in admissions to its law school. At the same time, in *Gratz v. Bollinger*, 123 S. Ct. 2411 (2003), the Court struck down the program of racial preferences used by the University of Michigan in undergraduate admissions.

Taken together, these two decisions (collectively, "the Michigan decisions") mark a path for institutions wishing to use racial preferences in admissions. This memorandum will review the Michigan decisions, especially as they relate to the advice provided by the Office in our memorandum of April 22, 2002 ("April 22 Memo") and our letter of November 26, 2002 ("November 22 Letter"). Please note that we have not attempted to explicate every nuance of the two decisions. Moreover, while this memorandum provides some general guidance, it is not possible to anticipate every diversity plan that might be devised. State institutions wishing to use racial diversity for future admissions decisions should confer with this Office about the constitutionality of any proposed plan before implementing it.

## II. SUMMARY: BASIC PRINCIPLES AFFIRMED.

The Michigan decisions reaffirm the basic constitutional principles discussed in our April 22 Memo and November 26 Letter. Other constitutional principles have been modified, though not altogether clarified. Highlighting the decisions are the following points:

**A. Strict Scrutiny:** We noted last April that “any attempt by States to classify citizens based on race is inherently ‘suspect’ and is subject to ‘strict scrutiny’ by the courts.” April 22 Memo at 2 (citing authorities). We also noted that “this same standard applies whether the racial classification is invidious or ‘benign.’” *Id.* In order to meet strict scrutiny, we explained that the program in question must meet a two-part test: (i) it must serve a *compelling* state interest; and (ii) it must be *narrowly tailored* to meet that interest. *Id.* The Michigan decisions reaffirmed these basic legal principles, saying:

[R]acial classifications imposed by government ... are constitutional only if they are *narrowly tailored* to further *compelling governmental interests*.

\* \* \*

We apply *strict scrutiny* to *all* racial classifications to ‘smoke out’ illegitimate uses of race by assuring that [government] is pursuing a goal important enough to warrant use of a *highly suspect tool*.

*Grutter*, 123 S. Ct. at 2337-38 (citations and internal quotation marks omitted) (emphasis added). Thus, as the Court explained, “[t]o withstand our strict scrutiny analysis, respondents must demonstrate that the University’s use of race in its current admission program employs *narrowly tailored* measures that further *compelling* governmental interests.” *Gratz*, 123 S. Ct. at 2427 (citations and internal quotation marks omitted) (emphasis added).

**B. Compelling Interest:** Most significantly, the Court squarely decided a previously unsettled issue, recognizing that an institution of higher education has “a compelling interest in obtaining the educational benefits that flow from a diverse student body” and that the Equal Protection Clause does not prohibit the “narrowly tailored use of race in admissions decisions” in order to further this interest. *Grutter*, 123 S. Ct. at 2347. This result agrees with what this Office – following the lead of the Fourth Circuit – previously assumed. See April 22 Memo at 14.<sup>1</sup>

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<sup>1</sup>The Michigan decisions do not in any way alter the law as it applies to racial preferences employed to eliminate the present effects of past discrimination by the institution. However, as



F. **Personal Liability:** In our November 26 Letter, this Office noted that university officials – including members of boards of visitors – could be held personally liable for race-conscious programs that violate clearly established law. By approving the affirmative action program at the University of Michigan Law School, the Supreme Court has provided guidance on how officials administering programs may operate race-conscious programs in a constitutional manner. At the same time, by striking down the undergraduate program – and explaining why it was unconstitutional – the Supreme Court has made it all the more urgent that public institutions of higher education act promptly to redress any constitutional deficiencies that decision may illuminate.

### III. DIFFERENT PROGRAMS, DIFFERENT RESULTS.

In order to understand the Michigan decisions it may be helpful to begin by noting the difference between the law school program approved in *Grutter* and the undergraduate program struck down in *Gratz*.

At the law school, admissions officials considered two objective criteria: the applicant's undergraduate grade point average and the applicant's score on the Law School Admissions Test. *Grutter*, 123 S. Ct. at 2332. Yet, they did not limit themselves to these scores. Instead, they "evaluate[d] each applicant based on all the information available in the file, including a personal statement, letters of recommendation, and an essay describing the ways in which the applicant will contribute to the life and diversity of the Law School." *Id.* at 2331-32. While the law school policy expressly reaffirmed the institution's commitment to racial and ethnic diversity, it did not define diversity *solely* in terms of racial and ethnic status. As the Court noted, "[t]he policy does not restrict the types of diversity contributions eligible for 'substantial weight' in the admissions process, but instead recognizes 'many possible bases for diversity admissions.'" *Grutter*, 123 S. Ct. at 2332.

The undergraduate school also considered objective criteria, including high school grades and standardized test scores, along with various subjective factors. Yet, on matters relating to diversity, the undergraduate school did not engage in individualized consideration. Instead, it used a point system that automatically awarded 20 points to every applicant from a racial group the University thought was "underrepresented." Exacerbating the problem was that these 20 points were enough to assure admission to "virtually every minimally qualified underrepresented minority applicant." *Gratz*, 123 S. Ct. at 2428. On the other hand, even if a white student exhibited artistic talent "rival[ing] that of Monet or Picasso," the applicant would receive, at most, 5 points. *Id.* at 2429.

C. **Narrow Tailoring:** In its previous advice, this Office described a five-part test adopted by the Fourth Circuit to explain what narrow tailoring requires in this context. *See, e.g.*, April 22 Memo at 16 (quoting *Tuttle v. Arlington County Sch. Bd.*, 195 F.3d 698, 707 (4th Cir. 1999)). Drawn from the context of employment and remediation, the previous test was something of an ill-fit. It has been replaced by a set of rules which, while similar, is "calibrated to fit the distinct issues raised by the use of race to achieve student body diversity in public higher education." *Grutter*, 123 S. Ct. at 2341. In brief, the factors to be considered are:

- Whether there is "truly individualized consideration" in which the use of race is "flexible" and "non-mechanical." *Grutter*, 123 S. Ct. at 2342.
- Whether there has been "serious, good faith consideration of workable race-neutral alternatives that will achieve the diversity the university seeks." *Id.* at 2345.
- Whether the program "unduly burden[s] individuals who are not members of the favored racial and ethnic groups." *Id.*
- Whether the race-conscious program is "limited in time." *Id.* at 2346.

D. **State Law:** The Michigan decisions did not address state law limitations of the sort imposed by Va. Code § 23-7.1:02, which restricts the ability of state institutions to discriminate among "federally recognized minorities." By imposing requirements in some respects more stringent than those imposed by this statute, the Michigan decisions diminish its relevance. In other respects, the statute may continue to provide an additional restraint on state institutions.

E. **Financial Aid:** Although the Michigan decisions do not address financial aid, the principles enunciated suggest how courts may rule in litigation involving use of race and ethnicity in awarding such assistance. Racially exclusive scholarships do not appear defensible. Use of race and ethnicity in a manner parallel to their use in admissions may be subject to additional challenges.

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previously explained, remediation is no longer a basis on which Virginia institutions can credibly base race-conscious programs. *See* April 22 Memo at 3-13. It should also be noted that nothing in the Michigan decisions suggests that institutions are *required* to use race-conscious programs for diversity purposes. Whether to do so remains a policy question committed to the discretion of the boards of visitors, subject to direction and control by the General Assembly.



in any way the broad range of qualities and experiences that may be considered valuable contributions to student body diversity." *Id.* at 2344.<sup>4</sup>

The law school's broad view of diversity contrasted sharply with the approach followed by the undergraduate school, where points were awarded simply for being a member of a particular race. Relying on *Bakke*, the Court pointed out that "[p]referring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake." *Gratz*, 123 S. Ct. at 2427 (quoting *Bakke*, 438 U.S. at 307 (opinion of Powell, J.)). Such discrimination is impermissible.

While the Court did not specify how much emphasis may be given to race or ethnicity, it is clear that race or ethnic origin may *not* be the *sole* diversity factor used by the institution. If such factors are considered, they may be no more than part of "a far broader array of qualifications and characteristics." *Grutter*, 123 S. Ct. at 2337 (emphasis added) (quoting *Bakke*, 438 U.S. at 314-315 (opinion of Powell, J.)). Given this language, an admissions program is also likely to be invalid if, when the program is considered as a whole, race and ethnicity *predominate* over other diversity factors. Similarly, the Court explained that the compelling interest it approved does not mean "'assur[ing], within [the] student body, some specified percentage of a particular group merely because of its race or ethnic origin.' That would amount to outright racial balancing, which is patently unconstitutional." *Grutter*, 123 S. Ct. at 2339 (quoting *Bakke*, 438 U.S. at 307 (opinion of Powell, J.)).

The Court's discussion of narrow tailoring explains further what sort of race-consciousness is constitutionally permissible to attain the educational benefits of a diverse student body.

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<sup>4</sup>The *Grutter* and *Bakke* decisions provide examples of qualities that may contribute to diversity. Those mentioned in *Grutter* include living or traveling widely abroad, fluency in several languages, overcoming personal adversity and family hardship, exceptional record of extensive community service, successful career in another field as well as unusual intellectual achievement, employment experience, nonacademic performance, or personal background. *Grutter*, 123 S. Ct. at 2344 (citing University of Michigan Law School admission policy). Similarly, Justice Powell noted that "[s]uch qualities could include exceptional personal talents, unique work or service experience, leadership potential, maturity, demonstrated compassion, a history of overcoming disadvantage, ability to communicate with the poor, or other qualifications deemed important." *Bakke*, 438 U.S. at 317. These lists are, of course, not exclusive. One significant factor not mentioned by *Grutter* or *Bakke* -- but providing obviously valuable diversity -- is service in the military.

#### IV. DIVERSITY: A COMPELLING STATE INTEREST.

In *Grutter*, the Court found that a state institution of higher education has "a compelling interest in obtaining the educational benefits that flow from a diverse student body." *Grutter*, 123 S. Ct. at 2347. In so ruling, the Court announced that it was embracing the concept of diversity described twenty-five years ago by Justice Powell in *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978).<sup>2</sup> As the Court explained:

Justice Powell was ... careful to emphasize that in his view race "is only one element in a range of factors a university properly may consider in attaining the goal of a heterogeneous student body." For Justice Powell, "it is not an interest in simple ethnic diversity, in which a specified percentage of the student body is in effect guaranteed to be members of selected ethnic groups," that can justify the use of race. Rather, "the diversity that furthers a compelling state interest encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is but a single though important element."

*Grutter*, 123 S. Ct. at 2337 (quoting *Bakke*, 438 U.S. at 314-315 (opinion of Powell, J.)). As understood by Justice Powell, diversity is not an esthetic quality to be judged by the mosaic of skin tones comprising the student body. Instead, diversity arises from "those students who will contribute the most to the 'robust exchange of ideas.'" *Bakke*, 438 U.S. at 313 (opinion of Powell, J.) (emphasis added).<sup>3</sup> Thus, Justice Powell was emphatic that a program, "focused solely on ethnic diversity, would hinder rather than further attainment of genuine diversity." *Id.* at 315 (emphasis added). In keeping with Justice Powell's view, the University of Michigan Law School did not view racial minorities as the only students contributing to diversity. Instead, it viewed enrollment of minorities as only "part of its goal of 'assembling a class that is both exceptionally academically qualified and broadly diverse.'" *Grutter*, 123 S. Ct. at 2339 (emphasis added) (quoting Brief of Respondents). Indeed, "[t]he Law School does not ... limit

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<sup>2</sup>Because no other Justice joined the diversity portion of Justice Powell's opinion in *Bakke*, courts were divided on whether it constituted binding precedent. *Grutter*, 123 S. Ct. at 2337. However, in *Grutter*, Justice Powell's view was expressly endorsed by a majority of the Court. *Id.*

<sup>3</sup>Justice Powell rejected an interest in reducing underrepresentation of traditionally disfavored minorities as an unlawful interest in social balancing. He also rejected an interest in remedying societal discrimination because of the burden on innocent third parties. *Grutter*, 123 S. Ct. at 2336 (citing *Bakke*, 438 U.S. at 306-07, 310 (opinion of Powell, J.)).

## V. NARROW TAILORING: A FOUR-PART TEST.

In order to justify racial preferences in admissions, an institution must not only show that it has a compelling interest, it must also show that the means employed to achieve that interest are narrowly tailored. After the Michigan decisions, an institution wishing to use racial preferences must be prepared to show that it meets each element of the following four-part test:

### A. Individualized Consideration

First and foremost, if race is used as a factor in admissions, there must be "truly individualized consideration" and the use of race must be "flexible" and "non-mechanical." *Grutter*, 123 S. Ct. at 2342. That is to say, any admissions program using race must be "flexible enough to consider *all pertinent elements of diversity* in light of the particular qualifications of each applicant, and to place them on the *same footing* for consideration, although not necessarily according them the same weight." *Id.* (emphasis added) (quoting *Bakke*, 438 U.S. at 317 (opinion of Powell, J.)). Giving an example of an acceptable program, the Court again quoted Justice Powell: "[S]uch a program might allow for '[t]he file of a particular black applicant [to] be examined for his potential contribution to diversity without the factor of race being decisive when compared, for example, with that of an applicant identified as an Italian-American if the latter is thought to exhibit qualities more likely to promote beneficial educational pluralism.'" *Gratz*, 123 S. Ct. at 2427 (quoting *Bakke*, 438 U.S. at 317 (opinion of Powell, J.)).

The Court also identified several uses of race in admissions that do *not* qualify as "flexible" and "non-mechanical" and that are, thus, constitutionally invalid. These include the following:

- **Quotas and Set-Asides:** "[U]niversities cannot establish quotas for members of certain racial groups." *Grutter*, 123 S. Ct. at 2342. A program may not reserve "a certain fixed number or proportion of the opportunities ... exclusively for certain minority groups." *Id.*
- **Separate Tracks:** An institution may not "put members of [certain racial] groups on separate admissions tracks." *Id.*
- **Automatic Points and Bonuses:** An institution may not award "mechanical, predetermined diversity 'bonuses' based on race or ethnicity." *Id.* at 2343.

This list of prohibited practices is not exclusive. Indeed, an institution may not use *any* practice that assumes an applicant of a particular race or ethnicity brings with him a particular

contribution to diversity.<sup>5</sup> Instead, the institution must consider how – and, indeed, whether – the individual applicant will contribute to diversity based on his “own, unique experience of being a racial minority in a society, like our own, in which race unfortunately still matters.” *Grutter*, 123 S. Ct. at 2341. Similarly, an institution may not, in any way, “insulate applicants who belong to certain racial or ethnic groups from the competition for admission.” *Grutter*, 123 S. Ct. at 2342. Instead, the institution must “ensure[] that all factors that may contribute to student body diversity are meaningfully considered *alongside* race in admissions decisions.” *Grutter*, 123 S. Ct. at 2343 (emphasis added).

The task of collecting diversity information from applicants merits careful attention. In approving the law school’s program, the Court noted that “[a]ll applicants have the opportunity to highlight their own potential diversity contributions through the submission of a personal statement, letters of recommendation, and an essay describing the ways in which the applicant will contribute to the life and diversity of the Law School.” *Grutter*, 123 S. Ct. at 2344. While the Court does not say that such documents must be a part of the admissions process, institutions wishing to take advantage of the *Grutter* precedent are well-advised to afford opportunities comparable to those the Court implicitly found adequate. Institutions should not base diversity decisions on the fact that an applicant has checked – or failed to check – a particular box on the application. Instead, every applicant must be given a fair opportunity to explain, with sufficient detail and nuance, what contributions he will make to diversity so that the contributions of each applicant can be placed alongside the contributions of each other applicant and a fair decision made.

Such individualized consideration is obviously more difficult for an institution that receives a large number of applications. Recognizing this administrative problem, the University of Michigan argued that “[t]he volume of applications and the presentation of applicant information make it impractical for [the undergraduate school] to use the ... admissions system” used by the law school. *Gratz*, 123 S. Ct. at 2430 (quoting Brief for Respondents). The Court was not moved, saying, “the fact that the implementation of a program capable of providing individualized consideration might present administrative challenges does not render constitutional an otherwise problematic system.” *Id.*

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<sup>5</sup>As the Court emphasized, “[t]he admissions program Justice Powell described ... did not contemplate that any single characteristic *automatically* ensured a specific and identifiable contribution to a university’s diversity.” *Gratz*, 123 S. Ct. at 2428 (emphasis added). Instead, “[t]he critical criteria are often individual qualities or experience *not dependent upon race but sometimes associated with it.*” *Id.* at 2429 (quoting 438 U.S. at 324 (opinion of Powell, J.)) (emphasis added by the Court in *Gratz*).

**Critical Mass:** In discussing the need for flexibility, the Court also distinguished between use of a quota and “[t]he Law School’s goal of attaining a critical mass of underrepresented minority students.” *Grutter*, 123 S. Ct. at 2343. While the former is prohibited, the latter is allowed. Although dissenting Justices took issue with the distinction, the majority explained – if somewhat obscurely – its understanding of the difference between a quota and a goal. On the one hand, “quotas impose a fixed number or percentage which must be attained ... and insulate the individual from comparison with all other candidates for the available seats.” *Id.* at 2342 (internal quotation marks and citations omitted). On the other hand, “a permissible goal ... requires only a good faith effort ... to come within a range demarcated by the goal itself, and permits consideration of race as a ‘plus’ factor in any given case while still ensuring that each candidate competes with all other qualified applicants.” *Id.* (internal quotation marks and citations omitted).

What is unclear from this pair of definitions is whether a goal – critical mass or otherwise – permits an institution to give added weight to race if it sees that it is falling short of its objective. This is obviously an important question and one which the Court appears to answer – albeit indirectly. Saying that an institution may pay “[s]ome attention to numbers,” *id.* at 2343 (quoting *Bakke*, 438 U.S. at 323 (opinion of Powell, J.)), the Court noted that, at the University of Michigan Law School, admissions officials consulted daily reports that tracked the racial and ethnic composition of the class.<sup>6</sup> What is important, of course, is how those reports are used. On this point, as the Court emphasized, “the Law School’s admissions officers testified without contradiction that they never gave race any more or less weight based on the information contained in these reports.” *Id.* at 2343. The Court also took note of the fact that, over a seven-year period (1993 to 2000), “the number of African-American, Latino and Native-American students within each class at the Law School varied from 13.5 to 20.1 percent, a range inconsistent with a quota.” *Id.* (emphasis added). The lesson here is that the sort of goals approved by the Court are those that do not affect the weight given to the diversity contributions of individual applicants, and that evidence of how a program works in practice must be

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<sup>6</sup>At the same time, the evidence from the law school also showed that its goal of “critical mass” did not involve any specific “number, percentage, or range of numbers or percentages” but rather meant “a number that encourages underrepresented minority students to participate in the classroom and not feel isolated.” *Grutter*, 123 S. Ct. at 2333. The opinion does not explain what reference pool was used by the law school in deciding which minority groups were deemed underrepresented.

considered in order to determine whether an institution has a permissible goal or an impermissible *de facto* quota.<sup>7</sup> Use of race as a diversity factor does not, of course, require use of any goals – critical mass or otherwise – and institutions wishing to adopt goals should do so with caution.

### **B. Consideration of Race-Neutral Alternatives**

In order to show that its use of race is narrowly tailored, a university must be able to demonstrate “serious, good faith consideration of workable race-neutral alternatives that will achieve the diversity the university seeks.” *Grutter*, 123 S. Ct. at 2344. Explaining this requirement in more detail, the Court placed several limits on this obligation:

Narrow tailoring does not require exhaustion of every conceivable race-neutral alternative. Nor does it require a university to choose between maintaining a reputation for excellence or fulfilling a commitment to provide educational opportunities to members of all racial groups.

*Id.* In applying these standards to the law school, the Court discussed three specific race-neutral alternatives suggested during the litigation: (i) a “lottery system,” (ii) “decreasing the emphasis for all applicants on undergraduate GPA and LSAT scores,” and (iii) a “percentage plan” such as those “adopted by public undergraduate institutions in Texas, Florida and California.” *Grutter*, 123 S. Ct. at 2345. The Court accepted the law school’s explanation that none of these options is an adequate alternative to race-conscious measures at that institution – a highly selective graduate school. It should be noted, however, that the issue of whether any of these plans would be workable for *undergraduate* admissions, or for graduate admissions at less selective institutions, was not before the Court and no definitive guidance can be gleaned from the opinion.

Moreover, the three race-neutral measures discussed by the Court are not the only ideas for achieving a student body that is racially diverse without using race as a criterion. Other possibilities were mentioned in our April 22 Memo. Still other possibilities may be gleaned from other writings in the field and from the experience of other universities. While a university need not consider every conceivable race-neutral alternative, it must be prepared to demonstrate that it has given “serious, good faith consideration of workable race-neutral alternatives.” *Grutter*, 123

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<sup>7</sup>Among the other salient evidentiary considerations cited by the Court was the fact that “[t]he Law School frequently accepts nonminority applicants with grades and test scores lower than underrepresented minority applicants (and other nonminority applicants) who are rejected.” *Grutter*, 123 S. Ct. at 2344 (quoting Brief for Respondents).

S. Ct. at 2345. Absent such demonstration and appropriate documentation, the institution will likely be unable to persuade a court that its program is narrowly tailored or that it has exercised the due diligence on which any appeal for judicial deference must necessarily depend.

### C. The Burdens on Innocent Third Parties

The Court acknowledged that racial preferences pose "serious problems of justice." *Grutter*, 123 S. Ct. at 2345 (quoting *Bakke*, 438 U.S. at 298 (opinion of Powell, J.)). Thus, in order to satisfy narrow tailoring, "a race conscious admissions program must not unduly burden individuals who are not members of the favored racial and ethnic groups." *Id.* (internal quotation marks and citation omitted). The Court concluded that the law school's admissions policy met this standard because "it can (and does) select nonminority applicants who have greater potential to enhance student body diversity over underrepresented minority applicants." *Id.* "[I]n the context of *its individualized inquiry* into the possible diversity contributions of all applicants, the Law School's race-conscious admissions program does not unduly harm nonminority applicants." *Id.* at 2346 (emphasis added).<sup>8</sup>

### D. The Duration of the Policy

Finally, the Court said "race-conscious admissions policies must be limited in time." *Grutter*, 123 S. Ct. at 2346. As it explained, this requirement can be met by "*sunset provisions* in race-conscious admissions programs and *periodic reviews* to determine whether racial preferences are still necessary to achieve student body diversity." *Id.* (emphasis added). The Court also expressed the expectation that "25 years from now, the use of racial preferences will no longer be necessary...." *Id.* at 2347. Yet, this hopeful observation does not appear intended to relieve institutions from the obligation to conduct more frequent reviews of their policies. The Court did not specify how frequently such reviews should occur; however, once universities have made any adjustments necessary to comply with the Michigan decisions, a review every three-to-four years would seem advisable. Courses of study typically last three or four years, and scheduling a review with the same frequency would permit the institution to alter course – or to reaffirm its use of racial preferences – after each "generation" of students has graduated.

Such reviews should include an inquiry whether racial preferences are needed to achieve diversity based on attention to the institution's own admissions data and whether the pool contains a cohort of highly qualified minority applicants such that diversity may be achieved without taking race or ethnicity into account. Additionally, as the Court explained, universities

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<sup>8</sup>For a discussion of practical problems associated with making the required individualized inquiry, see *supra* at 8-9.

should take into account the experience of universities in those States where racial preferences in admissions are prohibited by state law, specifically mentioning California, Florida and Washington. *Id.* at 2346. "Universities in other States can and should draw on the most promising aspects of these race-neutral alternatives as they develop." *Id.* In light of this admonition, institutions would be well-advised to designate someone responsible for monitoring developments nationally and bringing them to the attention of the appropriate decision-making body. In deciding whether to adopt a particular race-neutral alternative, the institution should determine whether or not it is "workable" in terms of being reasonably likely to produce a diverse student body while avoiding reasonably predictable harm to other important educational interests.

#### VI. VIRGINIA CODE § 23-7.1:02: ADDITIONAL LIMITS.

As we have previously noted, any race-conscious program administered by a public college or university must not only satisfy constitutional criteria, but also must satisfy state law. April 22 Memo at 20. Thus, it is necessary to address the interplay between the restrictions imposed by the Michigan decisions and the restrictions imposed by Va. Code § 23-7.1:02. This statute provides:

Participation in and eligibility for state-supported financial aid or other higher education programs designed to promote greater racial diversity in state-supported institutions of higher education shall not be restricted on the basis of race or ethnic origin and any person who is a member of any federally recognized minority shall be eligible for and may participate in such programs, if all other qualifications for admission to the relevant institution and the specific programs are met.

On some key points, the Michigan decisions diminish the relevance of this statute by imposing requirements that are more restrictive. For example, if an institution automatically awarded a bonus to an applicant because of his particular race or ethnic origin, the statute required the same bonus to be awarded to each applicant from the federally recognized minorities.<sup>9</sup> Under the Michigan decisions, however, the automatic awarding of bonuses based

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<sup>9</sup>The U.S. Department of Education, Office of Post Secondary Education, recognizes seven minority groups. See 34 C.F.R. § 364.4 ("Minority student means a student who is Alaskan Native, American Indian, Asian American, Black (African American), Hispanic American, Native Hawaiian, or Pacific Islander."). *Accord*, 34 C.F.R. §§ 606.3, 606.7, 648.9. See also 34 C.F.R. § 637.4 (authorizing expanded definition for science and engineering students), 34 C.F.R. § 649.6 (authorizing expanded definition for students in master's level, professional or doctoral study).



on race or ethnicity is not allowed. Each applicant must be given individualized consideration. Similarly, if an institution previously gave individualized consideration to how an applicant of a particular race might contribute to diversity, the statute required the university to give like consideration to each applicant from the federally recognized minorities. Under the Michigan decisions, however, if the university considers how the race of some applicants may relate to their potential contributions to diversity, it must give like consideration to *all* applicants, whether or not they are among the federally recognized minorities. That is to say, the potential diversity contributions of Italian-Americans, Polish-Americans, Arab-Americans and other ethnic groups must also be considered on the same individualized basis. *See, e.g., Gratz*, 123 S. Ct. at 2427 (quoting Justice Powell's discussion of constitutionally acceptable diversity program in which he named Italian-Americans as example of potential contributors to educational pluralism).

Given the requirement of individualized consideration, admissions officials are generally – and, perhaps, completely – foreclosed from making categorical judgments that persons of one race are more likely to contribute to diversity than persons of another race. Even assuming that some room for such judgments could be found as a constitutional matter, States may impose more stringent limitations on their institutions. Under Va. Code § 23-7.1:02, state institutions of higher education are precluded from making categorical judgments about student body diversity, based on race or ethnicity, that place any federally recognized minority at a disadvantage compared to the favored race or ethnicity. As previously noted, adopting the goal of a critical mass does not alter the requirement for individualized consideration. *See supra* at 9-10. Thus, it is unclear what effect – if any – the goal of a critical mass may constitutionally have on the admissions process; however, to the extent that there may be any such effect, the Virginia statute requires that every federally recognized minority be included within the critical mass.

## VII. FINANCIAL AID: SUBJECT TO LEGAL RESTRAINTS.

This memorandum has thus far focused on the use of racial preferences in admissions programs, the only area at issue in the Michigan decisions. Yet, it is apparent that the basic constitutional principles on which the Court relied must also have application to other university-sponsored programs, including financial aid.<sup>10</sup> Inasmuch as the flexibility principle precludes a

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<sup>10</sup>As an aside, state law considerations are largely eclipsed by the constitutional principles guiding the Michigan decisions. It should nevertheless be noted that, under Va. Code § 23-7.1:02, “state-supported financial aid programs” may not restrict participation of any otherwise qualified federally recognized minority. Even where a particular scholarship program does not qualify as “state-supported,” if there is a sufficient nexus between the program and the state institution, it may qualify as one of the “other higher education programs” subject to the limitations of the statute.

state institution from setting aside *seats* for members of particular racial groups, the same principle precludes setting aside *scholarship* funds for members of particular racial groups. Where a scholarship program has no racial or ethnic limitation, it is unclear whether university officials may take into account the diversity contributions associated with race or ethnicity. Even where the process of awarding scholarships parallels the individualized consideration approved by the Court for use in admissions, other constitutional issues remain. For example, the connection between financial aid and diversity in the student body is not as direct as the connection between admissions and diversity. Moreover, individualized consideration is only one of the four parts of narrow tailoring that must be met in order to satisfy strict scrutiny. The possible use of race-neutral alternatives and the burdens on innocent third parties may play out differently in the context of financial aid.

Some institutions may have donors who wish to use private funds to set up scholarship programs for selected minority groups. However, the fact that the scholarship program is privately-funded does not necessarily insulate the university from liability. If the university administers the program, it must abide by the same constitutional restraints that apply to state-funded programs. *See, e.g., Evans v. Newton*, 382 U.S. 296 (1966) (Equal Protection Clause bans government from acting as trustee of property bequeathed by testator for use as racially-exclusive park). Moreover, even if the university does not fund or formally administer the program, university officials may have such a close nexus with the program as to color it with state action, thereby bringing the same constitutional limitations into play. *Evans*, 382 U.S. at 299 ("Conduct that is formally 'private' may become so entwined with governmental policies or so impregnated with a governmental character as to become subject to the constitutional limitations placed upon state action."); *Brentwood Academy v. Tennessee Secondary Sch. Ath. Ass'n*, 531 U.S. 288 (2001) (holding that pervasive entwinement of state school officials in ostensibly private organizations indicates organization is state actor for civil rights purposes). Whether such a nexus exists in any given case is largely a fact-specific inquiry; however, university officials should be wary of playing any role in any scholarship program that is not open to persons of all racial and ethnic backgrounds on an equal footing.

As we noted in our April 22 Memo, an institution faced with the need to revise a race-conscious scholarship program may find itself confronted with a conflicting obligation to private donors, whose funding of the scholarship program may have been made with the understanding that the program would be administered using race as a selection criterion. In such a situation, the alternatives are: (i) to persuade the donor to modify or discontinue the restrictions placed on the funds; (ii) to make arrangements for the funds to be administered privately in a manner that does not involve any participation by the institution or by related foundations; (iii) to return the funds to the donor; or (iv) where the donor is no longer living, to use the *cy pres* doctrine to modify or discontinue the restrictions. This Office is available to assist with the details of what is required to achieve any one of these goals.

## VIII. CONCLUSION

Although the Michigan decisions leave room for debate about some of the details, a few things can be said with certainty. Though they are not especially new, they can now be declared without doubt. The Constitution does not permit quotas or the designation of a percentage of a student body that must be made up of minority students. And it does not permit the reservation of certain seats for minorities or separate tracks for non-minority and minority candidates. It does not allow the automatic assignment of value to minority status that is the same for all minority candidates or even for some sub-group of minority candidates. Nor does it allow race to be the defining characteristic of a candidate for admission.

Only an individualized consideration of every application - in a way that allows race to become just one of many factors that influences the subjective decision made about the applicant - is sufficiently narrowly tailored to survive strict scrutiny. We commend to your consideration Chief Justice Rehnquist's description of "the Harvard Plan," adopted as a model by Justice Powell in *Bakke*. See *Gratz*, 123 S. Ct. at 2428-29. We are, as always, prepared to assist with a review of your admissions program, or any other race-conscious activities, to determine their status pursuant to the Supreme Court's new articulation of the law.

## **Appendix G**

Presentation and summary of question and answer session from  
November 10, 2003 open forum



# **Information Session on Comprehensive Review of Race and Ethnicity Conscious Programs**

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November 10, 2003

## Overview

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- The Legal Environment
- Virginia Tech's Internal Review
- Feedback on Our Review
- Moving Forward

## The Legal Environment

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### Supreme Court Rulings:

- U.C. Board of Regents v. Bakke (1978)
- Grutter v. Bollinger (2003)
- Gratz v. Bollinger (2003)

The principles of the *Bakke* decision were clarified and confirmed in this year's Michigan rulings.

## Legal Terms

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- The use of race and ethnicity by states is subject to "strict scrutiny"
- There must be a "compelling interest" for the state to use race or ethnicity.
- If there is a compelling interest, the use of race and ethnicity must be "narrowly-tailored."

## How does the law apply to Virginia Tech?

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### Compelling State Interest –

- The Supreme Court recognizes the educational benefit of a diverse student body can be a compelling state interest.
- Remediation of the present effects of past discrimination is no longer accepted as a rationale for Virginia.

## How does the law apply to Virginia Tech?

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- Narrow Tailoring – Four Tests
  - Individualized Consideration
  - Consideration of Alternatives
  - Limited Impact on Third Parties
  - Limited in Time
- Compliance with Virginia Law – Must consider all federally recognized minority groups the same way.

## Two Principles to Guide the Use of Race and Ethnicity in University Programs

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- The activities and benefits of the university should be open to all. There should be no activities where a student feels they "need not apply" because of their race or ethnicity.
- A diverse student body is important to the educational environment at Virginia Tech. However, the narrowly-tailored use of race or ethnicity in selections should be limited to those activities most critical to creating a diverse campus environment.

## The Internal Review Process

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## The Internal Review Process

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- The university's performed its internal review at the request of a special committee of the Board of Visitors.
- The Board formed this committee at its April 6, 2003 meeting to review recommendations for achieving diversity in accordance with state and federal laws.

## Collection of Information

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- Distributed a campus-wide request for information in April 2003.
- All 408 departments in the administrative structure responded.
- 364 departments reported no race or ethnicity conscious activities.
- 44 departments reported one or more activities with a race or ethnicity conscious aspect.
- The review identified a total of 71 activities with race or ethnicity conscious aspects.

## Review of Information

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- Reviewed the detailed descriptions of identified programs.
- Focused on the use of race or ethnicity as a selection criterion in the program.

## Review of Information

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### Criteria considered acceptable:

- Demonstrably open to all eligible participants regardless of race or ethnicity
- Cooperative agreements with HBCUs or other institutions
- Low-income, first generation criteria

### Criteria considered unacceptable:

- Open only to racial or ethnic minority applicants (set asides)
- Separate selection processes based on race/ethnic status (two track)

## Review of Information

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- Sorted Activities into Three Categories:
  1. Most appeared to be acceptable.
  2. Some were modified or discontinued.
  3. Five major areas required additional legal guidance and review.
  
- All information received from departments along with our administrative summary, was forwarded to the Office of the Attorney General on May 28, 2003.

## Five Major Areas Required Additional Review

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- Undergraduate Admissions
  
- Privately Funded Financial Aid Programs
  
- Multicultural Academic Opportunities Program
  
- Selected Federally Sponsored Activity
  
- McNair Scholars Program – Sponsored by Federal Department of Education

## Recommendations in Five Areas:

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### Undergraduate Admissions

- Expand recruitment efforts.
- Implement strategies to improve the number of minority applicants who accept our offer of admission.
- Continue to use race/ethnicity as one of many factors in a whole file, subjective review of applicants.

## Recommendations in Five Areas

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### Privately Funded Financial Aid Programs

- The use of race/ethnicity in decisions is suspended pending clarification.
- We are awaiting guidance from U.S. Department of Education, Office of Civil Rights.
- In cooperation with donors, the university will modify agreements or selection processes as necessary to comply with legal requirements.

## Recommendations in Five Areas

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### **Multicultural Academic Opportunities Program**

- Students from all racial and ethnic groups are and will continue to be eligible for participation.
- Applicants are evaluated as individuals in a whole file, subjective review.
- The use of race/ethnicity as one factor in considering overall under-representation in planned field of study must be reviewed.

## Recommendations in Five Areas

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### **Federally Sponsored Programs and McNair Scholars**

- The university will continue to comply with the requirements of participation in federally sponsored programs that seek to promote diversity.
- We will not impose limitations beyond those required by the federal grant.
- We anticipate that federal sponsoring agencies may modify their requirements in response to recent legal changes.

## Feedback on Our Review

## Outcomes of Review by the Office of the Attorney General

- Undergraduate admissions process is narrowly-tailored.
- Private Scholarships should be modified in cooperation with donors.
- The university will continue to comply with requirements of federally sponsored activities.
- Questioned aspects of MAOP and other programs where under-representation is used as a rationale.
- Programs must be demonstrably open and unrestricted by race or ethnicity.

## U.S. Department of Education – Office of Civil Rights

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- Responding to the June letter from the Center for Equal Opportunity.
- OCR staff recently met with university officials to discuss their review process.
- The university's internal review process and actions have addressed most of the issues.

## Three Goals of the University in Moving Forward –

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1. To understand and comply with the law –
  - The Equal Opportunity Office
  - All Departments and Managers
2. To monitor and report our progress in achieving a diverse educational environment –
  - Multicultural Affairs
  - Admissions Offices
  - Office of the Provost
3. To identify and recommend the best practices for improving and maintaining the diversity of our student body.
  - Commission for Equal Opportunity and Diversity

**Information Session on  
Comprehensive Review of Race  
and Ethnicity  
Conscious Programs**

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*[www.provost.vt.edu](http://www.provost.vt.edu)*





## Office of the Provost and Vice President for Academic Affairs

### Information Session on Race-Conscious Programs, 11/10/03

#### Summary of Questions Posed at the Information Session on Race-Conscious Programs

This summary was prepared from notes. It is not offered as a verbatim transcript, but as a summary and paraphrase of the gist of the question/comment and Dr. McNamee's response. While we have made an attempt to retain the integrity of the questions, we may not have hit the mark exactly. If you posed one of these questions and feel that we have not done it justice by the summary statement below, let us know. Send an email to [hverp@vt.edu](mailto:hverp@vt.edu). (We would prefer to hear from the person who actually asked the question since this report should reflect their thoughts.)

Further comments or questions may be shared with university administration by sending a note to [hverp@vt.edu](mailto:hverp@vt.edu) and [bdixon@vt.edu](mailto:bdixon@vt.edu). You may also voice opinions or ask questions of the Commission on Equal Opportunity and Diversity, c/o Edd Sewell, [esewell@vt.edu](mailto:esewell@vt.edu).

Q: Would like more information on admissions strategies. Gateway event for underrepresented students has been canceled. That was an effective strategy to increase the yield of students from these groups. Also fee-waived applications for underrepresented students have been eliminated, but not eliminated for Corps of Cadets. This sends a message about what kind of students we are looking for at Tech.

A: We will be looking at other strategies for events such as Gateway – may do a focus on particular high schools or region of the state in order to concentrate event on underrepresented students, but expect that these would not be limited to prospective students from one race/ethnicity group, rather open to all. We are also hoping to involve our alumni groups in the effort. Still looking at ways to encourage applications from underrepresented students without fee waivers. The university may work through high school counselors to provide fee-waivers for low-income students where the fee would be a barrier to application. Several of the strategies we have been considering are more complicated by the on-line application process managed by an outside vendor (requires a credit card number for submission). Fee waiver for the Corps of Cadets is not based on race/ethnicity so was not under scrutiny. However, I hear the concern that you are expressing about unintended messages. This forum allows us an opportunity to hear about collateral issues that we have not yet addressed or considered.

Q: What plans are there for recruiting students from low-income families? Are we willing to look past GPA/SAT since these have inherent bias?

A: The university admissions process is not a mechanical process that only looks at GPA and SAT scores. The university depends on the judgments of admissions professionals. Admissions officers know the differences in high schools and understand that applications from a particular region may reflect prospective students from lower-income families with fewer educational advantages. Admissions staff look for what courses students have taken and how they have done in those courses given the high school environment. Have the students taken the most rigorous courses available to them at their school? They have developed a good sense about what makes students successful at VT. We have reaffirmed our "whole file" review of applicants and that has been approved by the Attorney General.

Q: Address recruitment and retention strategies for faculty. Can the university continue to consider gender/race/ethnicity in their decision making in faculty selections?

A: We reviewed our faculty search guidelines last spring. Race/ethnicity/gender are not part of the decision making process in the guidelines. Responsibility for searches is in the hands of faculty who are in a position to look at the whole person. The faculty members making judgments must understand the full range of talents we are looking for in faculty members and graduate students, and can weigh all of the issues without considering race/ethnicity or gender as a factor. Every department wants to improve its academic and research programs. An outstanding faculty member is a complex person; search teams must look at many factors in determining who they are.

Ben Dixon added: Search committees have been urged to find talent by casting the broadest net possible.

Provost continued: In a 21st century university, excellence and diversity go hand-in-hand. If we don't recruit a diverse faculty we will not be moving forward to become a top-tier university.

Q: Disjuncture between principle of programs open to all and the goal of social justice and recognition of inherent inequalities. Will white students end up being the primary beneficiaries of programs previously targeted to serve underrepresented groups?

A: Every student at the university, regardless of their race/ethnicity benefits from diversity. All students want to gain the advantage of being able to be successful in a diverse environment in order to be successful in a diverse business and industry environment. The university is not providing benefits designed for white students at the expense of other students. As a university we must understand that different types of programs serve differing student needs.

Q: We have had an exodus of black faculty and staff; MAOP has been attacked and programs have been opened to everyone. Seems like this committee went on a seek-and-destroy mission since nothing has come from it to benefit people of color.

A: I am disappointed that the perception is that this review is having such a negative impact on certain members of our community. It was certainly not the intention, and I hope that it will not be the outcome. We need to find ways to continue to demonstrate that the leadership of the university is committed to furthering diversity at VT. The ways in which we create a diverse environment are going to be different now than they were two years ago, due to the changing legal environment. We are seeking to make Virginia Tech a leader in this new environment. The university is going to have to do more things for more people and not fewer things for fewer people.

Q: Have we attempted to measure the negative impact of recent events and these decisions on students of African descent? How do we determine actual impact? How many students have been or will be affected by program/scholarship changes?

A: The most important set of programs for attracting a diverse student body is undergraduate admissions. Our recommendation in that area is to continue using race/ethnicity as one of many factors considered in making admissions decisions. The Supreme Court has upheld our recommendation. We have work to do to be more successful in attracting and retaining more minority students.

Ben Dixon added: We will conduct research as a university on the effect of decisions related to diversity on the campus community.

Q: Why are we responding to the Center for Equal Opportunity? We should have nothing to do with this organization.

A: Let me clarify that we have had NO direct contact with the Center for Equal Opportunity. The Center for Equal Opportunity filed a complaint with the federal Department of Education - Office for Civil Rights (DOE-OCR) against Virginia Tech (see their website for the complaint). DOE-OCR is investigating, as they are required to do, and we are responding to DOE-OCR, not the Center for Equal Opportunity.

Q: How are we combating the negative external perceptions of Tech? Especially faculty leaving because of the Board's decisions last year?

A: With every person who has left, there is a story and usually a very complex one. Budget reductions and competition from other universities have also had a significant impact. I have been asking the deans to take steps to determine what are the factors for those who have left or are considering leaving. We have made many efforts over the last year to retain faculty members. We have been successful in some cases, but certainly not all. In terms of dealing with negative perceptions, what we have tried to do is to be very open in identifying and addressing these issues thoroughly and completely. We are trying to demonstrate that the university can have an open discussion about these issues. While the university cannot make up the rules, we can try to educate, understand the social dynamics and adapt. Virginia Tech can emerge as a leader in this field.

Q: How can you reprogram students to feel comfortable with applying for programs that try to meet the needs of underrepresented students when they are socially programmed to believe that these programs are not meant for them?

A: You and others can help us understand what it would take to make students comfortable and successful. Virginia Tech has a variety of programs to meet student needs. I would like to believe that we have a whole set of advising programs for example meeting the varied needs of students. Within that framework we can be responsive to specific students.

Ben Dixon added: Exposing students to a diverse environment is what is needed to overcome these types of perceptions.

Q: Have you examined policies that are race neutral but have a differential impact on minorities? Legacy admissions, for example. Is it possible to treat alumni of VSU as alumni of VT as a way to counterbalance historic imbalance of whites among VT alums? Wanted to know what is being done to increase diversity in the university's administration.

A: Ben Dixon responded: These are the kinds of ideas we want to see come forward. I hope that you will submit that suggestion. We are committed to an open search process. We are hopeful that our efforts will result in a diverse pool of applicants and diverse leading candidates. Conducting one search at a time, it is difficult to predict the outcome. Hope that you and others will help identify candidates for senior positions when they come open. Progress requires sustained efforts over time. We have made progress in increasing the number of female deans. The standard in the end will be results and the campus community will be looking for results. We ask for your help in identifying top candidates.

Q: A vast number of services at VT serve only white students or males. Many minority programs exist because students of color feel unwelcome.

A: Any program restricted to white students would also be patently illegal. Programs that make minority students feel unwelcome would also violate the stated principle of our review. If these types of program exist please bring them to our attention. The university wants to make sure that all students feel welcome.

Q: Urge the university to not move too quickly to decide that "race neutrality" is the only way to proceed following the Michigan decision. Supreme Court confirmed that there IS a compelling state interest in diversity that could lead to race-conscious decisions. Will we review those departments and programs that should have race-conscious programs, but do not currently? Dismayed that presentation showed FEWER race-conscious programs than may really be needed. When we consider the standard for success for admissions, it should not be grades perhaps, but rather the graduation of someone who will have an impact on the Commonwealth when they leave the university and over their lifetime.

A: From the admissions office perspective, success is the ability to get through the first year. Their judgments are respectful of the land grant mission.

Q: I commend this open forum. I have two concerns. First, instead of limiting the definition of diversity to race and ethnicity, it should include people who bring an open mind. The essay question on the Virginia Tech application is optional. Maybe it should not be. Second, I am concerned about removing obvious problem programs before solutions are in place. An entire generation may be left out before their needs can be addressed.

A: Admissions is considering the possible use of an essay that would address a very broad definition of diversity. Our review process has allowed us to move as quickly as we can in modifying our programs. We want to be creative and have some degree of comfort in designing alternatives to be sure they would survive legal challenge. Don't want to leave our programs open to challenge and therefore in limbo, possibly for years. The programs affected are a small number and affect only a small number of students. Most programs are still in place and only need minor modifications to bring them in line.

Ben Dixon added: Presidential Campus Enrichment Grant uses an essay which requires applicants to talk about their involvement in diversity, but does not define those activities as race-specific. Guidelines allow for a very inclusive understanding of diversity when choosing those who will receive these scholarships. Has worked well.

Q: Ability of students to transfer their MAOP scholarships to colleges that are not participating in MAOP (i.e. Business, Engineering)

A: The MAOP program has been moved centrally into the university administration. We will look for ways to expand the program to other colleges. All colleges of the university have benefited from MAOP. Some colleges that do not participate in MAOP have other programs in place that meet similar objectives to those of the MAOP program. [At present the language of the appropriations act authorizes MAOP scholarships, fellowships, and internships for students in six of the eight colleges. We plan to request a change in that language.]

Q: Concern that we are moving backwards in readopting the control of faculty over search process. This was singularly unsuccessful in the past in hiring a diverse faculty.

A: May have overstated faculty role in search process because of my own background as a faculty member. The senior manager, usually the Dean continues to have final authority in making hiring decision with input from the faculty. I think it is critical that faculty are committed to attracting a diverse group of new members. I expect them to be concerned about competitiveness of the faculty, and diversity is clearly a part of their competitiveness. Search committee members must understand the university strategic plan and the role of diversity in that plan.

Q: Why do more minority students decline offers to VT? What was the concern about the Gateway program?

A: We need more research on this and plan to work on this. Need to focus our attention on students who have been admitted and who are undecided, and convince them to attend. The timing of the decision to cancel the Gateway program last spring was made in a time of uncertainty about the legal status of such programs. The specific concern about Gateway was that there appeared to be a financial benefit to participants solely on the basis of race/ethnicity. We hope to design something that will work well in increasing the number of underrepresented students who do in fact enroll at VT.

Q: It is very disappointing to see VT take this interpretation of affirmative action and assume that all programs must be open to all students. Programs that serve students of color are part of the reason that students of color would come to a predominantly white university. How will we convince them that support networks are in place now that programs have been white washed?

A: It is helpful to us to learn from your experiences as a graduate student here on how we can be successful. Virginia Tech has much to offer any student who comes here. The university will be more successful if we can attract more minority students who feel they can benefit and contribute to the university. We have improvement to make and can benefit from your input.

Q: Virginia Tech is striving for diversity but how do we know when we have achieved it?

A: This is a question that no one on the national scene wants to answer since using numbers is often interpreted as quotas, even when they are not intended to be. But Virginia Tech is so far from any appropriate level of representation that MORE can certainly be our target for a long time to come. We want to keep moving forward in attracting more students to come here.

Ben Dixon added: Diversity is a moving target as the population shifts. Dialogue on goals and strategies must be on-going and we must keep pace.

Q: I came back as a Ph.D. student because of the support I received from MAOP while I was an undergraduate. It is a program that students across the country consider important. Would like a list of programs that have been discontinued and the rationale for doing so. [This list will be put up on the Provost's Forum web site.] How will the university emphasize its commitment to diversity at the graduate level?

A: We are working very hard at supporting MAOP so it will continue to have an important impact on the lives of underrepresented students and on the university as a whole. In graduate admissions, the graduate admissions process is an individualized review at the department level primarily that does not include consideration of race or ethnicity. Graduate students have many opportunities through their undergraduate program, the applications process, and personal interviews to provide information for faculty members to make good recommendations about who to accept as graduate students. The university recognizes that the most successful graduate programs will be those that are diverse. We have work to do as a university in increasing graduate student diversity.

Q: We set goals concerning top-30 status. We need to have achievable goals in this area too. I am a new student here. I want to graduate from Virginia Tech, but did not realize that we have all of these race issues. Why didn't we decide to fight this earlier? Too much talk, where is the action?

A: Although we do not set diversity targets, we do benchmark our progress in many areas including diversity and, in this area, we have a long way to go even among our peers. This has been a difficult and complex situation for VT. Can either discuss it openly, or run away from the reality we are facing. We are all part of the discussion. May not always be a pretty picture as we are going through this. This forum is a moment in time to hear about where things are at as of this fall, and for the Board and administration to hear from the campus community. This is an opportunity for you to participate in these deliberations. We need to look at each other with respect and know that we are working through this as thoughtfully as we can. Hopefully this will represent an opportunity for growth for the campus community, not loss.

Q: Is the decision to withhold race-conscious privately funded scholarships in conflict with the decision to continue federally-funded aid that is race conscious?

A: These are both areas in which we have requested legal advice. It is likely that the use of race/ethnicity in private scholarships will not meet the legal test of a compelling state interest. Therefore, it is prudent for the university to anticipate working with our donors to broaden the criteria in a way that meets the objectives of the donor. The university has not rejected these types of scholarships. We have merely suspended the use of race/ethnicity until we have clarification. The university is expecting the federal government to take a leadership role in providing guidance in this area. In the area of federal grants, the Attorney General's Office has deferred to the federal government and allowed the university to continue to administer federal grants using the criteria they specify so that we are fulfilling the terms of the grant itself. We expect that the federal government will have to revisit those programs that serve underrepresented groups exclusively. The following questions were submitted on cards and not addressed at the forum for lack of time:

Q. Should we expect that the university will follow-up its review of race-conscious programs with a review of gender-conscious, religion-conscious, sexual orientation-conscious, political orientation-conscious, etc. programs?

A: The scope of this review was determined by the changing legal environment surrounding the use of race/ethnicity in university admissions and other programs. We do not anticipate a similar review of other types of programs. The university's stated policy is that we do not discriminate against employees, students, or applicants on the basis of race, sex, disability, age, veteran status, national origin, religion, political affiliation, or sexual orientation.

Q: Throughout the presentation, presenters have stated that they are interested in feedback and suggestions from students, faculty and staff in regards to university policy. Why does this request for input come after the university administration has made key and damaging decisions?

A: Program managers and others working closely with programs under review were involved in developing recommendations for changes. The narrow tailoring committee of the Board of Visitors included the undergraduate and graduate student representatives to the Board and the Faculty Senate president. They have been active participants in the Board's process. While not all aspects of the review process could be made as open as we might have wished, we have tried to forthcoming about the outcomes, laying the groundwork for more campus community involvement in the future of diversity-related programs. The Commission on Equal Opportunity and Diversity is a logical and appropriate entity for continued involvement and consultation on these issues. It has very broad faculty, staff, and student representation. The Commission began meeting this fall. To get a list of members, contact the Office of Multicultural Affairs. Their minutes are available at [www.governance.vt.edu](http://www.governance.vt.edu). Concerns can be addressed to the commission or to those providing leadership for various programs.

Q: The German Club will only accept men. When will the university investigate it and other white-majority organizations that restrict non-whites and non-females?

A: The German Club is a fraternal organization, which does not currently admit women. The university does not control the membership of this private organization any more than it controls the membership of other fraternities. Fraternities (and sororities) are exempt from Title IX and may restrict their membership to one gender. The German Club is open to students of any race.

Q: Is the university going to investigate and disband student organizations that serve particular racial/ethnic groups, like the Black Student Alliance?

A: No, student organizations are not under review and are not affected by this process.

Q. Please provide an example of the appropriate use of race/ethnicity in university programs.

A: There are many good examples of programs that benefit diverse groups of students and minorities specifically. In the internal review, 50 of the identified programs with a race or ethnicity conscious aspect appeared to be legally permissible. Just a few examples of these programs follows:

Phonathon Follow-up: Minority applicants who have been offered admission are contacted by telephone to attempt to answer any questions the prospective students may have. This is a recruiting activity targeted to specific groups.

The GAANN Grant provides fellowships for qualified students demonstrating financial need who complete undergraduate studies in math at Virginia State University, a historically black university.

The Black Cultural Center is a student space that documents the recent history of African-Americans in the university. The space is dedicated to this purpose but is open to anyone in the campus community.

Q: Several cards focused on faculty and administrator recruitment: What steps are being taken to recruit individuals of diverse backgrounds to assist in the process of decision and policy making? How will the VT community know what these steps are and when will students be given an opportunity to participate in this process? Is there recognition of how a diverse faculty improves educational quality? What efforts exist to increase diversity among faculty and staff? What about issues of under-representation in specific fields?

A: There is already recognition among many faculty members that a diverse faculty is a necessity for several reasons – to meet the needs of an increasingly diverse student body and to incorporate a wide variety of perspectives, scholarship interests, and pedagogies into our work. Discussion of these issues are on-going at every level. They affect the job descriptions for new faculty appointments and the qualities we are looking for in new hires, for example. They affect the development of new and revisions of existing courses, and the questions that are asked as part of our research, scholarship, and outreach. Search committees for senior administrative positions always include a committee with very broad representation by university policy. Faculty are well represented. Staff and student representatives also serve, so there is a direct opportunity to participate in the screening process. Additional staff and students are also included in the interviewing process and invited to submit comments on candidates. 17% of our new tenure track hires in the last five years have been faculty members from one of the four federally-protected groups (Asians, Hispanics,

African Americans, and American Indians). Faculty of international origin and women, along with other types of diversity, also add to the breadth of experiences and perspectives to the faculty. The total number of faculty of color is very low however, so achieving a critical mass of faculty of color is a long-standing priority. The issue of critical mass and increasing the pipeline are especially important given the relatively low number of people of color earning doctorates in fields where Virginia Tech does much of its recruiting. The Commission on Equal Opportunity and Diversity and the NSF ADVANCE project both have interest in working on faculty searches and identifying best practices with the goal of increasing the number of women and individuals of color on the faculty and staff.

Q: Several questions focused on the legality of considering race/ethnicity in hiring: Legally, can the university continue to use gender and race/ethnicity consciousness when making decisions? The internal review did not address legal aspects of practices regarding search committees, recruitment and retention of under-represented faculty members. We need guidance and leadership in this area. How does VT address race and ethnicity consciousness in faculty hires? Now some departments at VT refuse to hire white males in Spring of 2003.

A: The legal basis for faculty hiring was not part of the narrow tailoring review process, nor was hiring addressed in the Supreme Court case. All of the recent legal activity has been focused on admissions and related student programs. In fact, legal precedents concerning employment practices make clear that hiring CANNOT be done on the basis of race or gender. That is the essence of "equal opportunity," which the law requires. On the question of hiring, it is very important to differentiate between the requirement for equal opportunity and our responsibilities for affirmative action. Affirmative action compels us to cast a very wide net for applicants, to make aggressive efforts to identify and attract candidates from underrepresented groups, and to make sure that our applicant pools approximate the availability of candidates in the field with the requisite credentials. We are expected to look hard at the credentials and experiences of applicants from underrepresented groups and to invite them for interviews when they present qualities we are seeking for our positions. These efforts are not only legal, they are part of an affirmative action plan required by the federal government of all institutions that receive major federal contracts. Affirmative action does NOT require us to hire any particular applicant or to give preferential treatment to women and minorities when their qualifications do not merit selection. No search should preclude qualified white male candidates from consideration any more than applicants of color or women would be excluded by virtue of their race/ethnicity or gender. Search committees can do a number of things that will increase the probability of identifying and successfully hiring candidates from underrepresented groups and many of these strategies are shared with committees in materials and visits with the EO Office. Including statements such as "ability and experience in mentoring students from diverse backgrounds," or "scholarship reflecting the issues of race or gender" (where this is relevant to the position) are examples of ways to address concerns raised in a previous question without precluding applicants of any race or either gender from applying and being seriously considered for a position. Personal contact is the most effective strategy to attract candidates' interest in a position at the university. The university leadership is firmly committed to increasing the diversity of the faculty. The only way that will happen is by each search committee and the leadership of the faculty taking on the responsibility of identifying outstanding individuals of color and women and urging them to apply for positions. When we are successful in hiring them, then we need to support their careers so that they will be successful and remain at Virginia Tech. There should be no mixed signals about this priority.

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Website updated on 12/22/03. Please contact [Tom Whitehurst](mailto:Tom.Whitehurst@vt.edu) with questions or comments about this website.*

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RESOLUTION ACCEPTING THE RECOMMENDATIONS OF  
THE *AD HOC* COMMITTEE ON THE NARROW-TAILORING CONCEPT  
AND DISSOLVING THE *AD HOC* COMMITTEE

WHEREAS, in a resolution adopted April 6, 2003 the Board of Visitors created an *ad hoc* committee to review recommendations developed by the university administration regarding the narrow-tailoring legal requirement applicable to race-conscious programs and acceptable steps for achieving diversity in accordance with federal and state laws and the rulings of the United States Supreme Court and to present these recommendations to the full Board at a future meeting.

WHEREAS, over the past 14 months, the university administration has completed a comprehensive review of all programs and activities that considered race or ethnicity in any way and has made recommendations for modification, continuance, or discontinuance of activities in accordance with state and federal laws and with the advice of the Virginia Office of the Attorney General.

WHEREAS, the recommendations of the administration have been reviewed and approved by the *ad hoc* committee and are presented to the full Board of Visitors in "The Report of the *Ad Hoc* Committee on the Narrow-Tailoring Concept."

WHEREAS, the administration has recommended the creation of an Undergraduate Admissions Advisory Committee, to include Board of Visitors members, senior university administrators, and undergraduate students, for the purpose of annually reviewing the admissions process, including the progress of the university in achieving its diversity efforts through the continued narrowly-tailored consideration of race and ethnicity in admissions selections, and for making recommendations for incremental changes in practice, policy, and funding for undergraduate admissions.

NOW, THEREFORE, BE IT RESOLVED that, the Board of Visitors hereby accepts the recommendations and report of the committee and the *ad hoc* committee on the narrow-tailoring concept is hereby dissolved.

RECOMMENDATION: That the resolution accepting the recommendations of the *Ad Hoc* Committee on the Narrow-Tailoring Concept and Dissolving the *Ad Hoc* Committee be approved.

Board of Visitors  
Special Committee on Research  
Minutes

1:30 p.m. –Executive Conference Room, Donaldson Brown Conference Center  
June 6, 2004

Committee Members Present: Mr. Philip Thompson, Chair, Mr. Mitchell O. Carr, Mr. Ben J. Davenport, Mr. T. Rodman Layman, Mr. Jacob A. Lutz, III, and Mr. John G. Rocovich

Other Attendees: Dr. Charles Steger, Mr. Minnis Ridenour, Dr. Mark McNamee, Dr. Bradley Fenwick, Dr. James Blair, Dr. John Wilson, Dr. Timothy Pickering, Dr. Landrum Cross, Mr. James W. Severt, Sr., Mr. Allan J. Bradley, Ms. Melinda Cep, Ms. Sandra Muse, Dr. Sam Easterling, Mr. Kevin Miller (Roanoke Times), Mr. Larry Hincker, Mr. Ralph Byers, Dr. Terry Herdman, and Ms. Pam Pettry

Opening Comments: Mr. Thompson called the meeting to order at 1:35 p.m. Dr. McNamee introduced Dr. Brad Fenwick, who will start his tenure as Vice President for Research on July 1.

Welcoming Comments from Dr. Steger: Dr. Steger noted the importance of the Special Committee on Research in helping guide the path to top 30 in NSF research expenditures. He believes that the university has the needed talents and will be successful. He cited college restructuring and strategic investments that have been made as keys to success. He noted that he has been reviewing the research expenditures data for the departments across the university over the past four years and is encouraged by the progress being made including some departments that have doubled their expenditures over that time. He closed by re-emphasizing the point that the work of the special committee is important to the university.

Approval of March 28, 2004 Minutes: Mr. Rocovich moved approval; the motion was seconded by Mr. Lutz and unanimously approved.

Pamplin College of Business' Role in Achieving Research Goal - Discussion: Dean Sorensen presented the strategic directions of the Pamplin College of Business and the role of research in that direction. He reported a four-fold increase in proposals over the past year as indicative of the goal of reaching \$5 million per year (up from \$0.5 million) by 2010. This level of expenditures would put Virginia Tech in the top 5 among Business Schools.

Discussion about the presentation included the following questions:  
Mr. Thompson asked how many entities rank business schools. Dean Sorensen noted that U.S. News, Business Week, Wall Street Journal and Financial Times are the principal raters of business schools. Mr. Thompson asked about the ranking criteria and Dean Sorensen noted that each group uses different factors. The Pamplin College tries to

use the principal factors from each rating organization when it compares itself to others; he noted that the Financial Times does use research expenditures as a factor.

Mr. Thompson asked where U. VA ranks in the various rankings. Dean Sorensen said the undergraduate programs at U. VA are in top 20 and the Darden School graduate programs are about #8.

Mr. Davenport asked what leadership the Pamplin College can lend to establishing a patent policy to enable small and medium businesses to work more easily with Virginia Tech. He expressed the concern that uncertainty of licensing terms is an impediment to doing business with the university. Dean Sorensen noted that the Business Technology Center does provide consulting services to small businesses and could be a forum to look at these problems. Mr. Lutz asked if there are other universities that could be models for Virginia Tech in patent policies. Mr. Davenport did not know of such a model.

On this point, Mr. Thompson assigned an **action item** to Dr. Fenwick to convene a group to examine the patent issues and report to the next meeting. This review should include the Business College, Legal Counsel and the VP for Research.

Provost McNamee observed that the culture in business schools, in general, is not driven by research expenditures, but is rather aimed at publishing in certain journals. He believes that Dean Sorensen is making headway in changing this culture to move into research, but believes that some added incentives need to be developed for faculty members to accept this change.

Publications and Citations Discussion and Progress to the Top 30: Dr. Blair made two presentations, one on publication history for Virginia Tech, and the second on progress towards top 30 status.

As the presentations progressed, the following discussion items arose:

Dr. Steger asked whether medical school publications are contained in the ISI data that was shown comparing publications with research expenditures. The answer is that the data do contain medical schools and clinical publications because we cannot determine how much of the research expenditures are in medical clinical research compared to other areas.

Mr. Thompson asked how Virginia Tech compares to top 30 when the clinical publications are not included. Dr. Blair noted that we are about ½ of the top 30 (1,000 per year vs. 2,000 per year), but considering that they are achieving research expenditures about two times that of Virginia Tech, and the number of publications is proportional to expenditures, this difference would be expected.

Dr. Steger observed that the loss of 300 faculty members has a dramatic impact on research expenditures and on publications and that needs to be considered when analyzing the data.



Mr. Thompson summarized the presentations by noting that tremendous challenges lie ahead and the university is at a juncture to break through or fall further behind. He feels confident about the future and is encouraged that publication data in four areas actually exceeds the top-30 average (in engineering, animal science, materials sciences and plant sciences). He believes that the state can and will help.

Thank you to Dr. Blair: Dr. McNamee made a closing comment that this is Dr. Blair's last meeting as Interim Vice Provost and expressed the view that Dr. Blair has made significant contributions during his tenure and has done an excellent job. He offered his thanks and the committee joined in applause.

Adjournment: Mr. Thompson adjourned the meeting at 2:40 p.m.

Board of Visitors  
Academic Affairs Committee Meeting  
Minutes  
2:00PM – Northern Virginia Center  
May 20<sup>th</sup>, 2004

Present: Ben Davenport, Chair, Myrna Callison, Brad Fenwick, David Ford, Hemant Kanakia, Sandra Lowe and Mark McNamee. Karen DePauw participated by telephone.

Opening Comments: Mr. Davenport convened the meeting at 2:00PM. He welcomed Dr. Bradley Fenwick to his new position as Vice President for Research, effective July 1, 2004. Dr. Fenwick described the intellectual property development in his experience at Kansas State University. He suggested not setting rigid rules to reach the agreements prior to developing.

Mr. Davenport wanted to know what do we want in regards to numbers with graduate students? What does this committee wish to accomplish? He then turned the meeting over to Dr. McNamee.

Dr. McNamee welcomed everyone and said he would like to have a candid discussion to find out what this committee would like to get involved in. For instance, what issues would they like to deal with this academic year with the administration at Virginia Tech? What two or three major issues would the Board of Visitors wish to tackle this academic year? Dr. McNamee said hopefully we could come back to these issues at every meeting with a very specific agenda and feel like the committee is making progress.

Dr. McNamee proposed that one of the issues should be the area of graduate education. Another issue that he feels is critical and could make some progress are faculty issues. He thought there was room for one more additional issue and from what he has heard it should be intellectual properties.

Ms. Lowe suggested that diversity be an issue. She is very interested in diversity and cultural issues. Mr. Davenport mentioned that there is a committee meeting before the next Board of Visitors Meeting to review admissions as related to diversity. Mr. Davenport suggested a paper be developed to define and describe diversity issues at Virginia Tech. Ms. Lowe said she thought this should be developed as a committee.

Dr. DePauw made some comments regarding diversity. She said that diversity should be a focal point for the Academic Affairs Committee. Dr. DePauw commented that it has to be more than recruiting to attract top students. We have to make the environment welcoming at Virginia Tech. She feels that right now we do not have this environment.

Dr. DePauw suggested the committee look at the working document she created. She brought to the committee's attention the first set of bullets –

One immediate goal is to strengthen graduate education at Virginia Tech. The strength of graduate education can be evaluated by:

- Quality of the graduate students and alumni
- Quality of the graduate programs
- Institutional connections of graduate education to undergraduate education
- Institutional relationship of graduate education and research

Dr. Kanakia asked Dr. DePauw how the university strengthens graduate education at the BOV level. How can the BOV assist? Dr. DePauw said one way is to make sure the resources to attract the top graduate students are available.

Dr. DePauw then brought up the fact that she is launching a graduate academic program review process. The first departments will be piloted this fall. There will be internal as well as external review. This will give Virginia Tech the good data it needs to improve the quality, maintain the quality for what often faculty do not want to hear – do we continue the graduate program? Dr. DePauw really wants high quality graduate programs at Virginia Tech.

Dr. DePauw made comments on the Institutional Plan for Graduate Degrees (IPGD) that supports the strategic directions for the university as well as the graduate program review.

In closing Dr. DePauw asked what should she share at the BOV meeting June 6-7, 2004? What specific issue should she present? It was suggested that Dr. DePauw discuss the graduate program review; discuss the barriers and challenges. She agreed and will have a presentation at the BOV meeting.

Faculty issues, faculty welfare, faculty retention and faculty recruitment issues are very significant critical issues. Dr. McNamee hopes the committee can come up with some incentives to help solve these problems.

Diversity came up again and it was agreed that a paper should be developed and make it a focus of each meeting. Ms. Lowe suggested the committee identify issues for which the BOV can make a difference.

The meeting adjourned and there was a short tour of the Northern Virginia Center.

Minutes of the Academic Affairs Committee  
June 7, 2004

Board members present: Ben Davenport, Sandra Lowe, and Myrna Callison. John Rocovich also attended a portion of the meeting.

Guests: Mark McNamee, David Ford, Patricia Hyer, Dixon Hanna, Karen DePauw, John Dooley, Brad Fenwick, Ben Dixon, Lucinda Roy, Fred D'Aguiar, Ellen Plummer, Kevin Miller, Sam Easterling, Gerhardt Schurig, Melinda Sep, Marcus Ly, and Mark Owczarski.

OPEN SESSION:

Minutes of the March 29, 2004 and May 20, 2004 meetings of the Academic Affairs Committee were approved.

Provost McNamee provided the committee an update on various matters. He introduced Brad Fenwick, the new Vice President for Research, and Gerhardt Schurig, newly appointed Dean of Veterinary Medicine. Dr. McNamee expects to make an appointment for the Dean of Natural Resources in the next week or so.

At their May 20<sup>th</sup> meeting, the Academic Affairs Committee chose three topics for on-going consideration during the next year: graduate education, faculty issues, and diversity. One area of interest is the expansion of doctoral programs that will help Virginia Tech reach our research objectives. With additional state and tuition funds, we can start the process of rebuilding faculty capacity in teaching, research, and outreach. In addition, continuing to provide access for a diverse student body remains a high priority for attention over the coming year.

The committee considered two topics under the general heading of graduate education. The first was the proposed Master's of Fine Arts in Creative Writing, a three-year terminal degree with three options in fiction writing, poetry writing, and playwriting. The program is designed to help students master the approaches and techniques needed to produce works of publishable quality. Prospective students are expected to have publications and/or experience as writers, teachers, and editors prior to enrollment. Several unique features are planned including a writer-in-residence experience in K-12 schools; student publication of a hypertext journal; and partnerships with engineering, theater arts, and service learning. Ms. Lowe urged program leaders to consider how to bring the program, especially the service learning component, to the public schools in the Northern Virginia region. A resolution approving the Master of Fine Arts in Creative Writing was moved and seconded. The motion was approved.

Karen DePauw provided an overview of the graduate program review process currently being developed. Periodic program review provides valuable data about the quality and vitality of the programs, provides employers with assurances about the academic rigor of our programs, and allows us to plan within known constraints. The current draft calls

for a seven-year rotation cycle that will incorporate required external accreditation reviews. Several programs have volunteered to be part of a pilot this fall. The review process includes a self study, an internal review process, and an external review process that may include a range of options such as a team of visiting experts. Board members expressed an interest in including participation of non-academic external representatives.

Three faculty-related topics were considered. Gerhardt Schurig, newly appointed Dean of Veterinary Medicine, presented a resolution calling for the establishment of several new ranks for clinical faculty. The college has faced increasing difficulty hiring and retaining qualified faculty to teach clinical skills and to oversee student learning and patient care in the veterinary hospital setting. Higher salaries in a private practice setting and opportunities for career growth are among the factors that make an academic appointment less attractive to talented clinicians. The college has proposed the creation of a non-tenure track career ladder for clinical faculty as one strategy for recognizing and rewarding excellent performance as a clinical faculty member, and as a way to reduce the clinical duty for tenure-track faculty so they can redirect more of their time to research. The new ranks would be clinical assistant professor, clinical associate professor, and clinical professor. Promotion through the ranks would be considered through regular review processes. Those faculty members in the clinical ranks are not eligible for tenure since their appointments do not include the full range of responsibilities expected of tenure-track faculty at a research university. However, they would be eligible for multi-year appointments in order to give them some level of job security. The resolution to adopt new clinical faculty ranks was moved and seconded. The motion was approved.

Dr. McNamee introduced the guidelines for dual career hires which have been developed and reviewed by a variety of university committees. Successful recruitment of talented faculty and senior administrators necessitates a proactive stance to addressing the needs of faculty partners. The guidelines do not create an entitlement for employment nor do they suggest in any way that departments are required to hire individuals who would not otherwise be considered well qualified for an appointment. Instead they establish a consistent framework for responding to cases that will be useful to both department heads and prospective faculty. The Provost expects to bring a final statement on this matter to the Board in August.

Sam Easterling, chair of the Commission on Faculty Affairs, introduced a resolution consolidating several proposed changes to promotion and tenure policies and practices. The resolution calls for three changes: 1) conveying the division of the vote from one committee level to another to inform those up the chain of the strength of the case; 2) updating the membership of the university-level promotion and tenure committee to reflect the restructuring of the colleges; and 3) editorial changes to clarify criteria for promotion and tenure. A motion was made and seconded to approve the proposed changes. The resolution was approved.

The committee then reviewed the proposed budget for Pratt Fund allocations in engineering and animal nutrition for 2004-05. The proposed budgets were approved pending joint consideration by the Finance and Audit Committee.

The final agenda item considered by the committee involved proposed changes to the University Council Constitution. Three changes were proposed: 1) addition of new administrators as ex officio members; 2) updating the charge of the Commission on Outreach and International Affairs to include international affairs; and 3) a change to the parliamentary authority from Sturgis to Robert's Rules of Order. A motion was made and seconded to approve the resolution. The motion was approved.

The committee then continued its discussion of the advancement of graduate education. Dr. DePauw noted that one of the most positive accomplishments in recent years is the recognition of graduate education as a high priority for the university community; it is the beginning of a cultural change. Mr. Davenport expressed an interest in seeing a business plan that would help the Board understand the specifics needed to move graduate education to a higher level. This includes increases in stipends, tuition waivers, health insurance, housing, childcare, and other issues. Dr. DePauw agreed to develop an initial business plan based on the financial model previously distributed to the committee.

#### EXECUTIVE SESSION:

Ms. Lowe moved that the committee convene in Executive Session. The motion was seconded and approved. Issues included approval of recommendations for conferral of emeritus status, faculty leaves, a waiver of the conflict of interest act, approval of recommendations for promotion and tenure, and ratification of the reports on research and development disclosures and faculty personnel changes. The recommendations were approved. The committee then formally closed and certified the Executive Session.

## MFA IN CREATIVE WRITING

### Overview:

The Master of Fine Arts (MFA) in Creative Writing will be offered through the Department of English. The three-year, terminal degree will have options in three major genres, all of which will require the completion of a creative thesis:

- Fiction
- Poetry
- Playwriting

Following the guidelines laid out by the Associated Writing Programs (AWP), the national organization for creative writing programs, students will be required to work in an apprenticeship fashion with publishing writers on the English faculty. Virginia Tech's MFA program will differ from typical MFA programs, however, in that it will build upon the exceptional professional communication and technical resources available to students at Virginia Tech, enabling students in the MFA program to focus not only on the creative and literary aspects of writing, but also on its professional and technical aspects.

The goal of this program is to immerse graduate students in a culture of productive creativity by doing the following: providing them with an opportunity to work in apprenticeship fashion with writing faculty; helping them to acquire a keen sense of the evolving landscape and the challenges in the field of creative writing; empowering them to create a dynamic learning community of writers in the heart of Southwest Virginia; and enabling them to develop the requisite skills they need in order to publish full-length collections of poetry and fiction, and/or develop full-length plays. Many of those who are accepted into the program will already have publications, but they will be looking for expert guidance so that they can hone existing skills and produce works of literary excellence. These works will be worthy of publication and/or production in major commercial and literary markets. Students will also be looking for a program that will help them gain the expertise they will need to teach college-level writing, and to work in community writing programs, and/or digital and traditional publishing arenas.

### Credit Hours Required

The Master of Fine Arts in Creative Writing, a terminal degree, will require 48 graduate credit hours. This will include 6 thesis hours; 15 hours of creative writing workshops; an independent study tutorial course for students who serve in the Writers-in-Residence program; an independent study tutorial course for students who serve as editors of the department's hypertext journal, *New River*; and courses in literature, digital and professional writing, professional development (GEDI courses), and pedagogy.

### The Admissions Process

The criteria for admissions will follow that established by AWP and peer institutions. Candidates will be required to submit one of the following, depending on their specialties:

- A 25-page portfolio of original fiction (stories or novel excerpts)
- An original one-act play, or excerpts from an original full-length play
- An original 15-page portfolio of poems

The committee will also review the following materials to determine whether or not to grant acceptance into the program:

- Academic record, including GRE scores
- Publications, awards, and professional record
- Three letters of recommendation, preferably from former professors and/or creative writers

We anticipate that many of our applicants will be mature students who may well have published widely. It should be noted, therefore, that students whose creative work is exceptional, but who have non-traditional qualifications (e.g., mature students who have experience in the workforce but may not have conventional academic training) will be carefully evaluated to make sure that they will be able to complete the program's academic requirements

### **Expected Learning Outcomes**

Graduates of the Master of Fine Arts in Creative Writing will be able to demonstrate the following:

- A mastery of the approaches and techniques needed to produce full-length works of publishable quality in their areas of specialty, as demonstrated by their production of original full-length collections of poetry, short stories, novels, or plays
- A mastery of the editing and revision process as it pertains to the writing of novels, short stories, poetry, and/or plays
- A refined comprehension of the forms and theories that have influenced the development of fiction, poetry, and/or drama
- A demonstrated knowledge of the complexity and diversity in the literature produced by influential writers through the centuries
- A proficiency in creative writing and composition pedagogy
- An ability to produce significant, original e-portfolios documenting their development as either Writers-in-Residence or editors of hypertext literary journals

### **Learning Outcomes Assessment**

Graduates in the MFA program will be required to take a written examination and produce a thesis. The thesis will consist of a full-length manuscript in their elected genre. An oral defense of the thesis will be required. Students who take the written and oral examination will be expected to demonstrate an advanced proficiency in defining the forms and theories that have influenced the development of their primary and secondary genres. The work produced in the students' theses must be original and of excellent quality, as determined by the thesis committees. In order to graduate from the program, a student's thesis will need to be passed by a majority of the three-person thesis committee. All of the policies and procedures for examinations will be conducted in accordance with Graduate School policy.

### **Evidence of Student Demand**

There are currently five creative writing graduate programs in the state; all except the George Mason program are very small. All accept only a small fraction of the applicants who apply:



- George Mason University's program accepts 36 out of approximately 200 applicants
- The University of Virginia accepts 12 out of approximately 490 applicants
- Virginia Commonwealth University accepts 9-10 out of approximately 100 applicants
- Hollins University accepts approximately 12 out of 160 applicants
- Old Dominion University accepts approximately 12 out of 45-55 applicants

Hence the demand for professional training in creative writing is large and growing. Demand for a program at Virginia Tech is also substantial. Current undergraduates enrolled in a creative writing course were surveyed last year – 71 of 130 expressed an interest in attending an MFA program at Virginia Tech. The department has also received more than 150 unsolicited inquiries from prospective students. The program plans to admit 8 students per year, for a total enrollment of about 24 students.

### **The MFA in Creative Writing in Context of Virginia Tech's Goals:**

The university's strategic plan calls for a strengthening of the humanities and social sciences, and expansion of graduate programs in these fields. In the case of new degree program proposals, Virginia Tech will be looking to develop unique and synergistic graduate programs that draw on the strengths of the faculty in the host department or departments and the university as a whole. The English Department has identified the directions in which it can make a special contribution -- creative writing, professional communication, and composition. The department is already home to a number of nationally known authors and poets and critical new appointments have been made to support the identified strategic directions. The proposed MFA program is unique in the state given its unprecedented exposure to the professional/technical aspects of the art and craft of creative writing and a number of other features.

### **RECOMMENDATION:**

That the proposed MFA in Creative Writing be approved and forwarded to the State Council for Higher Education for their consideration.

## CREATION OF CLINICAL TRACK FACULTY RANKS

**WHEREAS**, the College of Veterinary Medicine employs approximately a dozen non-tenure track instructional faculty members whose primary assignment is to teach clinical skills and to oversee student learning and patient care in the veterinary hospital setting; and

**WHEREAS**, these educators currently hold the rank of instructor without opportunities for career advancement; and

**WHEREAS**, the College has experienced increasing difficulty in recent years recruiting and retaining skilled clinicians for these roles because of competition with opportunities and higher salaries in private practice; and

**WHEREAS**, creation of a career track with opportunities for promotion in rank constitutes one of several strategies to address these concerns;

**THEREFORE BE IT RESOLVED** that a series of non-tenure track clinical faculty ranks be established along with general expectations for qualifications of each, and that appropriate sections of the Faculty Handbook be revised accordingly as below.

**BE IT FURTHER RESOLVED** that College of Veterinary Medicine in consultation with the college faculty association, and with review and approval by the Provost, will adopt a faculty handbook for clinical faculty appointments providing greater detail on the standards and expectations for their employment and identifying the process and criteria for promotion within the ranks.

**(University) Faculty Handbook changes to incorporate the new ranks:**

**Section 2.1 Faculty Definition:** A listing of the four new clinical faculty ranks shall be included in the definition of general faculty, non-tenure instructional ranks:

.....one of the following non-tenure instructional ranks:

- lecturer,
- visiting professor,
- adjunct professor,
- instructor,
- ***clinical instructor,***
- ***clinical assistant professor,***
- ***clinical associate professor,***
- ***clinical professor,*** or

**The new clinical faculty ranks shall be defined in section 2.3 “Other Faculty Ranks” as follows:**

### **2.3.1.5 Clinical Faculty Ranks**

General collegiate faculty members with responsibilities primarily in instruction and/or service in a clinical setting, such as veterinary medicine, are considered clinical faculty. The following clinical faculty appointments are intended to promote and retain clinical educators and to complement the clinical activities of the University. The clinical faculty track provides for long-term, full-time or part-time faculty appointments to individuals whose primary responsibilities are in clinical settings and in the instructional programs. While clinical faculty may conduct clinical research and present their findings in professional venues, there are no expectations for an extensive research program as is typical of tenure track faculty appointments. Tenure cannot be earned in these ranks and time spent in one of these ranks is not applicable toward probationary tenure-track faculty service. The clinical faculty ranks include:

**Clinical Instructor:** Persons appointed to this rank will have the appropriate professional degree. Preference is given to individuals eligible for or certified by the most appropriate specialty college or organization recognized by the profession. Appointments at this rank are typically for one year and are renewable.

The Clinical Professor series is designed for clinical faculty members who will have extended appointments on the faculty and who are expected to interact with graduate students/residents and interns, serving on committees or supervising their training. Appointments to one of these ranks may be from one to five years and are renewable without limit. Normally a national search would be conducted for appointment at one of these ranks (or an approved exemption sought for exceptional skills or similar justification).

**Clinical Assistant Professor:** Persons appointed to this rank will have the appropriate professional degree and eligibility for or certification by the most appropriate specialty college recognized by the professional organization. Credentials shall be consistent with those for appointment to Assistant Professor, with an expectation for primary commitment to the instructional and clinical teaching setting.

**Clinical Associate Professor:** Persons appointed to this rank will have the appropriate professional degree and will be a diplomate in the appropriate specialty college recognized by their professional organization. Credentials shall be consistent with those for appointment to Associate Professor, with an emphasis on clinical accomplishments.

**Clinical Professor:** Persons appointed to this rank will have the appropriate professional degree and will be a diplomate in the most appropriate specialty college recognized by their professional organization. Credentials shall be consistent with those for appointment to Professor, with an emphasis on clinical accomplishments.

Further detail of the duties and responsibilities of these ranks, criteria, and the process for promotion, and the terms and conditions of employment for clinical faculty may be found in the Clinical Faculty Series Handbook in the relevant college.

**RECOMMENDATION:**

That the proposed clinical faculty ranks be approved effective July 1, 2004.

## PROMOTION AND TENURE

The Commission on Faculty Affairs has been systematically reviewing policies related to promotion and tenure over the last two years following recommendations of the Ad Hoc Committee appointed by then-Interim Provost Jim Bohland. This resolution consolidates several changes to relevant passages of the Faculty Handbook regarding aspects of the process and the criteria for promotion and/or tenure.

The first recommended change involves the current practice of conveying only a positive or negative recommendation to subsequent level committees, rather than the actual division of the vote. Promotion and tenure consideration is done at three levels – departmental, college, and university – with colleagues at the department level having the most direct understanding of the candidate's contributions. The Commission, as well as others involved in the P&T process, believes that information concerning the division of the vote would be helpful in understanding the strength of the recommendation to subsequent committees considering the candidates' dossier.

The second change is to update the membership of the university-level P&T committee to reflect restructuring of the colleges. The previous College of Arts and Sciences held two faculty seats on the committee, while all other colleges held one each. The rationale for this was partly the size of the faculty of that college, and partly the tremendous diversity in disciplines represented. The rationale no longer exists given the reorganization. Each college would now have one faculty representative. In addition, one at-large faculty representative would be selected from among nominations provided by the Faculty Senate so that faculty members will remain a majority of the university-level committee.

Finally, the commission proposes editorial changes to clarify certain criteria for promotion and/or tenure. These changes are minor in nature and do not fundamentally change the criteria that have been in place for some time.

## **RESOLUTION CONCERNING CHANGES TO PROMOTION AND TENURE POLICIES**

**WHEREAS**, the Commission on Faculty Affairs has been systematically reviewing policies related to promotion and tenure over the last several years; and

**WHEREAS**, several changes are needed to modify practices concerning conveying the division of the vote, to readjust membership on the university level promotion and tenure committee, and to clarify the criteria for promotion in rank;

**THEREFORE BE IT RESOLVED**, sections 2.8.4.1 and 2.8.4.2 of the Faculty Handbook be modified so that the division of the vote at each level shall be forwarded and made available to the committee members and administrator at the subsequent level and that a minority report may be included in the case of a non-unanimous departmental committee recommendation; and

**BE IT FURTHER RESOLVED**, that section 2.8.4.3 of the Faculty Handbook be modified to provide one faculty representative from each college and one at-large faculty representative nominated by the Faculty Senate in order to preserve a faculty majority on the committee; and

**BE IT FURTHER RESOLVED** that section 2.8.4 of the Faculty Handbook concerning criteria for promotion and tenure be modified as recommended below:

### **2.8.4 Evaluation Procedures for Promotion and Tenure (Text as approved by University Council)**

Promotion to a higher rank and appointment with tenure may be granted to faculty members on a regular faculty appointment who have demonstrated outstanding accomplishments in an appropriate combination of instructional, research, outreach, and other professional activities. Every faculty member should maintain a current curriculum vitae, with copies filed in the department and college (or equivalent academic units, as appropriate). The curriculum vitae together with annual reports, student evaluations, reprints of publications, reference letters, and other similar documents comprise a dossier, which furnishes the principal basis for promotion and tenure decisions.

Faculty members being considered for either promotion or the awarding of tenure will have their dossiers reviewed at as many as three levels: by a departmental committee and the head or chair; by a college committee and the dean; and by a university committee and the provost.

Each candidate for tenure and/or promotion to associate professor will be evaluated in the light of the triple mission of the university: instruction, research, and outreach. Although not all candidates can be expected to have equal levels of commitment or equal responsibilities in each of these missions, a high level of general competence is

expected, in recognition of the need for flexibility in the future establishment of priorities in academic programs. Beyond that basic foundation of competence, decisions related to tenure or promotion to associate professor will require evidence of excellence in at least one area.

The award of tenure is based on the achievement of distinction in an area of learning and the prediction of eminence throughout the individual's professional career. The documentation and evaluation should recognize some significant impact of the candidate's contributions beyond the borders of the university. If the primary strength is in instruction, there should be recognition that the candidate's pedagogical contributions have influence beyond the immediate classroom; if in research, that there is significant impression on colleagues nationally; if in outreach that the influence of the contributions reaches beyond the immediate clientele.

Each candidate for the rank of professor must demonstrate a high level of competence in an appropriate combination of instruction, outreach, and professional activities relevant to their assignment. Because of the university's mission and commitment as a major research institution, successful candidates for the rank of professor must demonstrate excellence in research, scholarship, or creative achievement, as appropriate for the candidate's discipline and assignment. Promotion to the rank of professor is contingent upon national or international recognition as an outstanding scholar and educator.

The university recognizes and encourages appropriate international involvement of its faculty as a mission of the university that cuts across the three traditional missions of instruction, research, and outreach. Occasionally faculty members are placed on international assignments at full salary from the university, with responsibilities that require their residence far from the campus for a considerable period. Under such circumstances, faculty members should be given the usual consideration for tenure, promotion, and salary advancement, with the recognition that international assignments can be an important stimulus to professional growth. The University Committee on International Programs has developed a guideline on the "Employment and Evaluation of Virginia Tech Personnel on International Assignment," which should be recognized by all evaluation committees.

In cases of tenure recommendation—besides evaluation of the candidate's professional abilities—consideration should be given, at all stages of evaluation and review, to future departmental program directions and concern for maintaining currency and flexibility by preserving opportunities to appoint new faculty members in the various sub-fields of the department.

Levels of expectation will vary, of course, with the level of the decision. Where probationary reappointments will recognize, in part, perceived potential instead of accomplishment, recommendations for tenure should suggest that the potential is being achieved and should imply few, if any, lingering doubts about the value of the candidate to the department's program for a "lifetime." And promotion to professor, which leaves

limited opportunity for further university recognition of professional development, should be reserved for those whose achievements are broad and noteworthy.

Besides consideration of specific professional criteria, evaluation for promotion or tenure should consider the candidate's integrity, professional conduct, and ethics. To the extent that such considerations are significant factors in reaching a negative recommendation, they should be documented as part of the formal review process.

**RECOMMENDATION:**

That the proposed changes to the Faculty Handbook concerning promotion and tenure processes and criteria be approved.



## **Context and Rationale for Proposed Amendments to the University Council Constitution**

The University Council and 10 University Commissions constitute the main resident bodies for policy formulation at the university. In addition, there are 13 University Committees, each of which reports to at least one commission. In the spirit of shared governance, each of these bodies is composed of a combination of administrators, faculty, staff, and students.

Generally, non-administrative policies originate from one of the Commissions and are presented to University Council in the form of a resolution. Once University Council approves a resolution, it goes forward to the President for approval. When appropriate, the resolution is then brought to the Board of Visitors for consideration through the President or one of the Board's committees.

When amendments are proposed to the Constitution of University Council, the Constitution stipulates that the amendments become effective upon ratification in the following order by the Faculty and Staff Senates, at least two-thirds of University Council, and then approval by the President and the Board of Visitors. The amendments that are proposed for the Board's consideration in the accompanying resolution have received all the requisite prior approvals. The rationale and context for each of the three amendments to the University Council Constitution will be described in the sections that follow.

### Addition of Ex Officio Members to University Council

University Council currently has 63 members, consisting of 22 administrators (all ex officio or "by virtue of position"), 26 faculty, 4 staff, and 11 students. The organizational structure of the university has evolved since the most recent version of the University Council Constitution was developed and will continue to do so. Although the existing Constitution reflects the intention that the senior administration (at the level of president, executive assistant, vice president, vice provost, and dean) of the university should serve as members of University Council in an ex officio capacity, these documents currently contain no language that explicitly authorizes the automatic addition or elimination of members from the senior administration to ensure the alignment of membership with the actual university organizational structure at any given time.

Over the past several years, three new senior-level positions have been created at the vice president or vice provost level: (1) Vice Provost for Academic Affairs, (2) Vice Provost for Outreach and International Affairs, and (3) the Vice President for Budget and Financial Management. The purpose of this amendment is to make the individuals holding these positions full voting ex officio members of University Council for the 2004-05 academic year.

This compromise solution was reached by University Council so that over the coming year a task force appointed by the President can re-evaluate the composition of University Council to ensure the proper balance of representation by the administration, faculty, staff, and students, and make recommendations for any permanent changes, which would then be brought forward to the Board for approval at the appropriate time.

## Revision of the Charge of the Commission on Outreach and International Affairs

When this commission was first created, its title was the “Commission on Public Service and Extension,” which over time evolved into the “Commission on Outreach.” Last year, the title changed to the “Commission on Outreach and International Affairs.” This change corresponded with the realignment of duties within the Provost’s office and the creation of the position of Vice Provost for Outreach and International Affairs.

The amendment now being proposed is the result of nearly a year’s effort on the part of the commission. It revises the charge of the commission by updating the description of activities that fall under outreach and broadening its scope to include international affairs. Cooperative Extension and public service continue to fall within the charge of this commission. On issues concerning study abroad and international exchange programs, the Commission on Outreach and International Affairs will work cooperatively with the Commission on Undergraduate Studies and Policies.

## Parliamentary Authority

This proposed amendment to the Constitution has a two-fold purpose: to change the parliamentary authority currently stipulated, and to streamline the process by which future changes can be made in the parliamentary authority.

The parliamentary authority currently stipulated in the University Council Constitution is *Sturgis’ Standard Code of Parliamentary Procedure*. However, *Robert’s Rules of Order* is widely accepted as the standard parliamentary authority used by organizations within the United States, and it is therefore the one with which most people are familiar. A telephone survey of the following Virginia schools indicated that they had either adopted *Robert’s* as their parliamentary authority or used it as a guide for governance matters: James Madison University, The College of William and Mary, Old Dominion University, Virginia Commonwealth University, Radford University, and the University of Virginia. Further, *Robert’s* has been found to provide more clear guidance on a variety of matters than *Sturgis*.

As explained previously, amendments the Constitution of University Council do not become effective until they are ratified by the Faculty and Staff Senates and at least two-thirds of University Council, and then approved by the President and the Board of Visitors. The amendment at hand proposes that changes to the parliamentary authority be exempted from this lengthy process and simplified. The requirement for approvals by the Faculty and Staff Senates and the Board of Visitors would be eliminated. (This would apply only to changes in the parliamentary authority; all levels of approval would continue to be required for any other changes to the University Council Constitution.) The parliamentary authority would then be able to be changed at the first meeting of University Council in any given academic year by a two-thirds affirmative vote of all members of the Council, and the new parliamentary authority would remain in effect until changed. Mid-year changes would not be permitted. It is expected that changes to the parliamentary authority would be rare.

## RESOLUTION TO AMEND THE UNIVERSITY COUNCIL CONSTITUTION

**WHEREAS**, the University Council and University Commissions, composed of administrators, faculty, staff, and students, constitute the main resident bodies for policy formulation and provide a systematic method for policies formulated by the Commissions to be recommended to the University Council and then to the President and ultimately to the Board of Visitors for approval; and

**WHEREAS**, the organizational structure of the university has evolved since the most recent version of the University Council Constitution was developed, and approval of the Board of Visitors is required to make changes in the Constitution; and

**WHEREAS**, although the existing University Council Constitution and By-laws reflects an intention that the senior administration of the university should serve as members of the governance system in an ex officio capacity, these documents currently contain no language that explicitly authorizes the automatic addition or elimination of ex officio members of University Council or the University Commissions and Committees to ensure the alignment of membership with the actual university organizational structure at any given time, and thus administrators holding newly created or redefined positions currently cannot be added as ex officio members without formally amending the Constitution; and

**WHEREAS**, it is necessary to revise the charge of the Commission on Outreach and International Affairs to update the description of the Commission's responsibility in the arenas of outreach and to include its new responsibilities in the international affairs of the university; and

**WHEREAS**, it is desirable to change the current parliamentary authority (*Sturgis' Standard Code of Parliamentary Procedure*) adopted in the University Council Constitution to *Robert's Rules of Order*, which is widely accepted as the standard parliamentary authority used by organizations within the United States and major universities in Virginia, and to grant greater flexibility in the future by streamlining the process for approving a change in parliamentary authority;

**THEREFORE, BE IT RESOLVED** that **Article IV, Section 1** of the University Council Constitution be amended to add the following ex officio positions for the 2004-05 academic year, while the composition of University Council is studied further: (1) Vice Provost for Academic Affairs, (2) Vice Provost for Outreach and International Affairs, (3) Vice President for Budget and Financial Management; and

**BE IT FURTHER RESOLVED** that **Article VII, Section 12** of the University Council Constitution be revised to read:

**“COMMISSION ON OUTREACH AND INTERNATIONAL AFFAIRS**

Charge: To study, formulate, and recommend to the University Council policies and procedures concerning the engagement of the University in service, outreach, and international affairs. Areas for consideration include: Cooperative Extension; continuing and professional education; economic development including community resource and leadership development; liaison with affiliated corporations and institutes; international programs; and other matters affecting service, outreach, and international affairs. The Commission on Outreach and International Affairs will liaison with the Commission on Undergraduate Studies and Policies with issues regarding study abroad and international exchange programs.”

**BE IT FURTHER RESOLVED** that sections of the University Council Constitution dealing with parliamentary authority be amended as follows:

- **Article XII, Section 1** of the University Council Constitution be amended by changing *Sturgis' Standard Code of Parliamentary Procedure* to *Robert's Rules of Order*.
- The addition of new language (underlined) to the **first sentence of Article XIII, Section 1**: “Except in the case where adoption of a different parliamentary authority is proposed, notice of proposal to amend the Constitution shall be given in the University Council agenda and considered at no fewer than two meetings of the University Council prior to voting.”
- The addition of new language (underlined) to **Article XIII, Section 2**: “Except in the case where adoption of a different parliamentary authority is proposed, an amendment to the Constitution becomes effective upon ratification in the following order by the Faculty and Staff Senates and the University Council, and approval by the President of the University and the Board of Visitors. A different parliamentary authority or set of guidelines may be adopted at the University Council's first meeting of the academic year by a two-thirds affirmative vote of all members of the Council and will stay in effect until changed. Mid-year changes are not allowed. Approvals by the Faculty and Staff Senates and the Board of Visitors are not required in this case.”

**RECOMMENDATION:** That this resolution to amend the University Council Constitution to accommodate organizational and administrative changes of the university and to adopt a different parliamentary authority and process for changing the parliamentary authority be approved.

**MINUTES OF THE BUILDINGS AND GROUNDS COMMITTEE  
OF THE BOARD OF VISITORS  
VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY**

**June 7, 2004**

**Donaldson Brown Hotel and Conference Center**

**PRESENT**

**Board of Visitors Members:**

Mr. Mitchell O. Carr  
Mr. John R. Lawson, II  
Mr. James W. Severt, Sr.

**VPI & SU Staff:**

Mr. William M. Elvey  
Mr. Z. Scott Hurst  
Mr. Kurt J. Krause  
Ms. Terri T. Mitchell  
Ms. Elizabeth D. Reed

**Guests:**

Mr. Lee Comer – Johnson Controls  
Dr. Elizabeth Flanagan – Development and University Relations  
Mr. Terry Paiva – Worley Associates - Architects  
Mr. Ron Worley – Worley Associates - Architects

**OPEN SESSION**

Opening Comments: Mr. Carr called the meeting to order at 8:00 a.m. Mr. Severt moved the Committee enter into Closed Meeting to discuss the acquisition, use, or disposition of real estate; pursuant to §2.2-3711.3, Code of Virginia, as amended. The motion passed unanimously.

**CLOSED MEETING**

The Committee met in a Closed Meeting to discuss the acquisition, use, or disposition of real property. Mr. Petera moved the Committee be reconvened in Open Session at 9:00 a.m. The motion passed unanimously. The Committee members individually certified that, pursuant to §2.2-3712, the Closed Meeting was conducted in conformity with the Code of Virginia.

## **OPEN SESSION**

1. **Report of Closed Meeting:** Mr. Carr reported that the Committee met in Closed Meeting to discuss acquisition, use, or disposition of real property. No actions were taken.
2. **Approval of Minutes:** The minutes of the March 29, 2004 meeting were unanimously approved.
3. **Building Construction Learning Lab Design Review:** Mr. Worley presented the schematic design for the project. The new facility will be a 4-story teaching facility that will provide classrooms, studios, and research/testing laboratories for students. The facility will also provide faculty offices, seminar rooms, and meeting spaces. Mr. Lawson suggested that the appearance of the store-front be softened to create a more inviting entry to the facility. The Committee unanimously approved the design with the stipulation that the temporary structures in this area be removed, and a green space plan be developed for the area they currently occupy.
4. **Capital Outlay Project Status Report:** The Committee reviewed the status of all capital projects in design, or under construction. These included 5 projects in the design phase, and 8 under construction. The Committee also reviewed the report of bids received. The Soccer/Lacrosse Complex (Restroom Facility) project has a construction budget of \$240,000 and the low bid received was \$396,500. The bid will be cancelled and the project redesigned to increase the scope, and Athletics will seek a corresponding increase in the total project authorization. The Committee expressed its desire that the new Alumni Center, Hotel, and Conference Center be developed as a four star facility and that an executive summary addressing how to achieve this goal be brought forward at the August meeting.
5. **Airport Authority Master Plan:** Mr. Krause requested that discussion of the Airport Authority Master Plan be deferred to a future meeting when additional information will be available.
6. **Resolution for the McCormick Memorial Plot Feasibility Study:** Mr. Carr recused himself from the meeting during the discussion of this agenda item. The

Frontier Culture Museum of Virginia desires to execute a collaboration agreement with the university regarding the development of the McCormick Memorial Plot at the Shenandoah Valley Agricultural Research and Extension Center located in Steeles Tavern, Virginia. The university, including the College of Agriculture and Life Sciences, does not have funding to commit to this development. The university, however, does wish to support the Museum's endeavor as long as the Museum or its governing entity assumes full financial responsibility for the project. Development of the McCormick Memorial Plot will enhance the educational and tourism opportunities at the McCormick Memorial Plot and expand the scope and offerings of the Frontier Culture Museum of Virginia. The Committee requested a feasibility study to determine the viability of the project, to be presented at a future meeting. The Committee recommended the revised resolution for full board approval.

- 7. Resolution for Southside Electric Cooperative Easement:** Southside Electric Cooperative has requested the university grant an easement approximately five thousand feet (5,000') in linear length, approximately thirty feet (30') on each side of the boundary line of an existing forty foot (40') easement across university property at the Southern Piedmont Agricultural Research and Extension Center in Blackstone, Virginia. The easement is needed for the purpose of constructing, installing, operating and maintaining 115 kV transmission lines with accessories and appurtenances for transmitting and distributing electric power. The Committee recommended the resolution for full board approval.
- 8. Resolution for Atmos Energy Corporation Easement:** The Atmos Energy Corporation has requested the university grant a one hundred ninety-four foot (194') easement, seven and one-half feet (7 ½') on each side of the line across university property located from the east side of Tech Center Drive parallel to the Huckleberry Trail and north of the Virginia Tech airport property. The right-of-way is needed to lay, erect, construct, operate and maintain pipelines (not to exceed two in number) and a regulator station together with drips, valves, fittings and other devices appurtenant to and necessary for the proper construction and operation of such pipelines for the distribution of natural gas, which can be transported through a pipeline. This easement will be used to regulate the pressure to feed the distribution system that will provide a larger capacity of gas to the university. The Committee recommended the resolution for full board approval.
- 9. Resolution for the Transfer of Federal Land – Fort Pickett:** At its August 26, 1999 meeting, the Virginia Tech Board of Visitors authorized the acquisition of approximately 1,200 acres of land on the Fort Pickett Military Reservation of

Nottoway County, Virginia from the U. S. Department of Education through a public benefit conveyance. The property is the site of the Southern Piedmont Agricultural Research and Extension Center. On September 3, 2002, the U. S. Department of Education conveyed 1,181.98 acres to the university. The initial conveyance excluded two small parcels of land totaling approximately 4.08 acres pending completion of environmental restoration by the government that has recently been finished. Previously, the Virginia Tech Board of Visitors authorized the Vice President for Finance and Treasurer to execute the required documents. Since his position no longer exists, the Virginia Tech Board of Visitors is being requested to adopt a resolution approving the Vice President for Business Affairs be authorized to execute the documents necessary to acquire this surplus Federal real property in accordance with applicable state procedures. The Committee recommended the resolution for full board approval.

The meeting of the Buildings and Grounds Committee adjourned at 11:00 a.m.

Respectfully submitted,

Kurt J. Krause  
Vice President for Business Affairs



## **MCCORMICK MEMORIAL PLOT COLLABORATION AGREEMENT**

The Frontier Culture Museum of Virginia desires to execute a collaboration agreement with the university regarding the development of the McCormick Memorial Plot at the Shenandoah Valley Agricultural Research and Extension Center located in Steeles Tavern, Virginia.

The university, including the College of Agriculture and Life Sciences, does not have funding to commit to this development. The university, however, does wish to support the Museum's endeavor as long as the Museum or its governing entity assumes full financial responsibility for the project. Development of the McCormick Memorial Plot will enhance the educational opportunities at the McCormick Memorial Plot and expand the scope and offerings of the Frontier Culture Museum of Virginia.

The collaboration agreement will specify the creation, make-up, terms and responsibilities of a Board of Directors to plan and manage the McCormick Museum.

***REVISED***

**RESOLUTION FOR THE MCCORMICK MEMORIAL  
PLOT FEASIBILITY STUDY**

**WHEREAS**, in 1954 the descendants of the Cyrus Hall McCormick Family donated approximately 637 acres of land (hereinafter "Property") located in Augusta and Rockbridge Counties, Virginia to the Virginia Polytechnic Institute Educational Foundation, Inc.; and

**WHEREAS**, the Virginia Polytechnic Institute Educational Foundation, Inc. transferred the Property to Virginia Polytechnic Institute and State University subject to a covenant that approximately 2 acres would be held in perpetuity in the memory of Cyrus Hall McCormick to be known as the Cyrus Hall McCormick Memorial Plot; and

**WHEREAS**, the Frontier Culture Museum of Virginia desires to work collaboratively with Virginia Polytechnic Institute and State University to develop the Cyrus Hall McCormick Memorial Plot into a museum and tourist attraction (hereinafter "McCormick Museum"); and

**WHEREAS**, the University or the College of Agriculture and Life Sciences does not have the financial resources to support the creation and development of the McCormick Museum; and

**WHEREAS**, Virginia Polytechnic Institute and State University supports this endeavor with the understanding that external financing must be obtained for the McCormick Museum;

**NOW THEREFORE BE IT RESOLVED**, that the Virginia Polytechnic Institute and State University supports a feasibility study between the Frontier Culture Museum of Virginia and the University to develop the McCormick Memorial Plot and to determine any additional amount of needed acreage, subject to any applicable Commonwealth of Virginia rules and regulations, and subject to the requirement that the Frontier Culture Museum of Virginia or the project's governing entity assume full financial responsibility for the project.

**RECOMMENDATION:**

That the resolution for a feasibility study with the Frontier Culture Museum of Virginia, subject to any applicable Commonwealth of Virginia rules and regulations, and subject to the requirement that the Frontier Culture Museum of Virginia or the project's governing entity assume full financial responsibility for the project, be approved.

June 7, 2004

**RESOLUTION FOR SOUTHSIDE ELECTRIC  
COOPERATIVE EASEMENT**

Southside Electric Cooperative has requested the university grant an easement approximately five thousand feet (5,000') in linear length, approximately thirty feet (30') on each side of the boundary line of an existing forty foot (40') easement across university property at the Southern Piedmont Agricultural Research and Extension Center in Blackstone, Virginia.

The easement is needed for the purpose of constructing, installing, operating and maintaining 115 kV transmission lines with accessories and appurtenances for transmitting and distributing electric power.

**RESOLUTION FOR SOUTHSIDE ELECTRIC  
COOPERATIVE EASEMENT**

**WHEREAS**, Southside Electric Cooperative desires to acquire an easement approximately five thousand feet (5,000') in linear length, approximately thirty feet (30') on each side of the boundary line of an existing forty foot (40') easement, for the purposes of constructing, installing, operating and maintaining 115 kV transmission lines with accessories and appurtenances for transmitting and distributing electric power over, upon and across real property of Virginia Polytechnic Institute and State University; and

**WHEREAS**, said easement would constitute an easement extending approximately 5,000 feet comprising approximately 9.75 acres of real property located at the Southern Piedmont Agricultural Research and Extension Center in Blackstone, Virginia; and

**WHEREAS**, said easement is more particularly described on drawings prepared by Maxey-Hines & Associates, P.C. dated April 26, 2004 and entitled "Easement Survey Proposed Additional Easement Areas for Southside Electric Cooperative"; and

**WHEREAS**, said easement is described as follows:

Easement VT1

Beginning at a point on the eastern right of way of Military Road, said point being N 05° 00' 26"E, 93.58 ft. from the intersection of the east right of way of Military Road and northwest side of existing easement E; thence a new course N 23° 42' 18"E, 287.88 ft. to the southern side of existing easement D; thence along the southern side of existing easement D, N 67° 49' 45"E, 43.09 ft. to the intersection of existing easements D and E; thence along the western side of existing easement E, S 23° 42' 18"W, 407.45 ft. to the eastern right of way of Military Road; thence along the eastern right of way of Military Road following a curve to the left having a radius of 2904.79 ft., an arc distance of 93.59 ft., a delta angle of 01° 50' 45" and a chord bearing and distance of N 05° 00' 26"E, 93.58 ft. to the point of beginning.

Easement VT2

Beginning at the point of intersection of the northern side of existing easement D and the western side of existing easement E, thence along northern side of existing easement D, S 67° 49' 45"W, 43.09 ft., thence a new course N 23° 42' 18"E, 3967.50 ft. to the western side of existing easement F; thence along the western side of existing easement F, S 09° 06' 03"E, 55.37 ft. to the intersection of existing easements F and E; thence along western side of existing easement E, S 23° 42' 18"W, 3890.03 ft. to the point of beginning.

## Easement VT3

Beginning at the point of intersection of the eastern side of existing easement F and the western side of existing easement E; thence along eastern side of existing easement F, N 09° 06' 03"W, 55.37 ft., thence along three new courses, N 23° 42' 18"E, 1064.75 ft., N 36° 55' 12" E, 150.59 ft. and N 47° 09' 56"E, 1078.97 ft. to the southwestern side of the M.R.T.C. Road, thence along southwestern side of the M.R.T.C. Road S 38° 21' 16"E, 30.09 ft. to the northwestern side of existing easement E, thence three courses along the northwestern side of existing easement E, S 47° 09' 56"W, 1073.93 ft., S 36° 55' 12"W, 144.42 ft. and S 23° 42' 18"W, 1107.81 ft. to the point of beginning.

## Easement VT4

Beginning at the point of intersection of the southwestern side of the M.R.T.C. Road and the southeastern side of existing easement E; thence along southwestern side of the M.R.T.C. Road S 38° 21' 16"E, 30.09 ft., thence along three new courses, S 47° 09' 56"W, 1062.17 ft., S 36° 55' 12"W, 130.04 ft. and S 23° 42' 18"W, 2934.90 ft. to the northern side of existing easement E; thence along the northern side of existing easement E, N 80° 49' 24"W, 30.99 ft. to a corner; thence continuing along the northwestern side of existing easement E three courses N 23° 42' 18"E, 2946.15 ft., N 36° 55' 12"E, 136.21 ft. and N 47° 09' 56"E, 1067.21 ft. to the point of beginning.

## Easement VT5

Beginning at the point of intersection of the eastern right of way of Military Road and the southeastern side of existing easement E; thence along the southeastern side of the existing easement E, N 23° 42' 18"E, 2680.59 ft. to the southern side of existing easement E, thence along the southern side of existing easement E, S 80° 49' 24"E, 30.99 ft. thence along two new courses S 23° 42' 18"W, 2332.06 ft. and S 16° 56' 21"W, 490.27 ft. to a point on the northern side of existing easement B; thence along the northern side of existing easement B, N 77° 44' 17"W, 54.79 ft. to the eastern right of way of Military Road; thence along the eastern right of way of Military Road following a curve to the left having a radius of 2904.79 ft., and arc distance of 145.47 ft., a delta angel of 02° 52' 10" and a chord bearing and distance of N 10° 09' 49"E, 145.46 ft. to the point of beginning.

## Easement VT6

Beginning at a point near the eastern right of way of Military Road, on the southern boundary of Virginia Polytechnic Institute and State University and the eastern side of existing easement B and is further described as being located N 48° 22' 57"W, 3388.19 ft. from a concrete monument with a brass cap stamped "MH-5" having NAD83 Coordinates of N=3554151.3784 E=11640968.2798, thence along the eastern side of existing easement B, N 16° 54' 05"E, 200.76 ft.; thence along southern side of existing easement B, S 77° 44' 17"E, 31.72 ft.; thence a new course S 16° 56' 21"W, 200.77 ft. to a point on the boundary of Virginia Polytechnic Institute and State University and the County of Nottoway; thence along said boundary N 77° 44' 17"W, 31.59 ft. to the point of beginning; and

**WHEREAS**, said easement is part of an approximate 1,181.98 acres of land (hereinafter "Property") the university acquired from the U.S. Department of Education through a public benefit conveyance by deed dated September 3, 2002; and

**WHEREAS**, Virginia Polytechnic Institute and State University agreed to use the Property for certain educational purposes as detailed in its Application for Public Allowance Acquisition dated November 2, 1998; and,

**WHEREAS**, Virginia Polytechnic Institute and State University may seek abrogation of the conditions of the deed that require the university to utilize the Property for educational purposes by paying the United States of America a sum of money equal to the fair market value of the Property to be released from the conditions; and

**WHEREAS**, Southside Electric Cooperative has agreed to bear all costs associated with the granting of this easement including but not limited to an appraisal of the Property to be released and the fair market value of the Property to be released; and

**WHEREAS**, Virginia Polytechnic Institute and State University desires to grant said easement to Southside Electric Cooperative;

**NOW, THEREFORE BE IT RESOLVED**, that the Vice President for Business Affairs seeks from the U.S. Department of Education the requisite authority to convey this easement to Southside Electric Cooperative and a binding commitment from Southside Electric Cooperative to provide all sums necessary to secure this authority;

**FURTHER, BE IT RESOLVED**, upon the performance of the above conditions precedent, that the Vice President for Business Affairs be authorized to execute an easement to Southside Electric Cooperative in accordance with applicable procedures for said easement pursuant to the Code of Virginia, Section 23-4.1 and the covenants of the deed dated September 3, 2002.

**RECOMMENDATION:**

That the above resolution authorizing the Vice President for Business Affairs to execute the easement to Southside Electric Cooperative be approved.

**RESOLUTION FOR ATMOS ENERGY  
CORPORATION EASEMENT**

Atmos Energy Corporation has requested the university grant a one hundred ninety-four foot (194') easement, seven and one-half feet (7 ½') on each side of the line across university property located from the east side of Tech Center Drive parallel to the Huckleberry Trail and north of the Virginia Tech airport property.

The right-of-way is needed to lay, erect, construct, operate and maintain pipelines (not to exceed two in number) and a regulator station together with drips, valves, fittings and other devices appurtenant to and necessary for the proper construction and operation of such pipelines for the distribution of natural gas, which can be transported through a pipeline. This easement will be used to regulate the pressure to feed the distribution system that will provide a larger capacity of gas to the university.

**RESOLUTION FOR ATMOS ENERGY  
CORPORATION EASEMENT**

**WHEREAS**, Atmos Energy Corporation has requested the university grant a one hundred ninety-four foot (194') easement, seven and one-half feet (7 ½') on each side of the line for the purposes of laying, erecting, constructing, operating and maintaining pipelines (not to exceed two in number) and a regulator station together with drips, valves, fittings and other devices appurtenant to and necessary for the proper construction and operation of such pipelines and regulator station for the distribution of natural gas, which can be transported through a pipeline; and,

**WHEREAS**, said easement would comprise approximately 0.07 of an acre on real property located from the east side of Tech Center Drive parallel to the Huckleberry Trail and north of the Virginia Tech airport property; and,

**WHEREAS**, said easement is more particularly described on a plat of survey prepared by Altizer, Hodges, & Varney, Inc. dated April 22, 2004 and revised May 13, 2004, AHV Project Number 2004031; and,

**WHEREAS**, said easement is described as follows:

Beginning on the western side of Tech Center Drive, approximately 15 feet north of the Huckleberry Trail crossing, thence continuing across Tech Center Drive and generally along the northern side of the Huckleberry Trail N83°11'57"E 107.66 feet, N86°53'49"E 51.27 feet, and S65°31'09"E 35.08 feet to the end of the easement; and

**WHEREAS**, Virginia Polytechnic Institute and State University desires to grant said easement to Atmos Energy Corporation;

**NOW THEREFORE BE IT RESOLVED**, that the Vice President for Business Affairs be authorized to execute an easement to Atmos Energy Corporation in accordance with applicable procedures for said easement pursuant to the Code of Virginia, Section 23-4.1.

**RECOMMENDATION:**

That the above resolution authorizing the Vice President for Business Affairs to execute the easement to Atmos Energy Corporation be approved.



**RESOLUTION FOR THE TRANSFER OF  
FEDERAL LAND - FORT PICKETT**

At its August 26, 1999 meeting, the Virginia Tech Board of Visitors authorized the acquisition of approximately 1,200 acres of land on the Fort Pickett Military Reservation of Nottoway County, Virginia from the U. S. Department of Education through a public benefit conveyance. The property is the site of the Southern Piedmont Agricultural Research and Extension Center.

On September 3, 2002, the U. S. Department of Education conveyed 1,181.98 acres to the university. The initial conveyance excluded two small parcels of land totaling approximately 4.08 acres pending completion of environmental restoration by the government that has recently been finished.

Previously, the Virginia Tech Board of Visitors authorized the Vice President for Finance and Treasurer to execute the required documents. Since his position no longer exists, the Virginia Tech Board of Visitors is being requested to adopt a Resolution approving the Vice President for Business Affairs be authorized to execute the documents necessary to acquire this surplus Federal real property in accordance with applicable state procedures.

**RESOLUTION FOR THE TRANSFER OF  
FEDERAL LAND - FORT PICKETT**

**WHEREAS**, at its August 29, 1999 meeting, the Virginia Tech Board of Visitors authorized acquisition of approximately 1,200 acres of land on the Fort Pickett Military Reservation of Nottoway County, Virginia (hereinafter "Property") through a public benefit conveyance; and,

**WHEREAS**, this Property is the site of the Southern Piedmont Agricultural Research and Extension Center; and,

**WHEREAS**, on September 3, 2002, the U. S. Department of Education conveyed approximately 1,181.98 acres to the university; and,

**WHEREAS**, the initial conveyance excluded two small parcels of land totaling approximately 4.08 acres pending completion of environmental restoration by the government that has recently been finished; and,

**WHEREAS**, the parcels of land, identified as sites PI-1 and BCT-4, are more particularly described on drawings prepared by Timberlake & Co. dated November 4, 1999 and November 9, 1999, Plan No. L-99-89E and Plan No L-99-89F, respectively; and,

**WHEREAS**, Virginia Polytechnic Institute and State University wishes to now acquire said property from the U. S. Department of Education;

**NOW THEREFORE BE IT RESOLVED**, that Virginia Polytechnic Institute and State University is authorized to acquire the surplus Federal real property and Kurt J. Krause, Vice President for Business Affairs, is authorized to act on behalf of Virginia Polytechnic Institute and State University for the purposes of executing any instruments necessary to effect the transfer of title of real property, and such acquisition shall be conducted in accordance with applicable state procedures.

**RECOMMENDATION:**

That the above resolution authorizing the Vice President for Business Affairs to execute the necessary documents to effect the transfer of title of real property in accordance with applicable state procedures be approved.

**MINUTES OF THE FINANCE AND AUDIT COMMITTEE  
OF THE BOARD OF VISITORS  
VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY**

**June 7, 2004**

***FINANCE CLOSED SESSION***

**PRESENT:**

**BOARD OF VISITORS:** Mr. Jake Lutz, Mr. Tom Robertson, Mr. John Rocovich, Mr. Philip Thompson

**VPI&SU STAFF:** Ms. Kay Heidbreder, Mr. Stuart Mease, Mr. Minnis Ridenour, Mr. John Rudd, Mr. Dwight Shelton

**FINANCE CLOSED SESSION:** The Committee met in Closed Session to review and take action on the quarterly personnel changes report, the Research and Development Disclosure Report, the Promotion, Tenure and Continued Appointment Program, a resolution on exception to the Virginia Conflict of Interest Act, a Virginia Bioinformatics Institute Policy Advisory Board reappointment, and the NCAA women's basketball tournament bonuses. The Committee also received a quarterly report on collections matters.

***FINANCE OPEN SESSION***

**PRESENT:**

**BOARD OF VISITORS:** Mr. Jake Lutz, Mr. Tom Robertson, Mr. Philip Thompson, Dr. Diane Zahm – President, Faculty Senate

**VPI&SU STAFF:** Mr. Bob Broyden, Mr. John Cusimano, Ms. Laura Fornash, Ms. Cathy Greenberg, Mr. Tim Hodge, Mr. Stuart Mease, Mr. Ken Miller, Mr. Minnis Ridenour, Mr. John Rudd, Ms. Kathy Sanders, Mr. Dwight Shelton, Dr. Raymond Smoot, Ms. Linda Woodard

**GUEST:** Mr. Kevin Miller, [The Roanoke Times](#)

1. APPROVAL OF MINUTES OF THE MARCH 29, 2004 MEETING:

The Committee reviewed and approved the minutes of the March 29, 2004 meeting.

**ITEMS PRESENTED TO THE FULL BOARD FOR APPROVAL**

2. APPROVAL OF YEAR-TO-DATE FINANCIAL PERFORMANCE REPORT (JULY 1, 2003 – MARCH 31, 2004):

The Committee reviewed the Year-to-Date Financial Performance Report for July 1, 2003 - March 31, 2004. For the third quarter, all programs of the university are on target, and routine budget adjustments were made to reflect changes in projected revenues and expenditures.

Tuition and Fee revenue is higher than projected through the third quarter due to slightly higher than anticipated Spring retention and lower than projected awards of unfunded scholarships. Academic expenditures in the University Division are lower than projected due to salary savings from vacant positions in the current year and timing of certain operating expenses. Salary savings will be redistributed during the remainder of the year to operating accounts. Expenses in the Cooperative Extension and Agriculture Experiment Station Division are lower than historical budget projections due to salary savings from vacant positions in the current year. These savings will be redistributed during the remainder of the year to one-time costs. Total sponsored and overhead revenue and expenditures were less than projected, but sponsored and research expenditures are slightly ahead of the 2002-2003 activity levels. The University will review these budgets and make any necessary changes to the annual budget during the fourth quarter.

Revenues are higher than projected in Residence and Dining Halls due to income from dining dollar deposits, meal plan sales to off-campus students, and summer conferences. Revenues are higher than projected in Intercollegiate Athletics due to higher-than-anticipated football and basketball ticket sales, handling and internet fees collected from increased on-line ticket orders, student fees, and income from facility rentals and leases. The Committee requested at the next meeting a full report on the impact that exit fees from the Big East Conference and entrance fees into the ACC would have on the accrual basis of the Athletics Department for the current fiscal year. Routine budget adjustments have been made in several auxiliaries to reflect revenue and expenditure changes.

For the quarter ending March 31, 2004, \$37.1 million had been expended for Educational and General and General Obligation Bond Projects, and \$19.2 million had been expended for Auxiliary Enterprises capital projects.

The Committee recommended the Year-to-date Financial Performance Report to the full Board for approval.

### 3. APPROVAL OF 2004-2005 FACULTY COMPENSATION PLAN:

The Committee reviewed for approval the 2004-2005 faculty compensation plan. The Secretary of Education annually issues the "Consolidated Salary Authorization for Faculty Positions in Institutions of Higher Education" that outlines the authorized salary average for full-time teaching and research faculty positions, defines the qualification criteria for teaching and research faculty and administrative and professional faculty, and requires a Board-approved faculty compensation plan. In the late 1980s, the General Assembly established an objective to fund a faculty salary average at all institutions that would approximate the salary average at the 60<sup>th</sup> percentile in the ranking of salary averages in individual benchmark groups.

Included in the faculty compensation plan are the processes that guide the promotion, tenure, and continued appointment actions, the annual evaluation of faculty, and the salary adjustments for faculty, including those adjustments that are made outside of the annual merit cycle.

The authorized salary average for 2003-04 for Virginia Tech is \$74,396 (the first authorized salary average increase since 2000-01). This places Virginia Tech at the 25<sup>th</sup> percentile of its peer group for 2003-04. Because the General Assembly provided funding for an average increase of 3.00 percent in 2004-05, the authorized salary average is expected to increase to \$76,628, and we are expected to remain at the 25<sup>th</sup> percentile.

The university has included in its 2004-2005 budget a provision to alter the percentage increase provided by the state to further address salaries. These additional funds will move the actual faculty salary average to \$77,374 and approximately the 28<sup>th</sup> percentile of our peers.

The Committee recommended the 2004-2005 Faculty Compensation Plan to the full Board for approval.

### 4. APPROVAL OF 2004-2005 UNIVERSITY BUDGET:

The Committee received an update on the 2004 legislative session and an overview of the 2004-2005 University Budget and reviewed the average instructional cost for students. The approved tuition rates for 2004-2005 will result in students paying an average of 62 percent of the instructional cost (unchanged from 2003-2004). In-state undergraduates will pay 41 percent while out-of-state undergraduates will pay 134 percent of the average instructional cost. Nonresident students will, as a group, pay 127 percent of the appropriated cost per student (a slight decrease from 2003-2004). The University is in compliance with the policy established in the 1991 General Assembly session requiring institutions to charge out-of-state students, as a group, the full cost of the instructional program.

The Committee reviewed the following 2004-2005 University Budgets:

University Budget

The University has budgeted \$767.6 million during 2004-05 to carry out all of its programs, based upon the direct appropriations. The University's annual internal budget will be adjusted as central funds are allocated to the University for staff salaries and benefits, and as adjustments are made in tuition and fees as well as other nongeneral funds. These adjustments will be reported each quarter to the Board.

At its March 29, 2004 meeting, the Board of Visitors delegated the authority to the University's President and Executive Vice President and Chief Operating Officer to establish a schedule of tuition and fee rates within the upper limits approved at the March 2004 meeting to address the University's strategic plans and the requirements of the Appropriation Act. In the resolution on 2004-2005 tuition and fees passed at the March 2004 meeting, the Board asked that the University identify the "allocation of tuition and fees in support of various university programs" as a part of the approval process for the 2004-2005 operating budget. A total of \$23.8 million in incremental revenue from tuition and fees is projected in 2004-2005. Incremental tuition and fee revenue was allotted to provide \$19.0 million for educational and general programs, \$2.4 million for student support services auxiliaries, \$1.1 million for general auxiliary services (the majority were mandatory cost increases), and \$1.3 million for residential and dining programs.

The Education and General budget will be \$441.1 million in 2004-05 and reflects the increased General Fund support as well as the approved tuition and fees. In 2004-05, the auxiliary operations are projected to grow approximately 7.7 percent over the original 2003-04 budget, with a significant portion of the growth occurring in Athletics (due mainly to an increase in self-generated resources). Sponsored programs activity for 2003-04 was projected to grow by 10 percent over 2002-03 projected activity levels. While sponsored research grant and contract activities grew by 5.7 percent over 2002-03 levels as of March 31, 2004, other sponsored activities decreased, reducing the overall sponsored grant and contract increase to 1.8 percent. Despite the current slow down in research expenditures, the University continues to make significant investments in research initiatives. As a result, the University anticipates that increases in research activities will occur; thus, sponsored programs activity for 2004-05 is projected to grow by 10 percent over 2002-03 projected activity levels. The university's student financial assistance program is anticipated to increase by 7.4 percent in 2004-05, providing \$12.2 million in state-supported student financial assistance.

The capital outlay program for fiscal year 2005 includes 13 Educational and General projects, 10 General Obligation Bond projects, and 12 Auxiliary Enterprise projects for a total of 35 projects. The total capital outlay budget for fiscal year 2005 includes \$499.9 million of authorizations with an estimated

available balance of \$331.6 million. Of the available balance, the University plans to spend almost \$89.6 million in fiscal year 2005.

The Committee recommended the 2004-2005 operating and capital budgets to the full Board for approval.

#### Student Financial Assistance

Discretionary financial assistance from the General Fund is appropriated by the General Assembly for students attending state colleges and universities in Virginia. For the 2003-2004 fiscal year, the University received a total of \$11.8 million for undergraduate and graduate financial assistance. For the 2004-2005 fiscal year, the University received an additional allocation of \$511,684 for undergraduate Virginians. Thus, a total of \$12.3 million is anticipated to be available for state-supported student financial assistance in 2004-2005. It is recommended that the allocation be distributed in the following manner: \$11,000 for Soil Scientist Scholarships; \$307,500 for the Multicultural Academic Opportunities Program, \$2,184,552 for Graduate Fellowships; and \$9,769,970 for Undergraduate Scholarships. In addition, the University will be providing \$2.0 million in financial assistance through unfunded scholarships to assist those undergraduate students with demonstrated financial need. The University has also allocated an incremental \$1.9 million in tuition remissions to graduate students on assistantships. The dollars are being made available as a result of the tuition and fee adjustments for 2004-2005.

The Committee recommended the allocations for Student Financial Assistance to the full Board for approval.

#### Hotel Roanoke Conference Center Commission Budget:

The Hotel Roanoke Conference Center Commission was established by resolutions adopted by Virginia Tech and the City of Roanoke, under Commonwealth of Virginia enabling legislation. The enabling legislation provided that the Commission shall annually prepare and submit to both the City of Roanoke and Virginia Tech a proposed operating budget showing its estimated revenues and expenses for the forthcoming fiscal year, and, if the estimated expenses exceed the estimated revenues, the portion of the unfunded balance is to be borne by each participating party for the operation of the conference center. The Commission has reviewed its operating budget for 2003-2004 and has adopted and approved its operating budget for the fiscal year 2004-05. Virginia Tech and the City of Roanoke will make equal contributions of \$100,000 to the Commission for fiscal year 2004-05. The funds for Virginia Tech will come from Continuing Education fees and from the Fralin endowment which was established to assist with the project.

The Committee recommended the Hotel Roanoke Conference Center Commission budget to the full Board for approval.

5. APPROVAL OF PROPOSED 2004-2005 AUXILIARY SYSTEMS BUDGETS:

The Committee reviewed the proposed 2004-2005 Auxiliary Systems Budgets. In accordance with the resolution authorizing and securing the Dormitory and Dining Hall System, Electric Service System, University Services System and Intercollegiate Athletic System revenue bonds, the Board of Visitors is required to adopt an annual budget. Once approved by the Board of Visitors, the annual budget will be filed with the State Treasurer and will be the basis for making payments from the revenue fund to meet the operating costs of the auxiliary systems.

Dormitory and Dining Hall System

The 2004-2005 budget and revenues for dormitories (\$19.3 million) and dining halls (\$28 million) are equal to that of budgeted expenses. The expenses, including debt service required to operate the Dormitory and Dining Hall System for the fiscal year, will be in accordance with the approved revenues and in accordance with the approved fee structure.

Electric Service Budget

The 2004-2005 budget for the Electric Service System, including debt service, is \$16 million for the period of July 1, 2004 to June 30, 2005.

University Services System

The 2004-2005 budget for the University Services System, including debt service, is \$19.7 million for the period of July 1, 2004 to June 30, 2005.

Intercollegiate Athletics System

The 2004-2005 budget for the Intercollegiate Services System, including debt service, is \$31.1 million for the period June 1, 2004 to June 30, 2005.

The Committee recommended the Auxiliary Systems budgets to the full Board for approval.

6. APPROVAL OF PROPOSED 2004-2005 PRATT FUND BUDGETS:

The Committee reviewed for approval the proposed 2004-2005 Pratt Fund budgets for Engineering and Animal Nutrition. The Pratt Fund provides funding for programs in both the College of Engineering and Department of Animal Nutrition in the College of Agriculture and Life Sciences. For 2004-2005, the College of Engineering proposes expenditures of \$832,000. Animal Nutrition proposes expenditures of \$1,501,000 for 2004-2005.

The Committee recommended the Pratt Fund budgets to the full Board for approval.



7. APPROVAL OF RESOLUTION CONCERNING APPOINTMENTS TO THE HOTEL ROANOKE CONFERENCE CENTER COMMISSION:

The Committee reviewed for approval a resolution concerning appointments to the Hotel Roanoke Conference Center Commission. The resolution seeks approval to continue the appointments of the Executive Vice President and Chief Operating Officer of Virginia Tech, the Chief Operating Officer and Secretary-Treasurer of the Virginia Tech Foundation, and the Vice Provost for Outreach and International Affairs as the University's representatives on the Hotel Roanoke Conference Center Commission.

The Committee recommended the Resolution Concerning Appointments to the Hotel Roanoke Conference Center Commission to the full Board for approval.

8. APPROVAL OF REVISIONS TO AND RENEWAL OF RELATED CORPORATION AFFILIATION AGREEMENTS:

The Committee reviewed for approval revisions to and renewal of related corporation affiliation agreements. As approved by the Board of Visitors, the university has entered into affiliation agreements with the following university-related corporations for the purpose of defining the relationship and requirements of university-related corporations:

- Virginia Tech Alumni Association, Inc.
- Virginia Tech Athletic Fund, Inc.
- Virginia Tech Corps of Cadets Alumni, Inc.
- Virginia Tech Foundation, Inc.
- Virginia Tech Intellectual Properties, Inc.
- Virginia Tech Services, Inc.

The terms of these agreements end on June 30, 2004. It is recommended that the agreements be renewed at this time to immediately place in effect minor changes to affiliation agreements. The revised affiliation agreements shall be extended to a term ending June 30, 2008.

The Committee recommended the revisions to and renewal of related corporation affiliation agreements to the full Board for approval.

There being no further business, the meeting adjourned at 10:45 a.m.

**MINUTES OF THE FINANCE AND AUDIT COMMITTEE  
OF THE BOARD OF VISITORS  
VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY**

**June 7, 2004**

***AUDIT CLOSED SESSION***

**PRESENT:**

**BOARD OF VISITORS:** Mr. Jake Lutz, Mr. Tom Robertson, Mr. John Rocovich, Mr. Philip Thompson

**VPI&SU STAFF:** Ms. Kay Heidbreder, Mr. Stuart Mease, Mr. Minnis Ridenour, Mr. John Rudd, Mr. Dwight Shelton

AUDIT CLOSED SESSION: The Committee met in Closed Session with the Director of Internal Audit and Management Services to discuss audits of specific departments and units where individual employees were identified. The Committee also received an update on the outstanding fraud, waste, and abuse cases.

***AUDIT AGENDA***

**PRESENT:**

**BOARD OF VISITORS:** Mr. Jake Lutz, Mr. Tom Robertson, Mr. Philip Thompson, Dr. Diane Zahm – President, Faculty Senate

**VPI&SU STAFF:** Mr. Mel Bowles, Mr. Bob Broyden, Mr. John Cusimano, Ms. Laura Fornash, Ms. Cathy Greenberg, Mr. Tim Hodge, Mr. Lenwood McCoy, Mr. Stuart Mease, Mr. Ken Miller, Mr. Minnis Ridenour, Mr. John Rudd, Ms. Kathy Sanders, Mr. Dwight Shelton, Dr. Raymond Smoot, Ms. Linda Woodard

**1. APPROVAL OF ITEMS DISCUSSED IN CLOSED SESSION:**

The Committee reviewed and took the following actions on items discussed in closed session: ratified the Personnel Changes Report, the Research and Development Disclosure Report, and the NCAA Women's Basketball tournament bonuses and approved the 2004-2005 Promotion, Tenure and

Continued Appointment Program, a resolution on exception to the Virginia Conflict of Interest Act, and a Virginia Bioinformatics Institute Policy Advisory Board reappointment.

2. APPROVAL OF MINUTES OF THE MARCH 29, 2004 MEETING:

The Committee reviewed and approved the minutes of the March 29, 2004 meeting.

3. REVIEW AND ACCEPTANCE OF UNIVERSITY'S UPDATE OF RESPONSES TO ALL PREVIOUSLY ISSUED INTERNAL AUDIT REPORTS:

The Committee reviewed and accepted the University's update of responses to all previously issued internal audit reports. At the March meeting, the university reported that as of December 31, 2003, 19 audit comments remained outstanding. An additional 4 comments have been issued since then for a total of 23 comments. As of March 31, 2004, the University has addressed 11 comments, leaving 12 comments still in progress.

The Committee asked that the Vice President for Budget and Financial Management contact the head of each unit with outstanding, overdue high risk comments and have each item resolved by the August meeting.

4. REPORT ON THE AUDIT OF THE WORLD INSTITUTE FOR DISASTER RISK MANAGEMENT, INC.:

The Committee received and accepted a report on the audit of the World Institute for Disaster Risk Management, Inc. (DRM). The review included the status of the management recommendations.

5. REVIEW AND DISCUSSION OF SUGGESTED 2005 AUDIT PLAN:

The Committee reviewed and accepted the 2005-2008 suggested audits for the development of the audit plan for fiscal year 2005. Internal audit recently performed a comprehensive risk analysis; scheduled audits were selected as a result of this risk analysis. Approximately 10,000 hours will be devoted to scheduled audits in each of the four years. Sixteen audits are scheduled for 2004-05. Audits not completed in the fiscal year scheduled will be carried forward to the next fiscal year.

6. REVIEW OF INTERNAL AUDIT DEPARTMENT'S STATUS REPORT AS OF MARCH 31, 2004:

The Committee reviewed and accepted the Internal Audit Department's Status Report as of March 31, 2004. In addition to conducting scheduled audits, the audit department participated in annual audit activities; fraud,

waste, and abuse audits; special projects; and professional development activities.

There were no significant joint issues involving the Virginia Tech Foundation, Inc. and Internal Audit during the quarter.

7. REVIEW AND ACCEPTANCE OF THE FOLLOWING INTERNAL AUDIT REPORTS/MEMOS ISSUED:

The Committee reviewed the following Internal Audit reports:

A. Database Management Services

The Committee received and accepted a report on the audit of Database Management Services. The audit indicated that the overall risk exposure is high and the internal control system is effective. There was one audit recommendation: Improve adherence to established procedures through which the list of requestors for script execution against production databases is validated. Management is working to implement improvements to address the recommendation.

B. College of Agriculture and Life Sciences

The Committee received and accepted a report on the audit of the College of Agriculture and Life Sciences. The audit indicated that the overall risk exposure is high and the internal control system is not effective and significant improvements are needed. Audit recommendations included: Provide more specific direction and oversight to the college's service centers, improve oversight of revenue streams, improve health and safety plans, and develop and implement guidelines and procedures to improve computer recovery and security. Management is working to implement improvements to address the recommendations, and steps are being taken to hire an operations officer. In the interim Dr. Judith Jones, formerly Interim Director of Virginia Cooperative Extension, will oversee the operations.

C. Personnel Services

The Committee received and accepted a report on the audit of Personnel Services. The audit indicated the overall risk exposure is high and the internal control system is effective but improvements are recommended. The audit recommendations include: Improve process for background checks used when hiring employees, improve monitoring, documentation and processing of employees who retire under the Workforce Transition Act (WTA) and the Alternative Severance Option (ASO), develop a Banner report

highlighting recent salary adjustments or bonuses by department, and improve funds handling and management controls over external interface processing. Management is working to implement improvements to address the recommendations.

The Committee requested that a report be brought to the next meeting on the best practices and a recommendation of conducting background checks of all new faculty, staff, wage and contract hires.

There being no further business, the meeting adjourned at 10:45 a.m.

**VIRGINIA TECH**

**FINANCIAL PERFORMANCE REPORT**

**Operating and Capital Expenditures**

**July 1, 2003 to March 31, 2004**

## FINANCIAL PERFORMANCE REPORT

The Financial Performance Report of income and expenditures is prepared from two sources: actual accounting data, as recorded at Virginia Tech and with the Commonwealth of Virginia, and the annual budgets. The actual accounting data reflect the modified accrual basis of accounting, which recognizes revenues when received rather than when earned and the expenditures when obligated rather than when paid. The annual budgets are based upon the amount of funds anticipated, approved, and appropriated to Virginia Tech by the General Assembly and the Governor of the Commonwealth of Virginia before the beginning of the fiscal year. The projected year-end budgets reflect adjustments to incorporate actual experience during the fiscal year. The adjustments are coordinated with the State Department of Planning and Budget.

The July to March 2003-2004 budget (year-to-date) is prepared from historical data and reflects trends in expenditures from previous years. Differences between the actual income and expenditures and the year-to-date budget may occur for a variety of reasons, such as an accelerated or delayed flow of documents through the accounting system, a change in spending patterns at the college level, or increases in revenues for a particular area.

Quarterly budget estimates are prepared to provide an intermediate measure of income and expenditures. Actual revenues and expenditures may vary from the budget estimates. The projected year-end budgets are, however, the final measure of accountability since the institution has a legislative mandate to remain within the total revenue and expenditure amounts appropriated by the General Assembly for the two divisions of Virginia Tech, including transfers from the Commonwealth's Central Appropriation for classified salary increase and fringe benefit rate changes.

## OPERATING BUDGET

## Attachment O

1. Tuition and Fee revenue was higher than projected through the third quarter due to slightly higher than anticipated Spring retention and lower than projected awards of unfunded scholarships.
2. Revenue in All Other Income and academic expenses was lower than projected due to timing of expenses in the Virginia Bioinformatics Institute and the corresponding transfer of revenue into the Educational and General Programs as actual expenditures are incurred.
3. Expenses in the academic programs are lower than projected due to salary savings from vacant positions in the current year and timing of certain operating expenses. Salary savings will be redistributed during the remainder of the year to operating accounts. Support expenditures are ahead of historical budget projections due to the timing of expenditures.
4. The budget for federal revenue is established to match projected allotments from the federal government. All expenses in federal programs are covered by drawdowns of federal revenue up to allotted amounts. Federal revenue in the Cooperative Extension/Agriculture Experiment Station Division was less than the projected budget due to lower-than-anticipated federal expenditures and the timing of receipt of federal drawdowns.
5. Expenses in the Cooperative Extension/Agriculture Experiment Station Division are lower than historical budget projections due to salary savings from vacant positions in the current year. These savings will be redistributed during the remainder of the year to one-time costs.
6. Quarterly and projected annual variances are explained in the Auxiliary Enterprises section of this report.
7. Historical patterns have been used to develop a measure of the revenue and expenditure activity for Sponsored Programs. Actual revenues and expenses may vary from the budget estimates because projects are initiated and concluded on an individual basis without regard to fiscal year. The annual revenue and expenditure budgets were established based on a 10% growth target in sponsored activity levels. Total sponsored and overhead revenue and expenditures were less than projected, but sponsored and research expenditures are slightly ahead of 2002-2003 activity levels.
8. Expenses for Student Financial Assistance are behind historical projections due to the timing of processing awards.
9. Revenues and expenses in All Other Programs are less than projected primarily due to lower-than projected activity in the Alumni Affairs program and Federal Work Study through the end of the Third Quarter.
10. The General Fund revenue budget has been increased by \$226,500 for a transfer from Student Financial Assistance to the Educational and General program for assistantships in the Multicultural Academic Opportunities Program, by \$27,816 for VIVA libraries distribution costs, and by \$197,030 to match the actual central appropriations transfer based on revisions in statewide fringe benefit rates. The corresponding expenditure budgets have been adjusted accordingly.
11. The annual budget for Tuition and Fees has been increased by \$112,006 to finalize the revenue estimates for the Virginia/Maryland Regional College of Veterinary Medicine and increased by \$45,000 for graduate degree application fees. The budget has also been increased by \$1,800,000 for higher than expected Spring retention and lower than projected awards of unfunded scholarships. The corresponding expenditure budgets have been adjusted accordingly.
12. The revenue budgets for All Other Income has been increased by \$137,448 for additional administrative cost allowance from the Federal Government for administration of federal student aid programs, by \$1,643,531 for the carryover of tobacco funds, by \$4,500 for interest income for the Virginia Bioinformatics Institute, and by \$5,513,000 to recognize the direct assistance from the auxiliary enterprises. The revenue budget has also been increased by \$450,000 to reflect increased revenues from the Equine Medical Center and \$39,115 for additional revenue from family and psychological services. The corresponding expenditure budgets have been adjusted accordingly. The original budget has been realigned between academic and support programs to more accurately reflect projected post-reduction activity for accurate comparison of the change in the annual budget.
13. The General Fund revenue budget for the Cooperative Extension/Agriculture Experiment Station Division has been increased by \$168,991 to match the actual central appropriations transfer based on revisions in statewide fringe benefit rates. The corresponding expenditure budgets have been adjusted accordingly.
14. The annual budget for Federal Appropriations in the Cooperative Extension/Agriculture Experiment Station Division has been adjusted to reflect lower than anticipated federal expenditures in the current fiscal year. The Corresponding expenditure budgets have been adjusted accordingly.
15. The annual budget for All Other Income has been increased by \$30,000 for timber sales at Steeles Tavern. The corresponding expenditure budget has been adjusted accordingly.
16. The Commonwealth provided \$331,461 of additional funding for need-based student financial aid; the projected year-end revenue and expense budgets for Student Financial Assistance were adjusted accordingly. In addition, budgets were reduced by \$226,500 for the transfer from Student Financial Assistance to the Educational and General program for assistantships in the Multicultural Academic Opportunities Program.



**OPERATING BUDGETS**  
**2003-2004 Fiscal Year**

Attachment O

Dollars in Thousands

	July 1, 2003 to March 31, 2004			Annual Budget for 2003-2004		
	Actual	Budget	Change	Original	Adjusted	Change
<b>Educational and General Programs</b>						
<b><u>University Division</u></b>						
<b><u>Revenues</u></b>						
- General Fund	\$135,519	\$135,519	\$0	\$135,068	\$135,519	\$451 (10)
- Tuition and Fees	181,035	180,378	657 (1)	181,697	183,654	1,957 (11)
- All Other Income	23,250	23,875	-625 (2)	22,356	30,144	7,788 (12)
Total Revenues	\$339,804	\$339,772	\$32	\$339,121	\$349,317	\$10,196
<b><u>Expenses</u></b>						
- Academic Programs	\$-171,960	\$-173,471	\$1,511 (2,3)	\$-220,429	\$-227,056	\$-6,627 (10,11,12)
- Support Programs	-94,984	-94,735	-249 (3)	-118,692	-122,261	-3,569 (10,11,12)
Total Expenses	\$-266,944	\$-268,206	\$1,262	\$-339,121	\$-349,317	\$-10,196
NET	\$72,860	\$71,566	\$1,294	\$0	\$0	\$0
<b><u>CE/AES Division</u></b>						
<b><u>Revenues</u></b>						
- General Fund	\$52,518	\$52,518	\$0	\$52,349	\$52,518	\$169 (13)
- Federal Appropriation	8,942	9,844	-902 (4)	13,428	13,128	-300 (14)
- All Other Income	558	495	63	600	630	30 (15)
Total Revenues	\$62,018	\$62,857	\$-839	\$66,377	\$66,276	\$-101
<b><u>Expenses</u></b>						
- Academic Programs	\$-47,380	\$-48,797	\$1,417 (4,5)	\$-61,491	\$-61,329	\$162 (13,14,15)
- Support Programs	-3,093	-2,935	-158	-4,886	-4,947	-61 (13)
Total Expenses	\$-50,473	\$-51,732	\$1,259	\$-66,377	\$-66,276	\$101
NET	\$11,545	\$11,125	\$420	\$0	\$0	\$0
<b>Auxiliary Enterprises</b>						
Revenues	\$116,649	\$115,731	\$918 (6)	\$131,297	\$137,364	\$6,067 (6)
Expenses	-93,210	-93,690	480 (6)	-130,485	-142,229	-11,744 (6)
Reserve Drawdown (Deposit)	-23,439	-22,041	-1,398 (6)	-812	4,865	5,677 (6)
NET	\$0	\$0	\$0	\$0	\$0	\$0
<b>Sponsored Programs</b>						
Revenues	\$105,337	\$121,832	\$-16,495 (7)	\$168,399	\$168,399	\$0
Expenses	-113,521	-130,815	17,294 (7)	-168,399	-168,399	0
Reserve Drawdown (Deposit)	8,184	8,983	-799	0	0	0
NET	\$0	\$0	\$0	\$0	\$0	\$0
<b>Student Financial Assistance</b>						
Revenues	\$11,535	\$11,535	\$0	\$11,430	\$11,535	\$105 (16)
Expenses	-10,097	-11,061	964 (8)	-11,430	-11,535	-105 (16)
NET	\$1,438	\$474	\$964	\$0	\$0	\$0
<b>All Other Programs *</b>						
Revenues	\$2,201	\$2,530	\$-329 (9)	\$4,481	\$4,481	\$0
Expenses	-2,802	-3,194	392 (9)	-4,481	-4,481	0
Reserve Drawdown (Deposit)	601	664	-63	0	0	0
NET	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total University</b>						
Revenues	\$637,544	\$654,257	\$-16,713	\$721,105	\$737,372	\$16,267
Expenses	-537,047	-558,698	21,651	-720,293	-742,237	-21,944
Reserve Drawdown (Deposit)	-14,654	-12,394	-2,260	-812	4,865	5,677
NET	\$85,843	\$83,165	\$2,678	\$0	\$0	\$0

\* All Other Programs include federal work study, alumni affairs, surplus property, and unique military activities.

1. Revenues in Residence and Dining Halls are higher than projected due to income from dining dollar deposits, meal plan sales to off-campus students, and summer conferences.
2. Revenues are less than projected in the University Services System due to lower-than-projected sales revenue and investment income earnings in the student centers and the health center. Expenditures in the fourth quarter will be managed accordingly.
3. Revenues are higher than projected in Intercollegiate Athletics due to higher-than-anticipated football and women's basketball season ticket sales, handling and internet fees collected from an increase in the volume of online ticket orders, student fees, and income from facility rentals and leases. Expenditures are lower than projected due to savings in expenses related to the 2003 Insight Bowl game.
4. Expenditures are lower than projected in the Electric Service due to the average cost of wholesale electricity being less than originally anticipated.
5. The projected annual revenue, expenditure, and reserve drawdown budgets for Residence and Dining Halls were adjusted to reflect increased dining sales, expenses for renovation projects (i.e., Squires Food Court, Dietrick Servery/HVAC, Thomas Hall), increased operating expenses, lower than expected summer activity at the Center for European Studies in Switzerland, and a less favorable currency exchange rate.
6. The projected year-end budget was increased for outstanding 2002-2003 commitments and projects that were initiated but not completed before June 30, 2003.
7. The projected annual revenue, expenditure, and reserve drawdown budgets for Parking and Transportation Services were adjusted to complete last fiscal year's Blacksburg Transit contract payment to the Town of Blacksburg, account for additional revenue in the Northern Virginia parking operation from the sale of parking permits, reflect delayed contract payment receipts from the previous fiscal year, and accommodate higher than budgeted snow removal expenses.
8. The projected annual revenue and expenditure budgets for Telecommunications were adjusted to accommodate additional installation services provided to capital projects and activity on the National Lambda Rail Project.
9. The projected annual revenue, expenditure, and reserve drawdown budgets for the University Services System were adjusted to accommodate lower than projected summer fee income; the anticipated custodial, maintenance, and furnishing costs of the new Career Services building; renovation in the Squires recreational room; savings from debt refinancing; one-time additional operating support; and to accommodate additional revenue and expenses generated from higher than anticipated student participation in the alcohol education classes.
10. The projected annual revenue, expenditure, and reserve drawdown budgets for Intercollegiate Athletics were adjusted to accommodate higher-than-anticipated ticket sales and handling fees, increased NCAA income, Big East income and Big East conference exit and lawsuit fees, higher-than-anticipated concessions income and licensing revenue, lower-than-anticipated interest earnings, adjustments to personnel costs, increased medical costs, Ticket Office expenses, additional equipment, Coliseum Ambulatory renovation, Worsham Field Turf, revenue and expenses associated with hosting the NCAA Golf Championship and Fall Preview, higher-than-projected South End Zone revenues, and participation in the 2003 Insight Bowl game.
11. The projected annual expenditure and reserve drawdown budgets for the Donaldson Brown Hotel and Conference Center were adjusted to accommodate the payment of management and technical service fees to the Hilton Hotels Corporation in accordance with the hotel operating agreement effective October 1, 2003, the expansion of the auxiliary's fine dining service, and implementation of an online hotel reservations system.
12. The expenditure and reserve drawdown budgets for Other Enterprise Functions were adjusted to accommodate an increase in the Licensing and Trademark contribution to scholarships for academic and athletic programs as a result of increased royalties collected from the sale of Virginia Tech merchandise in Fiscal Year 2003, increase royalties from the sale of Virginia Tech merchandise in the current fiscal year, to accommodate additional student orientation program expenses, a system upgrade in the Hokie Passport Auxiliary, the increased sale of software to students through the Software Sales Auxiliary, and Tennis locker room renovations at the Tennis Pavilion. In addition, the budgets were adjusted to reflect the utilization of cash accumulated in 2002-2003 from all of the auxiliary enterprise functions to provide temporary financial assistance to the University's educational and general programs, in accordance with the budget reduction plans approved by the Board in November 2002.

**UNIVERSITY DIVISION  
AUXILIARY ENTERPRISES**

Attachment O

Dollars in Thousands

	July 1, 2003 to March 31, 2004			Annual Budget for 2003-2004		
	Actual	Budget	Change	Original	Adjusted	Change
<b>Residence and Dining Halls</b>						
Revenues	\$43,441	\$43,000	\$441 (1)	\$45,538	\$47,064	\$1,526 (5)
Expenses	-31,414	-31,363	-51	-45,656	-48,050	-2,394 (5,6)
Reserve Drawdown (Deposit)	-12,027	-11,637	-390	118	986	868 (5,6)
Net	\$0	\$0	\$0	\$0	\$0	\$0
<b>Parking and Transportation</b>						
Revenues	\$3,904	\$3,869	\$35	\$4,215	\$4,231	\$16 (7)
Expenses	-3,073	-3,163	90	-4,107	-4,376	-269 (6,7)
Reserve Drawdown (Deposit)	-831	-706	-125	-108	145	253 (6,7)
Net	\$0	\$0	\$0	\$0	\$0	\$0
<b>Telecommunications Services</b>						
Revenues	\$11,476	\$11,455	\$21	\$13,940	\$15,125	\$1,185 (8)
Expenses	-8,755	-8,834	79	-14,076	-15,692	-1,616 (6,8)
Reserve Drawdown (Deposit)	-2,721	-2,621	-100	136	567	431 (6,8)
Net	\$0	\$0	\$0	\$0	\$0	\$0
<b>University Services System</b>						
Revenues	\$15,200	\$15,310	\$-110 (2)	\$17,071	\$17,036	\$-35 (9)
Expenses	-11,274	-11,305	31	-18,266	-18,862	-596 (6,9)
Reserve Drawdown (Deposit)	-3,926	-4,005	79	1,195	1,826	631 (6,9)
Net	\$0	\$0	\$0	\$0	\$0	\$0
<b>Intercollegiate Athletics</b>						
Revenues	\$24,539	\$24,049	\$490 (3)	\$26,845	\$29,773	\$2,928 (10)
Expenses	-20,970	-21,108	138 (3)	-24,332	-27,533	-3,201 (6,10)
Reserve Drawdown (Deposit)	-3,569	-2,941	-628	-2,513	-2,240	273 (6,10)
Net	\$0	\$0	\$0	\$0	\$0	\$0
<b>Electric Service</b>						
Revenues	\$10,656	\$10,702	\$-46	\$15,020	\$15,020	\$0
Expenses	-10,734	-10,842	108 (4)	-15,345	-15,601	-256 (6)
Reserve Drawdown (Deposit)	78	140	-62	325	581	256 (6)
Net	\$0	\$0	\$0	\$0	\$0	\$0
<b>Donaldson Brown Hotel and Conference Center</b>						
Revenues	\$2,801	\$2,789	\$12	\$3,743	\$3,776	\$33 (11)
Expenses	-2,477	-2,499	22	-3,813	-4,173	-360 (6,11)
Reserve Drawdown (Deposit)	-324	-290	-34	70	397	327 (6,11)
Net	\$0	\$0	\$0	\$0	\$0	\$0
<b>Other Enterprise Functions</b>						
Revenues	\$4,632	\$4,557	\$75	\$4,925	\$5,339	\$414 (12)
Expenses	-4,513	-4,576	63	-4,890	-7,942	-3,052 (6,12)
Reserve Drawdown (Deposit)	-119	19	-138	-35	2,603	2,638 (6,12)
Net	\$0	\$0	\$0	\$0	\$0	\$0
<b>TOTAL AUXILIARIES</b>						
Revenues	\$116,649	\$115,731	\$918	\$131,297	\$137,364	\$6,067
Expenses	-93,210	-93,690	480	-130,485	-142,229	-11,744
Reserve Drawdown (Deposit)	-23,439	-22,041	-1,398	-812	4,865	5,677
Net	\$0	\$0	\$0	\$0	\$0	\$0

Educational and General Projects

1. The project total budget and cumulative expenses reflect the appropriations available for fiscal year 2004. The annual budget was adjusted because expenses planned for fiscal year 2003 will be processed in fiscal year 2004. The annual budget is the amount needed to meet the state's 85 percent performance requirement.
2. Blanket Authorizations allow unforeseen renovation needs under \$500,000 to be authorized administratively for expediency. No active projects are underway.
3. The project is substantially complete and outstanding items with the contractor continue to defer closing the project. The total project cost is expected to be \$1.67 million.
4. This project provides state-of-the-art teaching laboratories, faculty offices, and lecture hall space. The project is complete and will be closed when final payments are processed. The total cost is expected to be \$420,000 less than budgeted as a result of bid savings.
5. This project will replace outdated structures at the Dairy Cattle Center with state-of-the-art facilities. The project is under construction with an estimated completion date of May 2004. The annual budget was adjusted because inclement weather delays in the spring pushed construction work into fiscal year 2004.
6. The project is complete and will be closed when final payments are processed. The annual budget was adjusted to reflect an estimated closing date in fiscal year 2004.
7. This comprehensive project addresses health and safety issues throughout campus such as fire alarm systems, air quality, and access for persons with disabilities. The project is complete and will be closed when final payments are processed. The annual budget was adjusted because expenses planned in fiscal year 2003 will be processed in fiscal year 2004.
8. The Career Services project replaces the outdated facilities in Henderson Hall. Construction is nearing completion and the project will be closed when final payments are processed.
9. This Bioinformatics research building is complete and the project will be closed when final payments are processed.
10. This project will provide a livestock presentation arena. The project is complete and will be closed when final payments are processed. The total project cost is expected to be \$3.02 million, which is lower than the original cost due to bid savings.
11. This project includes the construction of a federally funded laboratory located near the Brooks Center. Planning is underway with an estimated construction completion date of October 2005. The annual budget was adjusted to reflect the planning schedule.
12. This project consists of a second biological and computational research building located adjacent to the phase I Bioinformatics building. The project is under construction with an estimated completion date of October 2004. The annual budget was adjusted to reflect revised cash flows for this fiscal year.

2002 General Obligation Bond Program

13. This project will build a state-of-the-art laboratory facility to support plant science teaching and research. Construction is underway with an estimated completion date of August 2005. The annual budget was adjusted to reflect delays due to inclement weather and difficulties encountered as a result of site work conditions.
14. The University has obtained the necessary approvals to combine the Biology building with the Vivarium facility. This project now encompasses a 72,000 gross square foot multidisciplinary research laboratory facility. The project is in the preliminary design phase with an estimated bid date of March 2005. The annual budget was adjusted to reflect revised cash flows for this fiscal year.
15. This project is to construct a new laboratory facility to support instructional programs in the Building Construction department. The total project budget includes an existing \$1 million of nongeneral fund support that may be used to initiate planning. The estimated bid date is July 2005 and the estimated completion date is January 2007.
16. This project is designed to update about 46,500 gross square feet of the most out-of-date general assignment classrooms on campus. The estimated bid date is August 2005.
17. This project will update the building's power and HVAC infrastructure to support modern instructional technology. The estimated bid date is September 2006.
18. This project will repair existing exterior precast concrete panels that are failing. The estimated bid date is December 2005.
19. This project will provide cooling capacity to the north zone of campus to support several new construction and renovation projects. The estimated bid date is April 2005.
20. This project will renovate Henderson Hall to house the School of the Arts program and construct a state-of-the-art performance theatre. The revised annual budget reflects estimated planning expenses for the Performing Arts Center. The estimated bid date is April 2006.
21. The project calls for the renovation of Williams Hall, Agnew Hall, and part of Burruss Hall for state-of-the-art instructional space. The Williams Hall component is complete with a budget of \$5.701 million including \$4.566 million of VCBA Bonds and \$482,000 of General Fund monies. The project includes \$652,000 of nongeneral fund authorization for the Williams Hall component that was a placeholder until the 2002 General Obligation Bond funds were available. The estimated bid date for the Agnew and Burruss components is October 2006. The annual budget was adjusted because expense activity expected in fiscal year 2003 will be processed in fiscal year 2004.
22. This project will build a state-of-the-art, multidisciplinary research laboratory facility. Planning is underway with an estimated bid date of January 2005. The original budget was adjusted to reflect revised cash flows for this fiscal year.
23. The timing of this project is based on the state's capital implementation plan.

**CAPITAL OUTLAY PROJECTS  
AUTHORIZED AS OF MARCH 31, 2004**

Dollars in Thousands

	CURRENT YEAR			TOTAL PROJECT BUDGET						
	ORIGINAL ANNUAL BUDGET	REVISED ANNUAL BUDGET	YTD EXPENSES	STATE SUPPORT	GENERAL OBLIGATION BOND	NONGENERAL FUND	REVENUE BOND	TOTAL BUDGET	CUMULATIVE EXPENSES	
<u>Educational and General Projects</u>										
Maintenance Reserve	\$ 929	\$ 2,700	\$ 1,567	\$ 4,564	\$ 0	\$ 0	\$ 0	\$ 4,564	\$ 2,791	(1)
Blanket Authorizations	0	0	0	0	0	9,870	0	9,870	0	(2)
Airport Taxiway Construction	275	275	0	0	0	3,129	0	3,129	1,395	(3)
Chemistry/Physics - Phase II	7,491	8,578	6,354	23,431	0	3,763	0	27,194	24,550	(4)
Dairy Science Facilities	2,402	4,196	2,344	5,343	0	0	0	5,343	3,491	(5)
Hampton Roads Wing Replacement	0	266	174	1,345	0	83	0	1,428	1,336	(6)
Health, Safety, and Accessibility	252	1,166	993	2,500	0	0	0	2,500	2,327	(7)
Career Services Facility	2,790	3,430	2,777	0	0	0	4,608	4,608	3,673	(8)
Bioinformatics Building - Phase I	7,619	8,112	6,094	0	0	0	21,864	21,864	19,846	(9)
Multipurpose Livestock Arena	2,659	2,330	1,993	1,900	0	1,818	0	3,718	2,316	(10)
Fisheries and Aquatics Research Center	500	110	61	0	0	800	0	800	61	(11)
Bioinformatics Building Phase II	12,730	12,300	8,395	20,436	0	0	0	20,436	9,065	(12)
TOTAL	37,647	43,463	30,752	59,519	0	19,463	26,472	105,454	70,851	
<u>2002 General Obligation Bond Program</u>										
Agriculture & Natural Resources Research Laboratory	11,800	7,775	2,672	1,367	23,168	256	0	24,791	4,264	(13,23)
Biology/Vivarium Building	1,707	1,000	441	0	26,263	0	8,750	35,013	441	(14,23)
Bishop-Favrao Hall	100	160	96	0	2,500	5,000	0	7,500	96	(15,23)
Classroom Improvements, Phase I	0	0	0	0	4,530	0	0	4,530	0	(16,23)
Cowgill Hall HVAC and Power	0	0	0	0	7,500	0	0	7,500	0	(17,23)
Litton-Reaves Hall Exterior Repairs	1,400	0	0	0	2,500	0	0	2,500	0	(18,23)
Main Campus Chilled Water Central Plant	0	20	0	0	2,800	0	0	2,800	0	(19,23)
Henderson Hall and Performing Arts Center	30	300	0	0	6,542	2,235	40,000	48,777	0	(20,23)
Williams, Agnew, & Burruss Renovation	810	2,926	2,408	5,048	5,452	652	0	11,152	5,184	(21,23)
Institute of Critical Technologies and Applied Sciences	530	1,100	743	0	13,996	0	17,000	30,996	743	(22,23)
TOTAL	16,377	13,281	6,360	6,415	95,251	8,143	65,750	175,559	10,728	

**CAPITAL OUTLAY BUDGET (continued)****Auxiliary Enterprises Projects**

1. Projects are scheduled and funded by the auxiliary enterprises during the annual Auxiliary Enterprise Budgeting Process. The total budget and expense amounts reflect the authorization available for the 2002-2004 biennium.
2. Blanket Authorizations allow unforeseen renovation needs under \$500,000 to be authorized administratively for expediency. This blanket has no active project authorizations.
3. The active project underway covers improvements to four existing lots. The revised annual budget reflects costs to complete two of the improvement projects that carried forward from fiscal year 2003. The outstanding project budget balance is envisioned for parking structures that are on hold.
4. The project is complete and will be closed when final payments are processed. The final project cost is expected to be \$2,992,000. The annual budget was adjusted because activities and expenses planned for fiscal year 2003 are expected to be completed in fiscal year 2004.
5. This project is under construction with an estimated completion date of June 2005. The total estimated cost is expected to be \$43.118 million. The annual budget was adjusted because of inclement weather delays.
6. This project was envisioned to build a new clubhouse and driving range; the project is on hold pending programmatic decisions regarding future use of the on-campus course.
7. Phase I, South End Zone: This component is complete and the total cost is expected to be \$34.565 million. Phase II, West Side Stands: Construction is underway with an estimated substantial completion date of August 2005, and an expected total cost of \$54.02 million. The annual budget was adjusted to reflect a construction start date of March 2004.
8. The project is complete and will be closed when final payments are processed.
9. This project envisions a new residence hall of approximately 256 beds along with office spaces for residential services and judicial affairs. The project is on hold pending review of future residential fees and program priorities.
10. The project is complete and will be closed when final payments are processed. The annual budget was adjusted because expenses planned for fiscal year 2003 will be processed in fiscal year 2004.
11. The project is complete and will be closed when final payments are processed. The annual budget was adjusted because expenses planned for fiscal year 2003 were processed in fiscal year 2004.
12. This project will modernize the servery of the second floor of Dietrick dining hall. Construction is underway with an estimated completion date of August 2004.
13. This project is envisioned to build dining, student activity, meeting, and classroom space. The project is on hold pending further review of the site location and the program priorities.
14. This project is envisioned to expand the existing student center by adding dining, student activity, meeting, and classroom space. The project is on hold pending further review of the site and program priorities. The annual budget was adjusted to reflect project management costs.
15. This project will install seating stands and restrooms to support the field adjacent to McComas Hall. The stands are complete. The estimated completion date of the restrooms is August 2004.

Dollars in Thousands

	CURRENT YEAR			TOTAL PROJECT						
	ORIGINAL ANNUAL BUDGET	REVISED ANNUAL BUDGET	YTD EXPENSES	STATE SUPPORT	GENERAL OBLIGATION BOND	NONGENERAL FUND	REVENUE BOND	TOTAL BUDGET	CUMULATIVE EXPENSES	
<b>Auxiliary Enterprises Projects</b>										
Maintenance Reserve	\$ 2,800	\$ 2,800	\$ 2,175	\$ 0	\$ 0	\$ 5,903	\$ 0	\$ 5,903	\$ 5,278	(1)
Auxiliary Enterprise Blanket Authorizations	0	0	0	0	0	4,809	0	4,809	2,691	(2)
Parking Auxiliary Projects	0	518	306	0	0	79	20,619	20,698	837	(3)
Substation Expansion	0	100	84	0	0	0	3,800	3,800	2,977	(4)
Alumni/CEC/Hotel Complex	23,840	18,280	9,321	0	0	25,099	20,732	45,831	12,445	(5)
Golf Course Facilities	0	0	0	0	0	1,500	0	1,500	0	(6)
Expand Lane Stadium - Phases I and II	250	10,000	4,088	0	0	11,000	82,800	93,800	37,461	(7)
Improve Security Access in Residence Halls	0	360	336	0	0	1,366	0	1,366	1,342	(8)
New Residence Hall	0	0	0	0	0	1,041	15,000	16,041	86	(9)
Electric Service Facility	644	1,678	1,453	0	0	251	2,749	3,000	2,775	(10)
Recreation Fields	0	243	131	0	0	1,529	0	1,529	1,417	(11)
Dietrick Servery/HVAC, Phase II	3,850	4,000	936	0	0	1,500	5,000	6,500	1,040	(12)
Dining and Student Union Facility	0	0	0	0	0	0	6,250	6,250	0	(13)
G. Burke Johnston Student Center Addition	0	8	8	0	0	0	6,250	6,250	46	(14)
Soccer/Lacrosse Complex	750	750	354	0	0	750	0	750	354	(15)
TOTAL	32,134	38,737	19,192	0	0	54,827	163,200	218,027	68,749	
GRAND TOTAL	<u>\$ 86,158</u>	<u>\$ 95,481</u>	<u>\$ 56,304</u>	<u>\$ 65,934</u>	<u>\$ 95,251</u>	<u>\$ 82,433</u>	<u>\$ 255,422</u>	<u>\$ 499,040</u>	<u>\$ 150,328</u>	

RECOMMENDATION:

That the report of income and expenditures for the University Division and the Cooperative Extension/Agriculture Experiment Station Division for the period of July 1, 2003 through March 31, 2004 and the Capital Outlay report be accepted.

## **2004-2005 FACULTY COMPENSATION PLAN**

### **VIRGINIA TECH**

Each year the Secretary of Education issues the "Consolidated Salary Authorization for Faculty Positions in Institutions of Higher Education." This document contains the authorized salary average for full-time teaching and research faculty positions, defines the qualification criteria for teaching and research faculty and administrative and professional faculty, and requires a board-approved faculty compensation plan. In accordance with the most recent Consolidated Salary Authorization, the 2004-2005 faculty compensation plan provides information about (1) the promotion and tenure process, (2) the annual evaluation and salary adjustment process for teaching and research faculty, administrative and professional faculty, and special research faculty, (3) salary adjustments within the evaluation period, and (4) the 2004-2005 pay structure.

#### **Authorized Salary Average**

The authorized salary average applies to all full-time teaching and research positions with the rank of professor, associate professor, assistant professor, instructor, or lecturer that are engaged in teaching and research for 50 percent or more of the time. As noted in the Consolidated Salary Authorization document, "Institutions are expected to award differential salary increases to their faculty based on performance and other circumstances such as promotions, tenure, and changes in responsibility. The net effect of all salary actions should be an average salary that approximates the [authorized] salary average."

The Commonwealth measures the adequacy of faculty salaries by comparing the institutional average with the averages in a unique benchmark group for each public college and university. The benchmark groups are constructed by matching characteristics of colleges and universities, such as size of the student body, percentage of degrees granted in various disciplines, and percentage of graduate degrees conferred. The General Assembly established an objective in the late 1980s to fund a faculty salary average at all institutions that would approximate the salary average at the 60th percentile in the ranking of salary averages in individual benchmark groups.

The authorized salary average for 2003-2004 for Virginia Tech is \$74,396 (the first authorized salary average increase since 2000-2001). This places Virginia Tech at the 25<sup>th</sup> percentile of its peer group for 2003-2004. Because the General Assembly provided funding for an average increase of 3.00 percent in 2004-2005, the authorized salary average is expected to increase to \$76,628 while the rank is not projected to increase beyond the 25<sup>th</sup> percentile. Attachment A provides a list of the University's peer group and the comparative salary averages for 2003-2004.



In November of each year, the University will submit a report to the Board of Visitors concerning the status of the consolidated salary average and the University's standing within its benchmark group.

### **2004-2005 Pay Structure**

In compliance with directives in the Consolidated Salary Authorization, a pay structure for the teaching and research faculty for 2004-2005 is presented. This plan is derived from the 2003-2004 approved plan and shows the normal entrance rate for each faculty category and the change from the approved compensation rate for each rank. Because the merit increases for faculty will not be awarded until November 25, 2004, two salary levels are provided. The salary levels and changes recommended for the 2004-2005 teaching and research faculty pay structure are presented on Attachment B.

The salary average for administrative and professional faculty may not exceed the authorized salary average for the teaching and research faculty by more than 35 percent.

### **Promotion, Tenure, and Continued Appointment**

Promotion to a higher rank and appointment with tenure may be granted to faculty members on a regular faculty appointment who have demonstrated outstanding accomplishments in an appropriate combination of instructional, research, outreach, and other professional activities. A current curriculum vitae together with annual reports, student evaluations, reprints of publications, reference letters, and other similar documents comprise a dossier, which furnishes the principal basis for promotion and tenure decisions. Faculty members being considered for either promotion or the awarding of tenure will have their dossiers reviewed at three levels: by a departmental committee and the head or chair; by a college committee and the dean; and by a University committee and the Provost.

Each candidate for promotion or tenure will be evaluated in the light of the triple mission of the University: instruction, research, and outreach (public service or extension). Although not all candidates can be expected to have equal levels of commitment or equal responsibilities in each of these missions, a high level of general competence is expected, in recognition of the need for flexibility in the future establishment of priorities in academic programs. Beyond that basic foundation of competence, decisions related to tenure and/or promotion to associate professor will be significantly influenced by signs of genuine excellence in one or two areas.

The university's mission and commitment as a major research institution requires high accomplishment for promotion to professor. Faculty members must demonstrate excellence in two of the three aspects of the university's mission, one of which must be research, scholarship or creative achievement broadly defined as appropriate for the various disciplines, and reflecting the faculty member's

assignment. Promotion to the rank of professor is contingent upon national or international recognition as an outstanding scholar and educator.

In addition to the material contained in this section, the Faculty Handbook provides detailed policies and procedures for the departmental evaluation, the college evaluation, and the university evaluation.

Members of the Library faculty and Public Service and Extension faculty not holding appointments in a collegiate department may be considered for continued appointment or for promotion in faculty rank in recognition of appropriate professional accomplishments. Dossiers of candidates for promotion or continued appointment are submitted to the University Promotion and Continued Appointment Committee for Extra-collegiate Faculty by the relevant dean or director with accompanying recommendation. The recommendations of the Committee are conveyed to the Provost, who makes final recommendations to the President.

The following raises are recommended for promotions to:

Professor	\$3,500
Associate Professor	2,500
Assistant Professor	2,000

For academic-year faculty members whose salaries have been converted to a calendar-year basis under the CY Research Conversion policy, or because of a limited-term appointment as department head or other administrator, the stipend is adjusted by the same conversion rate to preserve its value when the faculty member returns to the academic-year base appointment.

There are three ranks for extension agents – Associate Extension Agent, Extension Agent, and Senior Extension Agent. Criteria for promotion in rank include educational preparation, performance, and professionalism. The Director of Cooperative Extension makes a recommendation to the Provost based on an evaluation of the candidate's dossier and recommendations of the Peer Review Committees, District Director, and Associate Directors of Cooperative Extension.

The following raises are recommended for promotions within Cooperative Extension:

Senior Agent	\$2,500
Agent	2,000

At the spring meeting each year, the University will submit to the Board of Visitors a report of recommended promotion, tenure, and continued appointment actions for review and approval.

## **Annual Evaluation and Salary Adjustments**

### **Teaching and Research Faculty**

An evaluation of every faculty member's professional performance is held each year. All persons holding non-temporary faculty appointments are asked to prepare a report at the end of each academic year (or other appropriate 12-month period) citing their instructional activities, creative scholarship, and other professional activities and recognitions during the year. Reviewed by the department head or chair and the dean, these annual reports become part of the basis for salary adjustments and also become part of the dossiers for promotion and tenure evaluation by faculty committees.

Salary adjustments are based on merit; they are not automatic. Recommendations for salary adjustments originate with the department head or chair and are reviewed by the dean. At the university level, the dean reviews the salary adjustment recommendations at a formal salary hearing with the President, the Provost, and the Executive Vice President.

### **Administrative and Professional Faculty**

Administrative faculty perform work directly related to management of the activities of the institution, department, or unit. Professional faculty positions are normally limited to librarians, counselors, extension agents, coaches, physicians, and other professional positions serving education, public service, research, athletic, medical, student affairs, and development functions or activities.

Evaluations are based upon standards set by the supervisor with the participation of the faculty member and relate closely to the duties inherent in the functional title and job description of the position. Annually set expectations become one of the important criteria for judging professional job performance in the subsequent year. In addition to maintaining a high level of performance in carrying out their job-related duties and responsibilities, administrative and professional faculty members are expected to participate in and provide leadership of departmental, divisional, or university-wide committees, special university-wide assignments, or similar activity on behalf of important university priorities.

Salary adjustments are based on merit; they are not automatic. Recommendations for salary adjustments originate with the supervisor and are reviewed as appropriate by the department head, dean, vice provost, and vice president. At the university level, the dean, vice provost, or vice president reviews the salary adjustment recommendations at a formal salary hearing with the President, the Provost, and the Executive Vice President.

## Special Research Faculty

Special research faculty are those with the titles of research associate, senior research associate, postdoctoral associate, research scientist, senior research scientist, research assistant professor, research associate professor, research professor, project associate, senior project associate, or project director. Special research faculty appointments are intended to promote and expedite the research activities of the University. Tenure cannot be earned in these ranks and service is not applicable toward probationary faculty service.

Each special research faculty member is evaluated and given a merit adjustment on the same schedule for evaluations and raise recommendations as the other faculty groups. Salary adjustments are based on merit; they are not automatic. An annual performance review by the principal investigator and/or department head becomes part of the basis for salary adjustments. Recommendations for salary adjustments originate with the supervisor (usually the principal investigator or the department head or chair) and are reviewed as appropriate by the department head or chair, dean, and vice provost. At the university level, the dean or vice provost reviews the salary adjustment recommendations at a formal salary hearing with the President, the Provost, and the Executive Vice President.

## Other Salary Adjustments

Faculty salary adjustments are normally reviewed and approved by the Board of Visitors in two phases: adjustments for promotion are recommended at the spring meeting and adjustments based on performance are recommended at the fall meeting. In addition to this process, it is sometimes necessary to adjust the salaries of specific faculty members at other times during the fiscal year. These adjustments are primarily for changes in duties and responsibilities, for special temporary assignments, for retention or other exceptional needs, and for faculty selected for a different position as part of a search. The President, Provost, and Executive Vice President are authorized to administer the faculty compensation plan during the year and act upon requests for salary adjustments. The President has issued a set of guidelines establishing the parameters for approval of special salary adjustments. All salary changes established through this process will be submitted for ratification to the Board of Visitors on a quarterly basis in the Personnel Changes Report.

## Implementation of the 2004-2005 Merit Review and Compensation Process

The General Assembly provided funding for 2004-2005 for an average increase of 3.00 percent for instructional faculty and administrative and professional faculty. The University will conduct the salary merit process for continuing faculty based on the overall 2004-2005 salary increase provided by the state along with possible modifications of the allocations as described below.

To implement the 2004-2005 merit review and compensation program, the Budget Office will develop salary pools for each academic and administrative area, based

upon the existing faculty salary allocations. While making salary decisions based on merit as described in this plan, the vice presidents and deans are expected to balance the overall salary recommendations within the pools provided to them.

The University may also elect to alter the percentage increase provided by the state to achieve certain salary compensation needs. For example, in some years the University has allocated additional funds to address issues such as salary compression and equity needs. For 2004-2005, such changes are likely to result in from one or more of the following processes:

- The University provides the vice presidents and deans the flexibility to use savings from vacant positions to make special salary adjustments beyond the capacity of their budget pools upon justification that situations within their units require different total allocations. The total of such incremental allocations is expected to be within a minor range of their salary pools, e.g., one- to five-tenths of one percent, and is subject to approval by the President during the salary hearings.
- The University establishes a higher average percentage increase than is funded through the state in order to achieve compliance with the consolidated salary authorization. Turnover of faculty can create situations in which the year-to-year change in total average salary is lower than expected; an adjustment in the overall percentage increase for continuing faculty can offset this situation.

The University budget for 2004-2005 contains funding to supplement the 3.0 percent by as much as 2.6 percent. If the University provides an additional 2.6 percent beyond the General Assembly's 3.0 percent increase, then the actual faculty salary average would rise to \$77,374 in 2004-2005 from \$73,271 in 2003-2004. Assuming that our peers increase salaries by 3.0 percent, that would raise the university's percentile ranking to 28<sup>th</sup> instead of the projected 25<sup>th</sup> percentile as described on the first page of this narrative.

- The University establishes a special pool of funds to address salary inequity and retention issues for specific faculty. If implemented, the funding will only be used to make adjustments based on evaluations of specific circumstances surrounding individual faculty members. As such, these adjustments would not be available to all faculty.
- The President may use a special pool of funds to adjust individual salary recommendations made by the vice presidents and deans when he determines that a different adjustment is warranted.

### **RECOMMENDATION:**

That the proposed 2004-2005 Faculty Compensation Plan for Teaching and Research, Administrative and Professional, and Special Research Faculty be approved.

## VIRGINIA TECH

## 2003-2004 Fiscal Year

<u>Institution</u>	<u>Average Salary</u>	<u>Rank</u>
California, University of (Berkeley)	\$101,900	1
Cornell University (Endowed)	99,700	2
Southern California, University of	87,800	3
Rutgers University (New Brunswick)	87,400	4
Michigan, University of (Ann Arbor)	86,500	5
Illinois at Urbana, University of	85,100	6
Maryland, College Park, University of	84,300	7
Wisconsin, University of (Madison)	83,600	8
Ohio State University	82,700	9
Iowa, University of	81,100	10
Michigan State University	79,100	11
SUNY at Buffalo	79,000	12
Purdue University	77,600	13
Texas at Austin, University of	77,000	14
Pittsburgh, University of (Main Campus)	76,800	15
Arizona, University of	75,800	16
Colorado, University of (Boulder)	75,100	17
Colorado State University	74,500	18
<b>Virginia Tech</b>	<b>74,396</b>	<b>19</b>
Pennsylvania State University	73,800	20
Texas A&M University, Main Campus	73,100	21
North Carolina State University	71,600	22
Iowa State University	70,900	23
Missouri, University of (Columbia)	68,700	24
Tennessee at Knoxville, University of	68,500	25
Virginia Tech's Percentile Ranking	25 <sup>th</sup>	

## 2004-2005 Pay Structure

## Virginia Tech

## July 1 through November 24, 2004

	<u>9-Month Faculty</u>		<u>12-Month Faculty</u>		<u>Distribution Approximate % of Total Faculty By Rank</u>
	<u>Entrance</u>	<u>Change</u>	<u>Entrance</u>	<u>Change</u>	
Professor	\$65,630	--	\$80,045	--	39%
Assoc Professor	50,196	--	60,823	--	30%
Asst Professor	41,525	--	50,510	--	20%
Instructor	29,103	--	37,866	--	11%

## November 25, 2004 through June 30, 2005

	<u>9-Month Faculty</u>		<u>12-Month Faculty</u>		<u>Distribution Approximate % of Total Faculty By Rank</u>
	<u>Entrance</u>	<u>Change</u>	<u>Entrance</u>	<u>Change</u>	
Professor	\$67,599	\$1,969	\$82,446	\$2,401	39%
Assoc Professor	51,702	1,506	62,648	1,825	30%
Asst Professor	42,771	1,246	52,025	1,515	20%
Instructor	29,976	873	39,002	1,136	11%

## **2004-2006 APPROPRIATIONS REQUEST REVIEW OF THE EXECUTIVE BUDGET AND LEGISLATIVE SESSION**

### **Overview of the Appropriations Process**

On October 8, 2003 the University submitted budget decision packages for consideration for inclusion in the Executive Budget for the 2004-06 biennium. Governor Warner presented his Executive Budget on December 17, 2003 for the 2004-06 biennium. The General Assembly session opened on January 14, 2004 and completed its work on May 7, 2004. This report presents the major elements of the actions for the upcoming biennium.

### **General Assembly Actions for Higher Education**

The Joint Conference Committee Report was released on May 7, 2004. The Conference Committee operating recommendation for higher education is \$92.2 million GF and \$173.6 million NGF for FY05. The appropriations for nongeneral funds is a minimum since some institutional appropriations for tuition and fee revenues will be addressed administratively with SCHEV and the Department of Planning and Budget as institutions finalize tuition and fee increases for 2004-05. The capital recommendations are \$223.4 million in general fund and state-supported bonded debt projects and \$695.7 million in nongeneral fund and institution-supported debt projects. For statewide maintenance reserve projects, the General Assembly eliminated \$10.0 million of Governor Warner's original general fund support of \$50.0 million.

### **Proposed Budget for Virginia Tech for the 2004-2006 Biennium**

Operating budget recommendations for Virginia Tech (A complete schedule of the operating budget recommendations are on Schedule 1):

- Compensation: The budget provides funding for salary increases averaging three percent T&R, A/P faculty, and graduate assistants. These increases will be effective on November 25, 2004. Likewise, funding is provided for a three percent increase for classified staff as of November 25, 2004. A salary increase averaging two percent for all employees is proposed to be effective November 25, 2005.
- Base Budget Adequacy, enrollment growth, degree completion, and research activities: An important element of the budget is that it recognizes the need to address shortfalls in funding for instruction and research activities and uses the funding model developed by the General Assembly as the basis for funding adjustments. The General Fund (GF) support for base budget adequacy is \$4.183 in FY 05 and \$8.257 in FY06. The nongeneral fund (NGF) support for budget adequacy is \$11.890 million for FY05 and \$21.449 million for FY06.

The budget also addresses enrollment growth at some level and the state's goal of increasing support for research. Virginia Tech did not receive any support for



enrollment growth since our enrollment projections are essentially flat during the upcoming biennium. The budget does provide \$2.005 million in one-time GF support for research initiatives in FY06.

- Authority to Establish Tuition and Fees Rates: The budget contains revised language regarding the establishment of tuition and fees. This language increases the authority granted to the university to establish tuition rates for all students. New language provides flexibility for the Boards of Visitors to set and manage tuition and fees. This language is a critical shift in state policy and will be very important in providing the university with the ability to adjust tuition and fees to support our instruction, research, and outreach initiatives. However, the proposed budget brings new emphasis to adherence to the nongeneral fund appropriation limits set forth in the Appropriation Act. Tuition revenue collected beyond the Appropriation Act level must be approved by SCHEV and the Department of Planning and Budget in order to be authorized for expenditure by the University.

A new out-of-state student fee was established for 2005-06 to pay debt service on the Equipment Trust Fund with the proceeds from those fees submitted to the state.

- Student Financial Assistance: The budget includes an additional \$6.1 million GF, state-wide, in each year of the biennium to fund student financial assistance. The recommendation for Virginia Tech is an increase of \$511,684 for each year.
- Equipment Trust Fund: The budget restores funding for this important program for instruction and research. The equipment trust fund would provide \$8.0 million in each year of the biennium in purchasing power; this is approximately \$100,000 more than the FY02 level.
- Support for Research Activities:

Research Infrastructure. Governor Warner recommended one-time funding of \$2.4 million GF in FY 2005 for the six doctoral institutions to participate in the Mid-Atlantic Terascale Partnership. The funding was to be used to gain access to advanced national communication networks for computation-intensive research. The recommendation was evenly split among the six doctoral institutions. Virginia Tech's share was to be \$403,250. However, the General Assembly removed this funding and suggested that base budget adequacy funds could be utilized to support the project.

Increase Agricultural Receipts through the Development of High-value Crops. New funding of \$556,980 GF in FY 2005 and \$831,980 in FY 2006 was recommended for Agriculture Research within Agency 229 by the Governor. This funding was to support the Food, Nutrition, and Health Initiative and is focused on the development of high value crops. However, the General Assembly removed this funding.

Reduction in Research and Public Service Centers. The General Assembly reduced General Fund support for tobacco research for medicinal purposes of \$85,000 in FY05 and \$175,000 in FY06.

Commonwealth Technology Research Fund. Originally funded with one-time support, this research fund has been continued with \$6.4 million GF in each year of the biennium by the Governor. Virginia Tech received a significant level of support from this fund in 2002-04. However, the General Assembly removed this funding.

Language on Indirect Cost Recoveries. In a key change in revenue policy, institutions have been authorized to retain 100 percent of the indirect cost recoveries related to research grants and contracts in excess of the level authorized in FY04. This means that growth in the 30 percent account after FY04 will be retained by the University, in the overhead category, as an additional incentive for increasing externally funded research activities.

Language on Graduate Tuition Waivers. Currently, the Appropriation Act restricts the number of nonresident graduate students that can be provided waivers for the nonresident portion of their tuition charges to 50 percent of the enrolled nonresident graduate students. This restriction has been dropped as an additional effort to support institutions' research activities. This change will be helpful to Virginia Tech.

Extension of Network Research Contract. Empowering language will be included in the General Provisions to authorize the extension of existing contracts to ensure that the Commonwealth's research universities maintain a competitive position with access to the national optical research network infrastructure.

- Operation and Maintenance of New Facilities. Virginia Tech received \$413,495 GF and \$587,155 NGF in FY 2005 and \$425,427 GF and \$604,098 NGF in FY 2006 for buildings that are scheduled to open in FY 2005. Facilities scheduled to open in FY06 were not addressed; the University plans to re-request this funding in the next budget cycle.
- Critical Staffing Initiative. Governor Warner did not include the Critical Staffing Initiative in his Executive Budget. This amendment requested \$3,000,000 in general fund support and 56.00 FTEs in each year to enhance Virginia Tech's ability to build stronger and more economically viable agricultural and forestry industries while addressing critical issues affecting families and communities throughout the Commonwealth. The General Assembly provided General Fund support of \$1.257 million and 23 positions each year of the biennium.

Capital budget recommendations for Virginia Tech (A complete listing of capital budget actions is on Schedule 1):

Maintenance Reserve. The maintenance reserve budget is increased to \$5.0 million for 2004-2006, as compared to 2002-2004. While still below the 2000-2002 pre-reduction level of \$7.5 million, an increase in the maintenance reserve budget is

critically important to the maintenance of the campus infrastructure and signals the state's recognition of the importance of this program.

Equipment Funding. The budget provides funding for equipment for two capital projects scheduled to come on-line in FY05 -- \$3.958 million for Bioinformatics Phase II and \$1.188 million for the Agriculture and Natural Resources Research Laboratory Facility.

Boiler Pollution Controls. The budget provides support for several infrastructure projects, and Virginia Tech would receive \$3.85 million in General Fund and \$2 million in nongeneral fund appropriation to address pollution controls in the power plant.

Improvements to Residence and Dining Hall. The budget includes \$4.0 million in debt for this project.

Campus Heating Plant. General fund support of \$2,750,000 was requested to plan for an upgrade of the Virginia Tech heat plant capacity and distribution system. The General Assembly included this project but recommended nongeneral funds to support the planning.

Institute for Critical Technology and Applied Sciences building. Partial funding for this project was recommended by Governor Warner using state-supported debt, but the General Assembly did not approve the legislation for the debt issuance. Therefore, this building is not scheduled for construction at this time.

### **The Commonwealth Chartered Universities and Colleges Act of 2004**

Senator Thomas K. Norment and Delegate Vincent F. Callahan submitted legislation (Senate Bill 638 and House Bill 1359) on behalf of Virginia Tech, the University of Virginia, and the College of William and Mary to authorize the creation of the Commonwealth Chartered Universities and Colleges Act of 2004. The institutions would exist as political subdivisions of the Commonwealth but not as private institutions. However, due to the complexity of the legislation, Senator John Chichester proposed Senate Joint Resolution 90 to establish a joint subcommittee to study the administrative and financial relationships between the Commonwealth and its institutions of higher education. Both the Senate and the House passed the resolution authorizing a study with an executive summary of the committee's findings and recommendations to be provided to the 2005 Regular Session of the General Assembly.

PROPOSED HIGHER EDUCATION BUDGETS FROM THE GOVERNOR AND THE CONFERENCE COMMITTEE OF THE GENERAL ASSEMBLY

as of May 7, 2004

Amounts in Thousands of Dollars

Schedule 1

OPERATING BUDGET	Governor's Executive Budget				Conference Committee			
	2004-05		2005-06		2004-05		2005-06	
	GF	NGF	GF	NGF	GF	NGF	GF	NGF
<b>Funding Proposals for Virginia Tech -- University Division</b>								
Faculty and Staff Salaries	(a)	(a)	(a)	(a)	\$1,221	\$0	\$2,255	\$0 (a)
Base Budget Adequacy, Including Funding for New Faculty Positions	\$513	\$658	\$976	\$1,316	4,183	658	8,257	10,217
One-time Funding for Research Efforts	2,005	0	0	0	0	0	2,005	0
Additional Tuition Authority	0	11,232	0	11,232	0	11,232	0	11,232
Advanced Communications Network	403	0	0	0	0	0	0	0
Reduce Funding for Tobacco Research	0	0	0	0	-85	0	-175	0
All Other Operating Budget Actions	476	587	478	604	476	587	478	604
<b>Total Proposed Funding for the University Division</b>	<b>\$3,397</b>	<b>\$12,477</b>	<b>\$1,454</b>	<b>\$13,152</b>	<b>\$5,795</b>	<b>\$12,477</b>	<b>\$12,820</b>	<b>\$22,053</b>
<b>Funding Proposals for Virginia Tech -- Cooperative Extension/AES Division</b>								
Faculty and Staff Salaries	(a)	(a)	(a)	(a)	\$618	\$0	\$1,142	\$0 (a)
Critical Staffing Initiative	\$0	\$0	\$0	\$0	1,257	0	1,257	0
Food, Nutrition, and Health Initiative (High Value Crops)	557	0	832	0	0	0	0	0
All Other Operating Budget Actions	0	0	0	0	0	0	0	0
<b>Total Proposed Funding for the CE/AES Division</b>	<b>\$557</b>	<b>\$0</b>	<b>\$832</b>	<b>\$0</b>	<b>\$1,875</b>	<b>\$0</b>	<b>\$2,399</b>	<b>\$0</b>
<b>Student Financial Assistance</b>	<b>\$512</b>	<b>\$0</b>	<b>\$512</b>	<b>\$0</b>	<b>\$512</b>	<b>\$0</b>	<b>\$512</b>	<b>\$0</b>
<b>Equipment Trust Fund (Purchasing Power)</b>	<b>\$8,031</b>	<b>\$0</b>	<b>\$8,031</b>	<b>\$0</b>	<b>\$8,031</b>	<b>\$0</b>	<b>\$8,031</b>	<b>\$0</b>
<b>CAPITAL BUDGET</b>								
Equipment Funding for Projects Already Under Construction	\$5,146	\$0	\$0	\$0	\$5,146	\$0	\$0	\$0
Boiler Pollution Controls	3,850	2,000	0	0	3,850	2,000	0	0
Institute for Critical Technology and Applied Sciences	14,000	0	0	0	0	0	0	0
Planning for Renovation of Campus Heating Plant	0	0	0	0	0	2,750	0	0
Improvements to Residence and Dining Hall	0	4,000	0	0	0	4,000	0	0
Maintenance Reserve	3,234	0	3,234	0	2,486	0	2,486	0
New funding proposals for a building/facility improvement and renewal fund	0	0	0	0	0	0	0	0 (b)
<b>Total Proposed Capital Funding for Virginia Tech</b>	<b>\$26,230</b>	<b>\$6,000</b>	<b>\$3,234</b>	<b>\$0</b>	<b>\$11,482</b>	<b>\$8,750</b>	<b>\$2,486</b>	<b>\$0</b>

MAJOR LANGUAGE PROPOSALS

Tuition and Fee language The language proposed by the Governor's budget and the Conference Committee provide additional flexibility for the Boards of Visitors to set and manage tuition and fees. The Conference Committee also requires a new out-of-state student fee for 2005-06 to pay debt service on the Equipment Trust Fund with the proceeds from those fees submitted to the state. No tuition caps were set by the Conference Committee. However, the Conference Committee version brings new emphasis to adherence to the nongeneral fund appropriation limits set forth in the Appropriation Act. Tuition revenue collected beyond the Appropriation Act level must be approved by the State in order to be spent by the University.

Indirect Cost Language The Executive budget capped the allocation of 30 percent indirect cost recoveries to the institution's instructional programs at the level established in 2003-04. Future increases in this funding source would be used to support research activities. The Conference Committee leaves this language in place.

Chartered Universities A study will be conducted on the Chartered Universities legislation which has been carried over to the 2005 General Assembly Session.

NOTES:

GF General Fund support; nominally state taxpayer dollars.

NGF Nongeneral Fund support; in general, this represents tuition and required fees, but other revenues, such as sales and services, can also occur.

(a) The Governor's Budget proposed 3 percent salary increase for faculty and staff, effective December 2005; the cost of this salary action was not disclosed in the Executive Budget. The Conference Committee provided funding for a 3 percent faculty and staff salary increase in December 2004 and established a reserve fund for a 2 percent increase for faculty and staff in 2005-2006.

(b) This fund was not included in the Conference Committee report.

## 2004-2005 AVERAGE COST OF INSTRUCTION

### VIRGINIA TECH

The Commonwealth of Virginia has established a methodology for computing the per student instructional cost for colleges and universities. This process identifies the "instructional cost" components of the Educational and General budget and computes an average instructional cost for all undergraduate and graduate students, including part-time and full-time students taking classes at both on-campus and off-campus locations. The resulting average cost is used to measure compliance with the state's tuition policies.

In 1989-90, students paid, on average, about 37 percent of the instructional cost. In the 1991 Legislative Session, the General Assembly instructed colleges and universities to charge out-of-state students the full cost of the instructional program. Recognizing that institutions might need to offer different tuition rates for different categories of students (i.e., undergraduate vs. graduate), the policy was modified to allow colleges and universities to recover the full cost from out-of-state students as a group, and not by individual classification. In other words, the aggregate tuition collected from out-of-state undergraduates and out-of-state graduates must fully cover the total share of the instructional budget related to their instruction. The result of this change in policy was to significantly increase the portion of the instructional budget funded by students. In 2003-2004, students are paying 62 percent of average instructional cost.

Based on the changes to the University's appropriations for 2004-2005 and the tuition rates for 2004-2005, the average cost of instruction has been computed in accordance with the methodology used by SCHEV. The approved tuition rates for 2004-2005 will result in students paying an average of 62 percent of the instructional cost. Nonresident students will, as a group, pay 127 percent of the appropriated cost per student; thus, the University is in compliance with the out-of-state tuition requirement. Average percentages by individual student category are as follows:

	<u>Amount*</u>	<u>% of Average</u>
Average Appropriated Cost	\$11,587	62%
<u>Undergraduates:</u>		
Residents	4,788	41%
Nonresidents	15,481	134%
<u>Graduates:</u>		
Residents	6,462	56%
Nonresidents	10,582	91%
<u>Residency:</u>		
Residents		46%
Nonresidents		127%

\*Includes tuition and academic fee

# PROPOSED 2004-2005 OPERATING AND CAPITAL BUDGETS

## VIRGINIA TECH

May 2004

With the close of the General Assembly session, the University is able to develop its internal budgets for the upcoming fiscal year. Virginia Tech is authorized to spend \$797.5 million during 2004-2005 to carry out all of its programs, based on the direct appropriations to the University. However, the University's annual internal budget varies from this external expenditure authorization for several reasons, some of which increase the annual expenditure authority while others reduce the expenditure plans. For example, the Cooperative Extension/Agriculture Experiment Station Division has been assigned incremental nongeneral fund appropriation while federal funding has remained level; as a result, this authority cannot be internally budgeted unless additional revenue is identified. On the other hand, the University's expenditure authorization will increase during 2004-2005 when the Virginia Military Institute transfers the Unique Military Activities appropriation of \$1.2 million to the University, and when the state transfers funds from its Central Fund to the University to cover the General Fund share of classified staff salary increases and other central adjustments. In addition, the University is able to seek administrative increases in the external expenditure authorization levels if additional nongeneral fund revenue becomes available. The University anticipates the need for an administrative nongeneral fund increase in appropriations to accommodate the 2004-2005 projected tuition revenue and projected growth in continuing education and other self-generated revenues beyond what was included in the Appropriation Act.

For 2004-2005, the net of these transactions results in an annual internal budget for all operations of approximately \$767.6 million. This is an increase of \$46.5 million over the original 2003-2004 budget. This increase reflects changes in nongeneral fund revenues for 2004-2005 as well as actions in the 2004 General Assembly session that impact the 2004-2005 General Fund appropriation. The overall change includes an increase of \$35.6 million attributable to the Educational and General program and \$10.1 million of projected growth in auxiliary enterprises. The General Fund allocation will be approximately \$214.4 million, an increase of \$14.3 million from 2003-2004. General Fund revenues will provide \$200.9 million in support for the instructional, research, and extension programs, \$12.3 million for student financial assistance, and \$1.2 million for the Unique Military Activities program. The General Fund appropriation represents 45.6 percent of the Educational and General budget (58.6 percent in the original 2001-2002 budget), 39.2 percent of the University Division's Educational and General budget (53.6 percent in the original 2001-2002 budget), and 27.9 percent of the total budget.

Schedule 1 displays the proposed operating budgets for 2004-2005, by major program and revenue and expense category. Schedule 2 is an expansion of the auxiliary operations budgets, categorized by major activity. These schedules display the comparative 2003-2004 budget, as approved in June 2003, and the current revised

2003-2004 budget as an additional comparison point. Schedule 3 shows the total budget by fund source and an estimated annual budget for each capital outlay project that will be active in 2004-2005. This report provides a brief discussion of the changes in the budget for each of the major programs.

**Allocation of Tuition and Fees**

For 2004-2005, the University had to manage decisions within the time frame of an extended legislative session. As a result, at its March 29, 2004 meeting, the Board of Visitors delegated the authority to the University’s President and Executive Vice President and Chief Operating Officer to establish a schedule of tuition and fee rates within the upper limits approved at the March 2004 meeting to address the University’s strategic plans and the requirements of the Appropriation Act. On May 7, 2004, the 2004 General Assembly authorized institutions of higher education to set tuition and fee charges at levels deemed to be appropriate for all student groups based on, but not limited to, competitive market rates, provided that the total revenue generated by the collection of tuition and fees from all students is within the nongeneral fund appropriation for educational and general programs provided in the Act. The total nongeneral fund revenue appropriation provided in the Appropriation Act is not sufficient to fund, in combination with the General Fund support, the entire 2004-2005 expenditure plan of \$25.3 million approved by the Board of Visitors on March 29, 2004. As a result, the University has worked with state officials to understand its total nongeneral fund authority and the process for adjusting the University’s nongeneral fund appropriation. Based on this work, the University believes it will be successful in obtaining approval for the increase in its revenue appropriation in the amount needed to fully support the \$25.3 million expenditure plan. As a result, the University believes that the attached budget recommendations are within the University’s nongeneral fund authority provided and available through administrative increases in 2004-2005.

In accordance with the resolution passed at the March 2004 meeting on 2004-2005 tuition and fees, the Board asked that the University identify the “allocation of tuition and fees in support of various university programs” as a part of the approval process for the 2004-2005 operating budget. A total of \$23.8 million in incremental revenue from tuition and fees is projected in 2004-2005. Incremental tuition and fee revenue was allotted to provide \$19.0 million for educational and general programs, \$2.4 million for student support services auxiliaries, \$1.1 million for general auxiliary services (the majority were mandatory cost increases), and \$1.3 million for residential and dining programs.

**Allocation of Tuition and Fee Revenue**

Educational and General Programs	\$19.0
Student Support Services Auxiliaries	2.4
General Auxiliary Services	1.1
Residential and Dining Programs	1.3
Total	\$23.8

## Educational and General

The University's Educational and General budget will be \$441.1 million in 2004-2005. The Educational and General budgets for the University Division (208) and the Cooperative Extension/Agriculture Experiment Station Division (229) are presented below by source of funding.

	(Dollars in thousands)		
	<u>208</u>	<u>229</u>	<u>Total</u>
General Fund	\$144,870	\$56,044	\$200,914
Tuition and Fees	200,986		200,986
Federal Funds		14,361	14,361
Other	<u>24,147</u>	<u>660</u>	<u>24,807</u>
Total Educational and General	\$370,003	\$71,065	\$441,068
Percent of Total			
General Fund	39.2%	78.9%	45.6%
Tuition and Fees	54.3%	0.0%	45.6%
Federal Funds	0.0%	20.2%	3.3%
Other	<u>6.5%</u>	<u>0.9%</u>	<u>5.5%</u>
Total Percentage	100.0%	100.0%	100.0%

The year-to-year comparison of the budget in Schedule 1 shows an overall revenue increase in the Educational and General program of \$25.5 million. The proposed 2004-2005 budget is 6.1 percent larger than the revised 2003-2004 budget. This increase results from increased General Fund support and incremental tuition revenue and is partially offset by a \$6 million reduction in one-time funding. The General Assembly provided \$4.1 million for base budget adequacy and support for faculty and classified staff salary increases of 3 percent. The University budget also includes sufficient resources to provide up to an additional 2.6 percent salary increase for faculty. While the new General Fund support in the University Division increased by \$9.8 million over the original 2003-2004 budget, the percentage of the Educational and General budget for the University Division provided by the General Fund continued to decline to 39.2 percent, down from 39.8 percent in 2003-2004. The 2004-2005 tuition and fee budget is \$19.4 million, or 10.7 percent, higher as compared to the original 2003-2004 budget. The difference in the tuition and fee budget reflects the increase in the tuition rates, the change in the mix of students, and an increase in the allotment of unfunded scholarships to students aid programs. The 2004-2005 tuition and fee budget continues to include \$1.0 million in projected revenues from the technology fee authorized by the General Assembly in 1998-1999 and \$415,852 for the capital fee assessed to out-of-state students as required by the General Assembly for 2003-2004. The revenue from the capital fee will be transferred to the Commonwealth for debt service on new



facilities. All tuition and fees are consistent with the authority provided by the Board of Visitors at the March 2004 meeting.

### **Auxiliary Enterprises**

In 2004-2005, the total auxiliary revenue will grow 7.7 percent over the original 2003-2004 budget. This increase includes resources to cover the cost of funding legislated raises, debt service and operation and maintenance of new facilities, increased health care costs, increased demand, and changes in operating and fixed costs. A significant portion of the growth in auxiliary budgets will occur in the Athletic Department. The Athletic fee was not increased for 2004-2005; this additional support is mainly the result of an increase in self-generated resources and athletic conference allocations. The Athletic Department budget includes \$1 million to pay the first of two conference entry payments to the Atlantic Coast Conference.

In addition, the 2004-2005 budget includes the move of the Career Services program costs from Educational and General Programs to the Auxiliary Program in accordance with the intent of the budget reduction and reinvestment plan approved at the November 2002 Board meeting.

### **Financial Assistance for Educational and General Programs**

Financial Assistance for Educational and General Programs is comprised of sponsored programs activities and the Eminent Scholars program.

The 2003-2004 budget projected 10 percent growth in sponsored programs activity from 2002-2003 levels. While sponsored research grant and contract activities grew by 5.7 percent over 2002-2003 levels as of March 31, 2004, other sponsored activities decreased reducing the overall sponsored grant and contract increase to 1.8 percent. Despite the current slow down in research expenditures, the University continues to make significant investments in research initiatives. As a result, the University anticipates that increases in research activities will occur; thus, sponsored programs activity for 2004-2005 is projected to grow by 10 percent over 2002-2003 projected activity levels.

### **Student Financial Assistance**

The annual budget for the Student Financial Assistance Program includes state General Fund support for Undergraduate Scholarships, Graduate Fellowships, Soil Scientist Scholarships, and the Multicultural Academic Opportunity Program. The University's Student Financial Assistance Program is anticipated to increase by 7.4 percent in 2004-2005 over the original 2003-2004 budget, with \$12,273,022 available for state-supported student financial assistance.

## **All Other Programs**

The All Other Programs component is comprised of the Unique Military Activities appropriation, surplus property, federal work study program, local funds, and Alumni Affairs. The annual budget for these funds is based on historic trends and projections of activity levels by program managers. These programs are funded by resources that are designated for specific purposes. For All Other Programs, the recommended budget represents a decrease of \$114,975 or 2.6 percent under the original budget for 2003-2004. This change is due primarily to a decrease in federal work-study funding and lower than previously budgeted activity in the Alumni Affairs program.

## **Budget Allocations**

The process of finalizing the 2004-2005 operating budget allocations for the colleges and major operating units is currently underway. This process will be completed during June 2004. The final operating budgets will be approved during June and issued to the University community by the Executive Vice President and Chief Operating Officer. The Office of Budget and Financial Planning will allocate these budgets to the colleges and vice presidential areas in time for the departments to open the new fiscal year with the allocations in place in the financial systems.

## **Capital Outlay Projects**

Virginia Tech's capital outlay program includes projects for the University Division and the Cooperative Extension/Agriculture Experiment Station Division. Each project, independent of funding source, requires a state authorization. Existing capital projects are reappropriated by the state each June 30, and their authorizations carry forward to the next fiscal year until the projects are closed. New projects are requested as part of the state budget cycle, with authorizations approved in the Appropriation Act or through special action by the Governor. New projects normally become effective and are added to the program at the beginning of a fiscal year. Completed projects are closed and removed from the program during the annual reappropriations process in June.

The project authorizations available for 2004-2005 are shown on Schedule 3. Each project for 2004-2005 is listed with the total budget by revenue source, available balance the fiscal year, estimated budget, and estimated balance at the close of the fiscal year.

The capital outlay program for 2004-2005 includes 13 Educational and General projects, 10 General Obligation Bond projects, and 12 Auxiliary Enterprise projects for a total of 35 projects. The projects are in various phases of design and construction with a life span of two to four years depending on the size and complexity of the facility. The total capital outlay budget for fiscal year 2005 includes \$499.9 million of authorizations with an estimated available balance of \$331.6 million. Of the available balance, the University plans to spend almost \$89.6 million in 2004-2005.

The revenues to support capital outlay expenses are a mix of state support, University debt, and self-generated resources. When projects have multiple sources of funding, the University generally utilizes the resources in the following order: state support, bond proceeds, then nongeneral funds. This order allows the most effective use of the University's nongeneral fund resources.

**RECOMMENDATION:**

That the proposed 2004-2005 operating and capital budgets, as displayed on Schedules 1, 2, and 3, be approved.

**TOTAL OPERATING BUDGET FOR VIRGINIA TECH**  
**Fiscal Year 2004-2005**  
**(Dollars in Thousands)**

	2003-2004 Original Budget	2003-2004 Adjusted Budget	2004-2005 Recommended Budget
<b>Revenues</b>			
Educational and General			
University Division			
General Fund	\$135,068	\$135,519	\$144,870
Tuition and Fees	181,547	183,655	200,986
All Other Income	22,506	30,144	24,147
Subtotal	339,121	349,318	370,003
CE/AES Division			
General Fund	52,349	52,518	56,044
Federal Funds	13,428	13,128	14,361
All Other Income	600	630	660
Subtotal	66,377	66,276	71,065
Total Educational and General	405,498	415,594	441,068
Auxiliary Enterprises	131,297	137,364	141,386
Financial Assistance for E&G Programs <sup>(a)</sup>	168,399	168,399	168,502
Student Financial Assistance			
General Fund	11,430	11,535	12,273
Nongeneral Fund	0	0	0
Total Student Financial Assistance	11,430	11,535	12,273
All Other Programs <sup>(b)</sup>	4,481	4,481	4,366
Total	\$721,105	\$737,373	\$767,595
<b>Expense</b>			
Educational and General			
University Division	\$339,121	\$349,318	\$370,003
CE/AES Division	66,377	66,276	71,065
Subtotal	405,498	415,594	441,068
Auxiliary Enterprises	130,485	142,229	136,396
Financial Assistance for E&G Programs <sup>(a)</sup>	168,399	168,399	168,502
Student Financial Assistance	11,430	11,535	12,273
All Other Programs <sup>(b)</sup>	4,481	4,481	4,366
Total	\$720,293	\$742,238	\$762,605
<b>Planned Change in Reserve</b>			
Reserve Drawdown/(Deposit) <sup>(c)</sup>	(812)	4,865	(4,990)
Net	\$0	\$0	\$0

(a) Financial Assistance for E&G Programs includes Sponsored Programs and the Eminent Scholars Program.

(b) All Other Programs include Unique Military Activities, Surplus Property, Local Funds, Federal Work Study, and Alumni Affairs.

(c) Reflects the planned excess of Auxiliary Enterprises.

**TOTAL OPERATING BUDGETS FOR AUXILIARY ENTERPRISES**  
**Fiscal Year 2004-2005**  
**(Dollars in Thousands)**

	2003-2004 Original Budget	2003-2004 Adjusted Budget	2004-2005 Recommended Budget
<b>Residence and Dining Hall System</b>			
Revenues	\$45,538	\$47,064	\$47,293
Expenses	-45,656	-48,050	-\$46,033
Reserve Drawdown (Addition)	118	986	-\$1,260
Net	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>Parking and Transportation</b>			
Revenues	\$4,215	\$4,231	\$4,508
Expenses	-4,107	-4,376	-4,476
Reserve Drawdown (Addition)	-108	145	-32
Net	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>Telecommunications Services</b>			
Revenues	\$13,940	\$15,125	\$14,744
Expenses	-14,076	-15,692	-14,622
Reserve Drawdown (Addition)	136	567	-122
Net	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>University Services System</b>			
Revenues	\$17,071	\$17,036	\$19,425
Expenses	-18,266	-18,862	-19,710
Reserve Drawdown (Addition)	1,195	1,826	285
Net	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>Intercollegiate Athletics</b>			
Revenues	\$26,845	\$29,773	\$31,076
Expenses	-24,332	-27,533	-27,303
Reserve Drawdown (Addition)	-2,513	-2,240	-3,773
Net	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>Electric Service System</b>			
Revenues	\$15,020	\$15,020	\$15,342
Expenses	-15,345	-15,601	-\$15,953
Reserve Drawdown (Addition)	325	581	\$611
Net	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>Donaldson Brown Hotel and Conference Center</b>			
Revenues	\$3,743	\$3,776	\$4,106
Expenses	-3,813	-4,173	-4,228
Reserve Drawdown (Addition)	70	397	122
Net	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>Other Enterprise Functions</b>			
Revenues	\$4,925	\$5,339	\$4,892
Expenses	-4,890	-7,942	-4,071
Reserve Drawdown (Addition)	-35	2,603	-821
Net	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>TOTAL</b>			
Revenues	\$131,297	\$137,364	\$141,386
Expenses	-130,485	-142,229	-136,396
Reserve Drawdown (Addition)	-812	4,865	-4,990
Net	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>

## EDUCATIONAL AND GENERAL CAPITAL PROJECT AUTHORIZATIONS FOR FISCAL YEAR 2005

(\$000)

as of March 31, 2004

	TOTAL PROJECT BUDGET				ESTIMATED TOTAL EXPENSES June 30, 2004	ESTIMATED BALANCE AVAILABLE FOR FY2005	ESTIMATED ANNUAL BUDGET FY2005	ESTIMATED BALANCE AT CLOSE OF FY2005	
	STATE SUPPORT	GENERAL OBLIGATION BONDS	NONGENERAL FUND	AGENCY DEBT					TOTAL BUDGET
<u>Educational and General Projects</u>									
Maintenance Reserve	\$ 3,126	\$ 0	\$ 0	\$ 0	\$ 3,126	\$ 0	\$ 3,126	\$ 2,657	\$ 469
Blanket Authorizations	0	0	9,870	0	9,870	0	9,870	0	9,870
Airport Taxiway Construction	0	0	3,129	0	3,129	1,670	1,459	0	1,459
Chemistry/Physics - Phase II	23,431	0	3,763	0	27,194	26,774	420	0	420
Dairy Science Facilities	5,343	0	0	0	5,343	5,343	0	0	0
Hampton Roads Wing Replacement	1345	0	83	0	1,428	1,428	0	0	0
Career Services Facility	0	0	0	4,608	4,608	4,327	281	281	0
Bioinformatics Building - Phase I	0	0	0	21,864	21,864	21,864	0	0	0
Multipurpose Livestock Arena	1,900	0	1,818	0	3,718	2,653	1,065	367	698
Fisheries and Aquatics Research Center	0	0	800	0	800	110	690	472	218
Bioinformatics Building Phase II	24,394	0	0	0	24,394	12,970	11,424	9,551	1,873
Boiler Pollution Controls	3,850	0	0	2,000	5,850	0	5,850	350	5,500
Planning: Southwest Campus Heating/Cooling	0	0	2,750	0	2,750	0	2,750	500	2,250
						0			
Total Educational and General Projects	\$ 63,389	\$ 0	\$ 22,213	\$ 28,472	\$ 114,074	\$ 77,139	\$ 36,935	\$ 14,178	\$ 22,757
<u>2002 General Obligation Bond Program</u>									
Agriculture & Natural Resources Research Laboratory	2,555	23,168	256	0	25,979	9,368	16,611	10,823	5,788
Biology/Vivarium Building	0	26,263	0	8,750	35,013	1,000	34,013	2,867	31,146
Bishop-Favrao Hall	0	2,500	5,000	0	7,500	160	7,340	311	7,029
Classroom Improvements, Phase I	0	4,530	0	0	4,530	0	4,530	410	4,120
Cowgill Hall HVAC and Power	0	7,500	0	0	7,500	0	7,500	165	7,335
Litton-Reaves Hall Exterior Repairs	0	2,500	0	0	2,500	0	2,500	271	2,229
Main Campus Chilled Water Central Plant	0	2,800	0	0	2,800	20	2,780	404	2,376
Henderson Hall and Performing Arts Center	0	6,542	2,235	40,000	48,777	300	48,477	2,814	45,663
Williams, Agnew, & Burruss Renovation	5,048	5,452	652	0	11,152	5,702	5,450	50	5,400
Institute of Critical Technologies and Applied Sciences	0	13,996	0	17,000	30,996	1,100	29,896	4,146	25,750
Total 2002 General Obligation Bond Program	\$ 7,603	\$ 95,251	\$ 8,143	\$ 65,750	\$ 176,747	\$ 17,650	\$ 159,097	\$ 22,261	\$ 136,836

## AUXILIARY ENTERPRISE CAPITAL PROJECT AUTHORIZATIONS FOR FISCAL YEAR 2005

(\$000)

as of March 31, 2004

	TOTAL PROJECT BUDGET					ESTIMATED TOTAL EXPENSES June 30, 2004	ESTIMATED BALANCE AVAILABLE FOR FY2005	ESTIMATED ANNUAL BUDGET FY2005	ESTIMATED BALANCE AT CLOSE OF FY2005
	STATE SUPPORT	GENERAL OBLIGATION BONDS	NONGENERAL FUND	AGENCY DEBT	TOTAL BUDGET				
<u>Auxiliary Enterprises Projects</u>									
Maintenance Reserve	\$ 0	\$ 0	\$ 2,616	\$ 0	\$ 2,616	\$ 0	\$ 2,616	\$ 2,616	\$ 0
Auxiliary Enterprise Blanket Authorizations	0	0	4,809	0	4,809	2,691	2,118	0	2,118
Parking Auxiliary Projects	0	0	79	20,619	20,698	1,049	19,649	0	19,649
Alumni/CEC/Hotel Complex	0	0	25,099	20,732	45,831	21,404	24,427	16,182	8,245
Golf Course Facilities	0	0	1,500	0	1,500	0	1,500	0	1,500
Expand Lane Stadium - Phases I and II	0	0	11,000	82,800	93,800	43,373	50,427	31,646	18,781
New Residence Hall	0	0	1,041	15,000	16,041	86	15,955	0	15,955
Dietrick Servery/HVAC, Phase II	0	0	1,500	5,000	6,500	4,104	2,396	2,396	0
Dining and Student Union Facility	0	0	0	6,250	6,250	0	6,250	0	6,250
G. Burke Johnston Student Center Addition	0	0	0	6,250	6,250	46	6,204	0	6,204
Soccer/Lacrosse Complex	0	0	750	0	750	750	0	0	0
Major Residence and Dining Hall Improvements	0	0	4,000	0	4,000	0	4,000	280	3,720
Total Auxiliary Enterprise Projects	\$ 0	\$ 0	\$ 52,394	\$ 156,651	\$ 209,045	\$ 73,503	\$ 135,542	\$ 53,120	\$ 82,422
GRAND TOTAL ALL CAPITAL PROJECTS	<u>\$ 70,992</u>	<u>\$ 95,251</u>	<u>\$ 82,750</u>	<u>\$ 250,873</u>	<u>\$ 499,866</u>	<u>\$ 168,292</u>	<u>\$ 331,574</u>	<u>\$ 89,559</u>	<u>\$ 242,015</u>

## CAPITAL PROJECTS PROJECTED TO CLOSE IN FISCAL YEAR 2004

(\$000)

as of March 31, 2004

	TOTAL PROJECT BUDGET					ESTIMATED TOTAL EXPENSES June 30, 2004	ESTIMATED UNUSED AUTHORIZATION BALANCE June 30, 2004
	STATE SUPPORT	GENERAL OBLIGATION BONDS	NONGENERAL FUND	AGENCY DEBT	TOTAL BUDGET		
<u>Educational and General Projects</u>							
Health, Safety, and Accessibility	2,500	0	0	0	2,500	2,500	0
Total Educational and General Projects	\$ 2,500	\$ 0	\$ 0	\$ 0	\$ 2,500	\$ 2,500	\$ 0
<u>Auxiliary Enterprises Projects</u>							
Substation Expansion	0	0	0	3,800	3,800	2,992	808
Improve Security Access in Residence Halls	0	0	1,366	0	1,366	1,366	0
Electric Service Facility	0	0	251	2,749	3,000	3,000	0
Recreation Fields	0	0	1,529	0	1,529	1,529	0
Total Auxiliary Enterprise Projects	\$ 0	\$ 0	\$ 3,146	\$ 6,549	\$ 9,695	\$ 8,887	\$ 808
Total Projects Closed in Fiscal Year 2004	<u>\$ 2,500</u>	<u>\$ 0</u>	<u>\$ 3,146</u>	<u>\$ 6,549</u>	<u>\$ 12,195</u>	<u>\$ 11,387</u>	<u>\$ 808</u>



## **VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY**

### **STUDENT FINANCIAL ASSISTANCE**

#### **GENERAL FUND APPROPRIATION**

The General Assembly appropriates discretionary financial assistance from the General Fund for students attending state colleges and universities in Virginia. Historically, discretionary financial aid for undergraduates has been distributed based on a formula which incorporates unmet need and the average amount of loan carried by students at each institution. The available funds have been allocated in proportion to the composite of these two factors at the individual institutions of higher education. Money has also been allocated to institutions for graduate fellowships. These funds have been distributed based on a programmatic assessment of institutional justification of funds for this purpose.

For 2003-2004, a total of \$11,761,338 was allocated to Virginia Tech for undergraduate and graduate financial assistance. For the 2004-2005 fiscal year, the University received an additional allocation of \$511,684 for undergraduate Virginians. Thus, a total of \$12,273,022 is anticipated to be available for state-supported student financial assistance in 2004-2005.

The recommended distribution of the \$12,273,022 appropriation for Scholarships and Fellowships in 2004-2005 is shown below.

I. \$11,000 for Soil Scientist Scholarships

These funds are appropriated by the General Assembly in support of up to 20 annual soil scientist scholarships. They provide University fees for Virginia residents majoring in agronomy. In return, recipients agree to work as soil scientists for the State of Virginia for a period equal to the number of years they received the scholarship.

II. \$307,500 for the Multicultural Academic Opportunities Program

These funds are appropriated by the General Assembly for "Scholarships, internships, and graduate assistantships administered by the Multicultural Academic Opportunities Program at the University . . . Eligible students must have financial need and participate in an academic support program."

III. \$ 11,954,522 for Scholarships and Fellowships

1. \$2,184,552 for Graduate Fellowships

In 2003-2004, \$2,184,552 was approved for graduate fellowships. No additional funding was appropriated for this category in 2004-2005. Fellowship awards will be made to graduate students in amounts not to exceed the instructional fees to be paid by the student for the year in which the award is made. Not more than 50 percent of these funds will be awarded to persons not eligible to be classified as Virginia domiciliary resident students. Approximately 338 full-time equivalent fellowships can be awarded from this fund in 2004-2005.

2. \$ 9,769,970 for Undergraduate Scholarships

In 2003-2004, \$9,258,286 was approved for undergraduate scholarships. An increase of \$ 511,684 was appropriated for this category for 2004-2005. Scholarship awards will be made to Virginia domiciliary residents in amounts not to exceed total University tuition and fees depending on financial need and other sources of financial aid available. Approximately 2,024 full-time equivalent scholarships can be awarded from this fund in 2004-2005.

**RECOMMENDATION:**

That the recommended allocations for student financial assistance for the fiscal year 2004-2005 be approved.

**VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY**  
**HOTEL ROANOKE CONFERENCE CENTER COMMISSION BUDGET**

The Hotel Roanoke Conference Center Commission was established by resolutions adopted by Virginia Tech on November 18, 1991 and by the City Council of the City of Roanoke, Virginia on April 14, 1992, pursuant to Chapter 440 of the 1991 Acts of Assembly of the Commonwealth of Virginia, adopted March 20, 1991. Section 21 B of the enabling legislation provided that the Commission shall annually prepare and submit to both the City of Roanoke and Virginia Tech (the "Participating Parties") a proposed operating budget showing its estimated revenues and expenses on an accrual basis for the forthcoming fiscal year and if such estimated expenses exceed such estimated revenues, the portion of the deficit proposed to be borne by each Participating Party.

The Commission has adopted and approved its operating budget for the fiscal year 2004-05. Virginia Tech and the City of Roanoke will make equal contributions of \$100,000 to the Commission for fiscal year 2004-05. The recommended budget is shown on the following page.

**HOTEL ROANOKE CONFERENCE CENTER COMMISSION**  
**BUDGET**  
**JULY 2004 - JUNE 2005**

**Revenues**

City of Roanoke	100,000
Virginia Tech	<u>100,000</u>
	\$200,000

**Expenses**

Personal Services for part-time director	\$ 50,000
Professional Fees – legal, accounting	130,000
Training and Development	3,000
Operations	<u>17,000</u>
	\$200,000

**RECOMMENDATION:**

That the budget for the Hotel Roanoke Conference Center Commission for 2004-05 be approved.

**VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY**

**DORMITORY AND DINING HALL SYSTEM**


**2004-2005 Operating Budget**

The resolution authorizing and securing the Dormitory and Dining Hall System revenue bonds requires the adoption of an annual budget by the Board of Visitors. The budget presentation to the Board of Visitors provides documentation that the revenues to be received during the fiscal year will be sufficient to meet the operating costs of the System, the principal and interest requirements, and usual expenses of maintenance, repair, and operation.

Subject to approval by the Board of Visitors, the annual budget will be filed with the State Treasurer and will be the basis for making payments from the revenue fund to meet the operating costs of the Dormitory and Dining Hall System during the fiscal year. In compliance with Section 5.5, Article V, of the resolution authorizing and securing the Dormitory and Dining Hall System revenue bonds, there is submitted herewith an estimate of the resources to be used for the operation of the Dormitory and Dining Hall System during the fiscal year July 1, 2004 to June 30, 2005 and a recommended budget of current expenses for the System for the same period.

	<u>Dormitories</u>	<u>Dining Halls</u>	<u>Total</u>
<u>Estimated Resources</u>			
Student Fees	\$17,050,783	\$23,028,435	\$40,079,218
Other Income	<u>2,251,006</u>	<u>4,963,092</u>	<u>7,214,098</u>
Total Resources	\$19,301,789	\$27,991,527	\$47,293,316
 <u>Current Expenses</u>			
Personal Services	\$6,732,521	\$11,613,109	\$18,345,630
Operations	5,407,177	12,434,598	17,841,775
Administrative Charges	676,444	1,344,086	2,020,530
Contingencies	170,000	270,000	440,000
Maintenance Reserve	911,350	564,485	1,475,835
Reserve Restoration	699,479	560,619	1,260,098
Debt Service	<u>4,704,818</u>	<u>1,204,630</u>	<u>5,909,448</u>
Total Expenses	\$19,301,789	\$27,991,527	\$47,293,316
 Net	 <u><u>\$0</u></u>	 <u><u>\$0</u></u>	 <u><u>\$0</u></u>

I certify that in my opinion the estimates of revenues and current expenses for the period July 1, 2004 to June 30, 2005 represent an accurate estimate of the income to be received and current expenses of operating the Dormitory and Dining Hall System for the fiscal year.


  
 Minnis E. Ridehour,  
 Executive Vice President and  
 Chief Operating Officer

## ANNUAL INSPECTION AND RECOMMENDATIONS CONCERNING DORMITORY AND DINING HALL SYSTEM

Section 5.4, Article V, of the resolution authorizing and securing the Dormitory and Dining Hall System revenue bonds requires that an inspection be made of the System at least once each year and a report and recommendation be submitted to the Board of Visitors.

An inspection has been made of the System and it is my opinion that the System has been maintained in good repair, working order, and condition. The following recommendations are made for the fiscal year July 1, 2004 to June 30, 2005:

1. That the necessary minor repairs be made to all equipment and buildings in the System. Funds have been included in the annual budget of current expenses to cover the cost of these items.
2. That the State's all-risk policy which provides protection from loss by fire, lightning, wind, hail, explosion, theft, vandalism, malicious mischief, and other extended coverage be continued. This provides \$500,000,000 coverage for any one occurrence, without any coinsurance and with an effective deductible of \$250.
3. That fees, rents, and charges for the next fiscal year are sufficient for the purpose set forth in Section 5.1, Article V, of the resolution.



Minnis E. Ridenour,  
Executive Vice President and  
Chief Operating Officer

### **RECOMMENDATION:**

That the recommended budget for the fiscal year July 1, 2004 to June 30, 2005 for the operation of the Dormitory and Dining Hall System and the report of the Annual Inspection be approved.

**VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY**

**ELECTRIC SERVICE SYSTEM**

**2004-2005 Operating Budget**

The resolution authorizing and securing the Electric Service System revenue bonds requires the adoption of an annual budget by the Board of Visitors. The budget presentation to the Board of Visitors provides documentation that the revenues to be received during the fiscal year will be sufficient to meet the operating costs of the System, the principal and interest requirements, and usual expenses of maintenance, repair, and operation.

Subject to approval by the Board of Visitors, the annual budget will be filed with the State Treasurer and will be the basis for making payments from the revenue fund to meet the operating costs of the Electric Service System during the fiscal year. In compliance with Section 5.5, Article V, of the resolution authorizing and securing the Electric Service System revenue bonds, there is submitted herewith an estimate of the resources to be used for the operation of the Electric Service System during the fiscal year July 1, 2004 to June 30, 2005 and a recommended budget of current expenses for the System for the same period.

Estimated Revenues


Sales to University Departments	\$8,323,690
All Other Sales	6,827,828
Investment Income	190,000
Reserve Drawdown	611,096
Total Revenues	<u>\$15,952,614</u>

Current Expenses

Personal Services	\$1,782,556
Purchase of Electricity	9,985,820
Operating Expenditures	1,883,764
Capital Maintenance Reserve Projects	350,000
Maintenance, Repairs and Equipment Replacement	553,574
Contingency	100,000
Debt Service	746,150
One-Time Projects	550,750
Total Expenses	<u>\$15,952,614</u>

Net	<u><u>\$0</u></u>
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I certify that in my opinion the estimates of revenues and current expenses for the period July 1, 2004 to June 30, 2005 represent an accurate estimate of the income to be received and current expenses of operating the Electric Service System for the fiscal year.

  
Minnis E. Ridenour,  
Executive Vice President and  
Chief Operating Officer

## ANNUAL INSPECTION AND RECOMMENDATIONS CONCERNING ELECTRIC SERVICE SYSTEM

Section 5.4, Article V, of the resolution authorizing and securing the Electric Service System revenue bonds requires that an inspection be made of the System at least once each year and a report and recommendation be submitted to the Board of Visitors.

An inspection has been made of the System and it is my opinion that the System has been maintained in good repair, working order, and condition. The following recommendations are made for the fiscal year July 1, 2004 to June 30, 2005:

1. That the necessary minor repairs be made to all equipment and buildings in the System. Funds have been included in the annual budget of current expenses to cover the cost of these items.
2. That the State's all-risk policy which provides protection from loss by fire, lightning, wind, hail, explosion, theft, vandalism, malicious mischief, and other extended coverage be continued. This provides \$500,000,000 coverage for any one occurrence, without any coinsurance and with an effective deductible of \$250.
3. That rates and charges for the next fiscal year are sufficient for the purpose set forth in Section 5.1, Article V, of the resolution.



Morris E. Ridenour,  
Executive Vice President and  
Chief Operating Officer

### **RECOMMENDATION:**

That the recommended budget for the fiscal year July 1, 2004 to June 30, 2005 for the operation of the Electric Service System and the report of the Annual Inspection be approved.



VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

UNIVERSITY SERVICES SYSTEM

2004-2005 Operating Budget

The resolution authorizing and securing the University Services System revenue bonds requires the adoption of an annual budget by the Board of Visitors. The budget presentation to the Board of Visitors provides documentation that the revenues to be received during the fiscal year will be sufficient to meet the operating costs of the System, the principal and interest requirements, and usual expenses of maintenance, repair, and operation.

Subject to approval by the Board of Visitors, the annual budget will be filed with the State Treasurer and will be the basis for making payments from the revenue fund to meet the operating costs of the University Services System during the fiscal year. In compliance with Section 5.5, Article V, of the resolution authorizing and securing the University Services System revenue bonds, there is submitted herewith an estimate of the resources to be used for the operation of the University Services System during the fiscal year July 1, 2004 to June 30, 2005 and a recommended budget of current expenses for the System for the same period.

Estimated Revenues


Student Fees	\$17,422,754
Sales and Services	1,558,566
Other Income	444,004
Reserve Drawdown	284,504
Total Revenues	<u>\$19,709,828</u>

Current Expenses

Personal Services	\$10,802,275
Operating	3,171,365
Debt Service	3,857,275
Capital Maintenance Reserve	201,149
Non-Capital Maintenance Reserve	103,208
Student Organization Allocation	1,075,131
One-Time Projects	299,425
Contingencies	200,000
Total Expenditures	<u>\$19,709,828</u>

Net	<u><u>\$0</u></u>
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I certify that in my opinion the estimates of revenues and current expenses for the period July 1, 2004 to June 30, 2005 represent an accurate estimate of the income to be received and current expenses of operating the University Services System for the fiscal year.

  
Minnis E. Ridenour,  
Executive Vice President and  
Chief Operating Officer

## **ANNUAL INSPECTION AND RECOMMENDATIONS CONCERNING UNIVERSITY SERVICES SYSTEM**

Article V, Section 5.4, of the resolution authorizing and securing the University Services System revenue bonds requires that an inspection be made of the System at least once each year and a report and recommendation be submitted to the Board of Visitors.

An inspection has been made of the System and it is my opinion that the System has been maintained in good repair, working order, and condition. The following recommendations are made for the fiscal year July 1, 2004 to June 30, 2005:

1. That the necessary minor repairs be made to all equipment and buildings in the System. Funds have been included in the annual budget of current expenses to cover the cost of these items.
2. That the State's all-risk policy which provides protection from loss by fire, lightning, wind, hail, explosion, theft, vandalism, malicious mischief, and other extended coverage be continued. This provides \$500,000,000 coverage for any one occurrence, without any coinsurance and with an effective deductible of \$250.
3. That rates and charges for the next fiscal year are sufficient for the purpose set forth in Section 5.1, Article V, of the resolution.



Minnis E. Ridenour,  
Executive Vice President and  
Chief Operating Officer

### **RECOMMENDATION:**

That the recommended budget for the fiscal year July 1, 2004 to June 30, 2005 for the operation of the University Services System and the report of the Annual Inspection be approved.

**VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY**

**INTERCOLLEGIATE ATHLETICS SYSTEM**

**2004-2005 Operating Budget**

The resolution authorizing and securing the Athletics System revenue bonds requires the adoption of an annual budget by the Board of Visitors. The budget presentation to the Board of Visitors provides documentation that the revenues to be received during the fiscal year will be sufficient to meet the operating costs of the System, the principal and interest requirements, and usual expenses of maintenance, repair, and operation.

Subject to approval by the Board of Visitors, the annual budget will be filed with the State Treasurer and will be the basis for making payments from the revenue fund to meet the operating costs of the Athletics System during the fiscal year. In compliance with Section 5.5, Article V, of the resolution authorizing and securing the Athletics System revenue bonds, there is submitted herewith an estimate of the resources to be used for the operation of the Athletics System during the fiscal year July 1, 2004 to June 30, 2005 and a recommended budget of current expenses for the System for the same period.

Estimated Resources

Student Fees	\$5,770,189
Sales and Services	22,925,562
Other Income	<u>2,379,892</u>
Total Revenues	<u>\$31,075,643</u>

Current Expenses

Personnel Services	\$10,569,361
Operations	9,077,253
Administrative Charge	1,075,165
Contingencies	300,000
Capital Maintenance Reserve	369,061
Maintenance, Repairs, and Equipment Replacement	884,672
Debt Service	3,567,309
One-Time Projects	1,460,000
Reserve Contribution	<u>3,772,822</u>
Total Expenses	<u>\$31,075,643</u>

Net \$0

I certify that in my opinion the estimates of revenues and current expenses for the period July 1, 2004 to June 30, 2005 represent an accurate estimate of the income to be received and current expenses of operating the Athletics System for the fiscal year.

  
Minnis E. Ridencour,  
Executive Vice President and  
Chief Operating Officer

## **ANNUAL INSPECTION AND RECOMMENDATIONS CONCERNING INTERCOLLEGIATE ATHLETICS SYSTEM**

Section 5.4, Article V, of the resolution authorizing and securing the Athletics System revenue bonds requires that an inspection be made of the System at least once each year and a report and recommendation be submitted to the Board of Visitors.

An inspection has been made of the System and it is my opinion that the System has been maintained in good repair, working order, and condition. The following recommendations are made for the fiscal year July 1, 2004 to June 30, 2005:

1. That the necessary minor repairs be made to all equipment and buildings in the System. Funds have been included in the annual budget of current expenses to cover the cost of these items.
2. That the State's all-risk policy which provides protection from loss by fire, lightning, wind, hail, explosion, theft, vandalism, malicious mischief, and other extended coverage be continued. This provides \$500,000,000 coverage for any one occurrence, without any coinsurance and with an effective deductible of \$250.
3. That rates and charges for the next fiscal year are sufficient for the purpose set forth in Section 5.1, Article V, of the resolution.



Minnis E. Ridenour,  
Executive Vice President and  
Chief Operating Officer

### **RECOMMENDATION:**

That the recommended budget for the fiscal year July 1, 2004 to June 30, 2005 for the operation of the Intercollegiate Athletics System and the report of the Annual Inspection be approved.

## PRATT FUND OVERVIEW

In 1975, the university received a significant bequest from the estate of Mr. John Lee Pratt of Stafford County, following his death on December 20, 1975. The bequest was divided equally into two distinct parts, one to support Animal Nutrition and one to support the College of Engineering. According to the will, the bequest for Animal Nutrition was to be used to promote the study of animal nutrition, by supplementing salaries; by providing equipment and materials to be used for experiments in feeding and in the preparation of feeds for livestock and poultry; and by publishing and disseminating the research results of the studies. The will provided that the bequest for the College of Engineering should be used to support research and scholarships.

Distributions of the Pratt Estate were received in several installments: \$9,561,819 in 1975, \$1,330,000 in 1977, \$47,000 in 1979, and \$30,164 in 1981, for a total of \$10,968,983. Over the years, the Pratt endowment has grown to \$38.7 million, as of March 31, 2004. The narrative below summarizes some of the major accomplishments of the College of Engineering and the Animal Nutrition Programs that can be directly tied to the funding provided by the Pratt estate.

When the Pratt Endowment was originally established, the College of Engineering was in the early stages of establishing itself as a nationally recognized leader in engineering education. The Pratt Endowment has played a significant role over the years in allowing the College to enrich its pool of students and to offer additional international opportunities to students and faculty. Additionally, the Pratt funds have allowed the College to invest resources in three research areas: biomedical engineering, microelectronics, and energy and advanced vehicles.

The expenditure of income funds from the Pratt Endowment provides an unusual opportunity to develop an animal nutrition program of high quality. Management of these endowment earnings has concentrated on enhancing research and educational opportunities beyond what departments could do with state and federal funding. The main funding strategy remains with strong support for Ph.D. training, direct research support, scientific equipment, and visiting professors that stimulate and inspire the faculty and students engaged in nutrition research.

## 2004-2005 PRATT FUND BUDGET PROPOSAL

Pursuant to the spending policy adopted for the Pratt Estate Fund, it is anticipated that additional income of \$1,874,739 will be available for expenditure in FY 2004-2005. Targets of \$909,000 and \$965,739 were given respectively to the College of Engineering and to the Animal Nutrition Programs. For the College of Engineering, \$104,000 will be allocated for a partial repayment of amounts previously severed from principal.

### **College of Engineering**

Source of Funds:

Endowment Income	\$805,000
Carryover (estimated)	<u>\$185,000</u>
<b>Total Resources</b>	<b><u>\$990,000</u></b>

Proposed Expenditures:

Undergraduate Scholarships	175,000
Undergraduate Study Abroad Scholarships	25,000
Graduate Fellowships	575,000
Graduate Recruitment Programs	<u>75,000</u>
<b>Total Proposed Expenditures</b>	<b><u>\$850,000</u></b>

### **Animal Nutrition**

Source of Funds:

Endowment Income	\$ 965,739
Carryover (estimated)	<u>750,000</u>
<b>Total Resources</b>	<b><u>\$1,715,739</u></b>

Proposed Expenditures:

Ph.D. and M.S. Fellowship Program	\$472,433
Undergraduate Program Scholarships and Research	144,861
Visiting Scholars and Seminars	10,000
Equipment Purchases and Maintenance	754,935
Nutrition Technicians	76,637
Publication Costs	6,000
Special Equipment Fund	<u>250,873</u>
<b>Total Proposed Expenditures</b>	<b><u>\$1,715,739</u></b>

### **RECOMMENDATION:**

That the proposed 2004-2005 allocation and use of Pratt Funds be approved.

**RESOLUTION TO APPOINT UNIVERSITY COMMISSIONERS  
TO THE HOTEL ROANOKE CONFERENCE CENTER COMMISSION**

**WHEREAS**, the Virginia General Assembly approved legislation known as the “Hotel Roanoke Conference Center Commission Act” to provide for the establishment of a conference center commission; and

**WHEREAS**, the Act provides for the appointment of three commissioners each from the City of Roanoke and from Virginia Polytechnic Institute and State University; and,

**WHEREAS**, the Act provides that the commissioner appointments be staggered; and,

**WHEREAS**, the terms of the appointment shall end on June 30 of the respective year; and

**WHEREAS**, pursuant to the Act, the Board of Visitors of Virginia Polytechnic Institute and State University confirms or appoints the following as commissioners:

- Executive Vice President and Chief Operating Officer, June 30, 2005  
Virginia Tech
- Vice Provost for Outreach and International Affairs, June 30, 2006  
Virginia Tech
- Chief Operating Officer and Secretary -Treasurer of the June 30, 2007  
Virginia Tech Foundation

**NOW, THEREFORE, BE IT RESOLVED**, that the three commissioners representing Virginia Polytechnic Institute and State University shall continue as the Executive Vice President and Chief Operating Officer of Virginia Tech, Chief Operating Officer and Secretary -Treasurer of the Virginia Tech Foundation, and the Vice Provost for Outreach and International Affairs; and that the terms of appointment shall continue effective with the approval of this resolution.

**RECOMMENDATION**

That the above resolution of the appointment of the Executive Vice President and Chief Operating Officer of Virginia Tech, the Chief Operating Officer and Secretary -Treasurer of the Virginia Tech Foundation, and the Vice Provost for Outreach and International Affairs as the university’s representatives on the Hotel Roanoke Conference Center Commission be approved.

June 7, 2004

## **AFFILIATION AGREEMENT RENEWALS**

As approved by the Board of Visitors, the university has entered into affiliation agreements with the following university-related corporations for the purpose of defining the relationship and requirements of university-related corporations.

- Virginia Tech Alumni Association, Inc.
- Virginia Tech Athletic Fund, Inc.
- Virginia Tech Corps of Cadets Alumni, Inc.
- Virginia Tech Foundation, Inc.
- Virginia Tech Intellectual Properties, Inc.
- Virginia Tech Services, Inc.

The terms of these agreements end on June 30, 2004. It is recommended that the agreements be renewed at this time to immediately place in effect minor changes to affiliation agreements. The revised affiliation agreements shall be extended for a term ending June 30, 2008.

**RECOMMENDATION:** That the affiliation agreements listed above be revised and extended for a four-year period, terminating on June 30, 2008.

June 7, 2004



**AFFILIATION AGREEMENT BETWEEN  
VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY  
AND  
(CORPORATION)**

THIS AFFILIATION AGREEMENT, dated as of \_\_\_\_\_, is by and between VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY, a Virginia public corporation (the "UNIVERSITY"), and (corporation), a Virginia non-stock corporation (the "CORPORATION").

**RECITALS**

1. The University recognizes the contribution the Corporation will make to the University's missions and goals and, therefore, the University is willing to be affiliated with and provide certain benefits to the Corporation. Such action shall not, however, be construed to mean that the Corporation is part of or controlled by the University; that the University is responsible for the Corporation's contracts or other acts or omissions; or that the University approves of the Corporation's activities.
2. The purpose of this Agreement is to describe the entire relationship between the University and the Corporation including the University benefits the Corporation may receive and the conditions for their receipt.

Accordingly, the parties agree as follows:

**a. Representations**

- 1) The Corporation represents that it is a Virginia non-stock corporation in good standing with the Virginia State Corporation Commission. The Corporation will provide the University a copy of its current articles of incorporation, bylaws and all future amendments, a list of all directors, administrators and offices, their addresses and phone numbers, and any changes made to this list.
- 2) The Corporation further represents that the officers and board members of the Corporation were provided a copy of this Agreement and they authorized the person executing this Agreement on behalf of the Corporation to execute this Agreement.

**b. Relationship between the Corporation and the University**

The University is a Virginia public corporation and the Corporation is not part of that corporation, but rather exists and operates independently, and for the benefit of, the University.

The Corporation is required to distribute to the University or its designee, on a regular basis, any surplus revenues as determined in conjunction with the Executive Vice President and Chief Operating Officer of the University.

Annually, prior to consideration by its Board of Directors, the Corporation shall review its annual operating budget, capital budget, long-term program plans, and intended distribution of surplus with the University's designee.

The Corporation agrees that, without the prior written consent of the University President, it will not distribute any assets or proceeds thereof, other than in the ordinary course of business, to any entity or person other than the University or its designee.

The Corporation shall convey to the University upon written request of the Board of Visitors, any interest in real property owned by the Corporation, which real property is and shall be indirectly owned by the University.

The Corporation shall provide a benefits and compensation plan for its employees that as nearly as practicable matches that of the University.

The President of the University shall designate a person to be elected as a director and member of the Executive Committee of the Corporation.

The parties understand and agree that this Agreement is the only source of control the University may have over the Corporation or its activities except to the extent, if any, the University chooses to exercise control over activities occurring on its property and as provided in the governing documents of the Corporation.

**c. Fund-Raising Activities**

The Corporation agrees not to conduct fund-raising activities without the prior written consent of the University, provided that the solicitation of research grants and contracts by the Corporation shall not be considered fund-raising activities for purposes of this Agreement.

**d. The Corporation's Dealings with Third Parties**

The Corporation shall not hold itself out as being part of, controlled by, or acting on behalf of the University. The Corporation agrees to take reasonable measures to ensure that third parties understand that it is not part of the corporation which is the University. With respect to advertising, publicity, correspondence, contracts, and other formal means of communication, the Corporation will use its full corporate name to avoid confusion on the part of the third parties.

**e. Tax Matters**

The Corporation shall prepare and timely file all tax returns and reports including information returns required to be filed by it under federal, state and local laws. The Corporation will promptly advise the University in the event of any audit of its tax returns or reports by any governmental entity. The Corporation shall not use the University's taxpayer identification number or the University's tax-exempt status in connection with purchases or sales by the Corporation, gifts to the Corporation, interest or other income of the Corporation, or any other activity of the Corporation.

**f. Liability Insurance and Defense**

The Corporation understands and agrees that the University, the Commonwealth of Virginia, and the employees and agents of either will not be liable for any of the Corporation's contracts, torts, or other acts or omissions, or those by the Corporation's directors, officers, employees or staff, provided that the limitations of liability provided herein shall not apply to faculty and staff of the University acting within the scope of their employment with the University. The Corporation understands and agrees that neither it nor its directors, officers, employees or staff are protected by the University's or the Commonwealth of Virginia's insurance policies or self-insurance plans in connection with the Corporation's activities, and the University and the Commonwealth will not provide any legal defense for the Corporation or any such person in the event of any claim against any of them, provided that the limitations of liability provided herein shall not apply to faculty and staff of the University acting within the scope of their employment with the University.

**g. Non-Discrimination**

The Corporation agrees to follow the University's Equal Opportunity and Affirmative Action Statement.

**h. Charges for Services**

The Corporation agrees to reimburse the University upon request for the costs of services provided. To the extent that a rate schedule exists for these services, the Corporation will be charged at the appropriate rate. To the extent there is no rate schedule charge set for a service, the Corporation will be charged a rate to be mutually agreed on by the University and the Corporation based on a cost study to be conducted by the University Controller's Office.

**i. Use of Facilities and Services**

The University hereby makes the Corporation eligible to use the University's facilities and services, subject to availability and the policies and procedures of the University applicable to such facilities and services.

**j. Audit**

The Corporation shall have an annual audit performed by an independent auditor and shall provide copies of its IRS form 990 or 990T, financial statements, management letter and management response produced in connection with the audit to the President of the University. The Corporation agrees to participate in the university-related corporation internal audit program. All costs of both the annual audit and the internal audit work performed for the Corporation shall be paid by the Corporation. The Corporation will be exempted from the requirement for annual external audit provided that:

- the Corporation has not held any financial assets for the twelve month period preceding the fiscal year ending date,
- the officers of the Corporation certify annually that no financial activities or transactions have occurred or are occurring outside those reflected in the records of the Corporation,
- on an as needed basis, the Corporation agrees to provide as a supplement to its annual financial statements separate unaudited financial schedules providing information on the activities of the Corporation recorded in its records, and
- the Corporation continues to participate in the university-related corporation internal audit program.

**k. Subsidiary Corporations**

The provisions of this agreement shall be applicable to any subsidiary corporations of the Corporation. Approval of the University's Board of Visitors is required for the establishment of University related corporations.

**l. Dissolution**

If the University, acting at the direction of its Board of Visitors, shall request in writing, the Corporation agrees to timely cease all operations and take all appropriate actions to dissolve the Corporation. In the event of such dissolution or final liquidation of the Corporation (a) none of the property of the Corporation or any proceeds thereof shall be distributed to or divided

among any of the officers or directors of the Corporation or inure to the benefit of any individual; and (b) after all liabilities and obligations of the Corporation have been paid, satisfied, and discharged, or adequate provision made thereof, all remaining property of the Corporation and the proceeds thereof shall be distributed by the Board of Directors of the Corporation to the University or its designee provided it is an organization or organizations that is (are) qualified under Section 501(c)(3) and 170(c)(2)(B) of the Internal Revenue Code of 1986, as amended.

**m. Term and Termination of Agreement**

This agreement shall become effective as of the date written below and shall remain in effect until June 30, 2008, unless terminated earlier by the University, with or without cause, by written notice to the Corporation or by mutual written agreement of the parties.

**n. Waiver**

Failure of either party to enforce any of the provisions of this Agreement shall not be construed as a waiver of that, or any other, provision or any later breach thereof.

**o. Notices**

Any notice under this Agreement shall be deemed given when deposited in the mail, postage prepaid, and addressed as follows:

If to the Corporation:

If to the University:

University Treasurer  
312 Burruss Hall (0142)  
Virginia Tech  
Blacksburg, Virginia 24061

or to such other person, at such addresses, as either party may designate for itself and so notify the other party in writing.

**p. Entire Agreement; Amendments.**

This Agreement constitutes the entire agreement between the Corporation and the University concerning the subject matter, and it supersedes all prior written or oral agreements concerning this subject matter. This Agreement may not be amended except by written document executed by both parties.

IN WITNESS THEREOF, the parties have executed this Agreement below:

(NAME OF CORPORATION)

VIRGINIA POLYTECHNIC INSTITUTE  
AND STATE UNIVERSITY

By: \_\_\_\_\_  
(Authorized Officer)

By: \_\_\_\_\_  
(Authorized Officer)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**MINUTES**

**STUDENT AFFAIRS COMMITTEE OF THE BOARD OF VISITORS**

**Conference Room C  
Donaldson Brown Hotel & Conference Center  
8:30 a.m.  
June 7, 2004**

**PRESENT:** Rodman Layman, Chair  
Mr. Michael Anzilotti  
Mr. Allan Bradley  
Ms. Myrna Callison  
Mr. L. Bruce Holland  
Mr. John Rocovich, Rector

**GUESTS:** David Chambers, Landrum Cross, Ron Daniel, Susan Dickerson, Pankaj Gupta, Frances Keene, Neal Kegley, Marcus Ly, David Ostroth, Andrew Painter, Donna Sanzenbach, Edward Spencer, Cathryn Turrentine, Brian Warren, Fred Weaver, James Weaver

- 1. Opening remarks and approval of March 29, 2004, minutes.** Mr. T. Rodman Layman, Chair, provided opening remarks and asked those present to introduce themselves. The minutes of the March 29 Student Affairs Committee meeting were submitted to the committee for review and approval. The minutes were approved as written.
- 2. Athletic Department Quarterly Report.** Mr. James Weaver, Athletic Director, provided a quarterly report on the Athletic Department and updated the committee on the re-seating project for Lane Stadium. The re-seating for the stadium will take place in fall 2005 with the completion of the stadium expansion. The stadium expansion is on schedule to be completed for the fall 2005 football season. Mr. David Chambers, Senior Associate Athletic Director, outlined the re-seating project for Cassell Coliseum for men's and women's basketball games. Season tickets will be allocated based upon the point priority system and an integrated loyalty component which gives credit for continuous years of season ticket purchased ("The Ladder"). When making re-seating plans, they must also follow ACC guidelines on where visitors and the university band must be seated. They are considering student season tickets for basketball at the request of students. All season tickets in the coliseum will be reallocated for the upcoming season.
- 3. SCHEV Report on Time to Graduation in Virginia State Colleges.** Mr. Allan Bradley, Undergraduate Student Representative to the Board of Visitors, discussed the findings of a survey on Barriers to Timely Graduation authored by the State Council for Higher Education in Virginia (SCHEV). The survey was administered through the SCHEV website, and was promoted with the help of the members of the Student Advisory Committee. The committee is comprised of one representative from every 4-year public institution of higher education in the Commonwealth, as well as four representatives

from the Virginia Community College System, and two representatives from the private non-profit institutions of higher education. The survey was made up of three sections, totaling nineteen questions. The results of the survey can be found at: [http://www.explorevirginiacolleges.com/survey/Barriers2TimelyGrad\\_StudentSurveyResults.new.asp](http://www.explorevirginiacolleges.com/survey/Barriers2TimelyGrad_StudentSurveyResults.new.asp)

Some points made in the survey include:

- 19.71 percent of the respondents have changed majors at least once
- 38.42 percent of the respondents have declared at least one minor
- 9.24 percent of the respondents have declared a double-major
- 10.32 percent of the respondents are enrolled in a five-year degree program
- 43.26 percent of the respondents will graduate delayed from their degree program
- Many had valid reasons for delaying graduation, such as:
  - 24.77 percent had inadequate academic counseling
  - 53.79 percent required course section(s) not offered
  - 24.03 percent changed their major or academic goals
- Many had trouble transferring credit into their new schools:
  - 46.09 percent were not deemed academically equivalent to course(s) at new institution

The survey is being reworked by SCHEV in order to be more scientific and representative. The plans will be presented at SCHEV's council meeting in July, and will probably be given in a more random fashion. It does however highlight some very valid barriers standing in the way of a higher four-year graduation rate.

4. **Judicial Affairs and Undergraduate Honor System.** Ms. Frances Keene, Acting Director of Judicial Affairs, gave a presentation on the Student Judicial System which adjudicates all alleged violations of University Policies for Student Life, i.e. all non-academic misconduct violations on the part of individual students and student organizations. The most prevalent charges in the system are alcoholic beverage violations, followed by failure to observe rules and regulations (such as residence hall policies), then followed by computer misuse violations. Virginia Tech has some of the most stringent sanctions in the Commonwealth for policy violations, including a zero tolerance policy (suspension upon first offense) for drug violations. During the 2003-2004 year, approximately 1,450 cases involving about 2,100 students were processed through the judicial system. In the most serious cases, 53 students were suspended for one or more semesters and another 208 were placed on deferred suspension status (suspension automatic if another offense of any nature occurs during the time period of their deferred suspension).

Almost every sanction includes an educational experience such as an alcohol education class, an ethics workshop, or community service. The costs of these classes are borne by the students sanctioned to attendance at one of them. The annual caseload grew dramatically when the Board of Visitors approved off-campus enforcement of the alcohol policy in 1999, but has remained fairly constant for the past two years. Ms. Keene also highlighted some trends of interest in the judicial system, e.g., more parental involvement, an increasing number of cases involving student organizations, a rise in the number of judicial appeals from 43 in 2002-2003 to 76 in 2003-2004, a rise and then a decline in computer misuse violations, and a leveling off of alcohol violations.



Mr. Ron Daniel, Associate Provost for Undergraduate Programs, presented information concerning the Undergraduate Honor System at Virginia Tech. The Honor System, a student-run organization, deals with allegations of academic impropriety for all undergraduate students. Issues of cheating, plagiarism, and falsification are provided a venue for adjudication according to the Honor System Constitution. The Honor System does not handle cases that are outside of the academic environment. Those cases are handled by Judicial Affairs. Additional issues facing the Honor System are an increase in electronically aided cheating, case reporting issues, education of students and faculty, funding, and space.

Caseloads and statistics for the previous five year period were discussed. Plagiarism tends to be the leading offense adjudicated by the Honor System (61 percent), followed by cheating (36 percent), and in a much smaller percentage, falsification (3 percent).

5. **Cost of Health Care for Students.** Dr. Brian Warren, Assistant Vice President for Student Affairs, provided an overview of the services covered by the student health fee. The fee for 2004-05 is established at \$120 per semester and provides for the total operational costs of the Health Center, the Counseling Center, and the Center for College Alcohol Abuse Prevention. In addition, the fee provides partial support for the Virginia Tech Rescue Squad and Judicial Affairs. Benchmark comparisons with other universities were discussed. Future pressures on the fee were noted to derive from increasing costs of medications, laboratory supplies, and other medical supplies. Future expansion of facilities may be necessary if the University continues to grow. Dr. Warren expressed concern about the need to remain competitive with salary offerings to physicians and psychologists as well as other health care professionals in order to assure continued quality care.

Mr. Fred Weaver, Director of Risk Management provided an overview of the current optional student insurance program, covering the latest bid process, current benefits, cost comparisons and related cost to the students. The more intensive involvement of students in the latest procurement process was highlighted. In addition, the future pressures of growing medical costs, exploding costs of medication and the greater utilization of services were also discussed. Ms. Myrna Callison, Graduate Student Representative to the Board of Visitors, shared the concerns of graduate students in regard to health insurance and asked that these concerns be considered during next year's health insurance bid process. The committee will continue the discussion of health insurance at the August meeting so that the concerns of the graduate students can be discussed in more depth.

## 6. **Adjournment.**

There being no further business, the meeting adjourned at 12:06 p.m.

**Chartered University Initiative Project Plan**  
**Presented to the Board of Visitors**  
**Virginia Polytechnic Institute and State University**

**June 6, 2004**

**Background**

During the 2003 General Assembly session Virginia Tech and other institutions of higher education obtained increased decentralization authority for capital outlay administration, real estate activities, human resources, and finance and purchasing activities. This new level of decentralization built upon the successful pilot decentralization programs initiated in the mid-1990's. These decentralization efforts provide for greater autonomy and less central oversight and reporting, and they have resulted in improved efficiency and effectiveness in the day-to-day operations of Virginia Tech.

As a part of the 2003 expanded decentralization authority, Virginia Tech executed agreements in capital outlay and real property management. Language in the Appropriation Act provided for flexibility for maximum employment levels, exempted institutions of higher education from motor vehicle purchase authorization and requiring institutions to report their entire inventory of leased and purchased vehicles, as well as exempted higher education from centralized personnel advertising requirements. In addition, SB 963, introduced and passed during the 2003 session, codified the pilot programs approved in the 1994 Appropriation Act for payroll and non-payroll transactions.

Last fall, the University proposed with the University of Virginia and the College of William and Mary to establish a new operating model based on a restructured relationship with the Commonwealth of Virginia. It would include:

- a more stable funding model that allows institutions to take advantage of their respective market position as it relates to tuition and other charges;
- a commitment to educate Virginians, especially at the undergraduate level;
- sufficient financial aid to those in need and;
- flexibility in operations with a focus on post-audit rather than pre-audit oversight and other accountability measures for day-to-day management of the institutions.

Such a model would allow Virginia Tech to utilize its revenue capacity and infrastructure to generate new funding based on efficiencies gained by operating in an expanded decentralized environment. It would restructure the university governance under the Board of Visitors and provide accountability to the Commonwealth through negotiated chartered agreements.

### **Actions of the 2004 General Assembly**

Legislation was introduced in the House and Senate to establish this new relationship and create Commonwealth Chartered Universities. At the suggestion of legislative leaders, the legislation was carried over until 2005 in both houses so as to avoid being overshadowed and possibly prematurely defeated in the tax reform debate.

Senate Joint Resolution 90 which establishes a joint subcommittee to study the administrative and financial relationships between the Commonwealth and its institutions of higher education was passed during the session. The study resolution is a result of the chartered initiative concept introduced last fall to key legislative leaders and members of the Executive Branch; the initiative proposes to reclassify designated institutions of higher education as Commonwealth Chartered Universities. These entities would create a new relationship with the state as designated through enabling legislation and, ultimately, chartered agreements with the Executive Branch. As Commonwealth Chartered Universities, the institutions would remain accountable through the Boards of Visitors to the Governor, General Assembly, and to the citizens of the Commonwealth.

In conducting its study, the joint subcommittee shall examine the issues and law relating to the feasibility and practicability of restructuring the administrative and financial relationships between the Commonwealth and its public institutions of higher education. The subcommittee must complete its meetings by November 30, 2004 and present an executive summary of its findings and recommendations to the Division of Legislative Automated Systems no later than the first day of the 2005 General Assembly Session, January 12.

To pursue Chartered University status, the University administration, under the direction of the Board of Visitors, must work with the joint subcommittee and the Executive Branch this summer to negotiate chartered agreements for a new administrative and financial relationship with the Commonwealth. These agreements, once reviewed and approved by the Board of Visitors, will be entered into by the University and the Executive Branch. These agreements would include specific accountability measures and standards to insure the operating, fiscal, and educational integrity of the University.

Commonwealth Chartered University status would allow Virginia Tech to continue to provide a high quality educational experience for Virginians while

implementing financial plans and operational efficiencies that will address its share of the funding shortages currently identified within the Commonwealth's system of higher education. The University has developed a predictable and stable four-year financing model to address the university's operating needs (financial aid, base budget adequacy, faculty salaries, and academic initiatives). The intent of the University is to develop, adopt, implement, and locally administer policies and procedures consistent with the state personnel, procurement, debt management, finance and accounting, property management, and capital outlay programs as part of a new operating model. Through this new model, the University administration, with oversight by the Board of Visitors, will have the authority to fully manage the asset base and revenue capacity of the university and will ensure accountability to the Commonwealth through performance measures and standards focused on the financial, business, and administrative operations of the university.

### **Current Status**

During April and May 2004 the University administration has developed needed strategies, plans, and estimated timetables and has identified the staff resources required to actively pursue the chartered university goal. The University has also initiated discussions with the University of Virginia and the College of William and Mary regarding joint efforts on this initiative.

To pursue the chartered university initiative, the University administration requests the approval of the Board of Visitors to participate in Senate Joint Resolution 90 and to negotiate with the appropriate Secretariats on chartered agreements which include policies, procedures, and accountability measures in the areas of capital outlay, property management, procurement, personnel, finance and accounting, and debt management.

## CHARTERED UNIVERSITY RESOLUTION

**WHEREAS**, Virginia Tech has demonstrated that it has the management structure and expertise to effectively administer the University and to create significant efficiencies in operations; and

**WHEREAS**, Virginia Tech has received and successfully implemented specific elements of decentralized authority from the Commonwealth, including the implementation of pilot programs in finance and accounting, procurement, personnel, and capital outlay; and

**WHEREAS**, Virginia Tech believes that significant gains in efficiency are still available to be realized with the implementation of full autonomy in its finance, business, and administrative functions in a new restructured relationship with the Commonwealth; and

**WHEREAS**, the University has identified a strategy consisting of increased generation of nongeneral fund revenues, full responsibility for the establishment of tuition and fees rates, and greater operational autonomy to support the University in an era of constrained state resources; and

**WHEREAS**, the University has developed a four year financing model that confirms the viability of this financial and autonomy model; and

**WHEREAS**, the University of Virginia and the College of William and Mary have joined in a cooperative initiative with Virginia Tech to pursue the approval and implementation of the financial and autonomy model; and

**WHEREAS**, the University has received significant levels of agreement and support for the pursuit of this financial and autonomy model, termed Commonwealth Chartered University status, culminating in the introduction of legislation in the 2004 General Assembly session that would initiate the process of establishing the University of Virginia, the College of William and Mary, and Virginia Tech as Commonwealth Chartered Universities; and

**WHEREAS**, the 2004 General Assembly passed Senate Joint Resolution 90 to establish a Subcommittee to study the administrative and financial relationships between the Commonwealth and its institutions of higher education, with a requirement to report to the 2005 General Assembly;

**NOW, THEREFORE**, be it resolved that the University Administration under the direction of the President be authorized to draft agreements and develop policies and procedures for operational autonomy that are consistent with the legislation introduced in the 2004 General Assembly session in the areas of finance and accounting, capital outlay, procurement, personnel, property management, and other relevant business and administrative functions; and

**BE IT FURTHER RESOLVED**, that University management be authorized to enter into negotiations with the appropriate state officials regarding the expansion of autonomy to the University in its business, finance, and administrative functions and to prepare chartered agreements describing such expanded autonomy; and

**BE IT FURTHER RESOLVED**, that University management be authorized to participate in the Senate Joint Resolution subcommittee; and

**BE IT FURTHER RESOLVED**, that the University will report to the Board of Visitors at its August 2004 meeting and subsequent meetings on the progress of these efforts, with the final result being the review and approval by the Board of Visitors of the chartered agreements establishing needed elements of autonomy required as a part of the Chartered University initiative and any related policies and procedures.

**RECOMMENDATION:**

That the University Administration under the direction of the President be authorized to establish work teams to establish appropriate autonomy principles and statements, to negotiate with state officials regarding the specifics of autonomy agreements as a part of the Chartered University initiative, and to bring specific autonomy proposals to the Board of Visitors for consideration.

**Resolution Honoring Minnis Ridenour  
for Thirty Years of Exceptional Service to Virginia Tech**

**WHEREAS**, since Virginia Tech recruited Minnis E. Ridenour for the position of Budget Director and Coordinator of Finance in 1974, he has served with distinction, integrity, humility, and honor as the university's Vice President for Finance (1977-1987); Executive Vice President and Chief Business Officer (1987-2001); and Executive Vice President and Chief Operating Officer (2001-2004); and

**WHEREAS**, during his tenure at Virginia Tech, Minnis has not only led significant growth in the university's financial structure, growing its operating budget from \$96.4 million to \$726.3 million and tripling the number of university-related corporations, but has also masterfully developed creative financing plans and budgeting proposals that have advanced the priorities of the university and enabled Virginia Tech to successfully weather statewide budget crises; and

**WHEREAS**, because of his expert ability to formulate sophisticated fiscal strategies, a number of university special initiatives and strategic public-private partnerships now exist and are thriving, including the Virginia Bioinformatics Institute, the Virginia Tech Corporate Research Center, the Virginia-Maryland Regional College of Veterinary Medicine, the Hotel Roanoke and Conference Center, the Via College of Osteopathic Medicine, and the Carilion Biomedical Institute; and,

**WHEREAS**, Minnis has been instrumental in developing innovative fiscal strategies, such as the Maintenance Reserve Fund, the Equipment Trust Fund, and the decentralization of processes at the state level, which have benefited higher education institutions across the state; and

**WHEREAS**, indicative of the high esteem that he is accorded by his peers nationwide, Minnis received the 2001 Distinguished Business Officer Award from the National Association of College and University Business Officers, and he has been commended by both the Southern Association of Colleges and Schools and the Commonwealth of Virginia Auditor of Public Accounts for the institution's sound financial management; and,

**WHEREAS**, Minnis demonstrated his belief that leaders exist throughout the organization by formalizing a university leadership development program and sponsoring an internship program; and,

**WHEREAS**, in addition to fulfilling his responsibilities as the university's chief operating officer, Minnis cherishes his role as an educator, teaching in the College of Architecture and Urban Studies and sponsoring full assistantships for six graduate students;

**NOW, THEREFORE, BE IT RESOLVED**, that in recognition of his leadership and expertise over the last thirty years, which have helped position the university for continued growth and excellence, and of his steadfast commitment to the spirit of Ut Prosim, the members of the Board of Visitors of Virginia Polytechnic Institute and State University offer their deepest appreciation and admiration to Minnis E. Ridenour; and

**BE IT FURTHER RESOLVED**, that the Board of Visitors wishes Minnis and his wife, Louise, the very best as Minnis steps down from his position as Virginia Tech's Executive Vice President and Chief Operating Officer.

**RECOMMENDATION:**

That the above resolution honoring Minnis E. Ridenour be approved.

**RESOLUTION FOR EMERITUS STATUS**  
**June 7, 2004**

**WHEREAS**, Dr. Paul A. Distler faithfully served Virginia Tech for 37 years in the College of Liberal Arts & Human Sciences, beginning in 1967; and

**WHEREAS**, as a member of the faculty in the Department of Theatre Arts, he served as the founder and leader of the Department of Performing Arts and Communications, head of the Department of Theatre Arts, and director of the Division of Performing Arts, and of the School of the Arts; and

**WHEREAS**, he was a strong supporter of the university core curriculum, teaching 2,400 students each year in the fine arts course, and he spoke as the voice of the Arts for Virginia Tech in a constant effort to keep the arts alive and well, and in the public eye, under many years of prosperity and many years of adversity; and

**WHEREAS**, he devoted countless weekends, evenings, and vacations performing one of his most public roles as the Voice of the Marching Virginians and the Highty Tights; and

**WHEREAS**, he served the university as Alumni Distinguished Professor since 1981; and he is a recipient of the Student Alumni Association's Student Choice Award, the W.E. Wine Award, and was elected to the College of Fellows of the American Theatre; and

**WHEREAS**, he was a founding member of the National Association of Schools of Theater, and served this organization tirelessly for 23 years, during which time he organized conferences and conducted visitations to theater departments across the nation;

**THEREFORE**, be it resolved that the Board of Visitors recognizes Dr. Paul A. Distler for his service to the university with the title of Alumni Distinguished Professor Emeritus of Theatre Arts.

**RECOMMENDATION:**

That the above resolution recommending Dr. Paul A. Distler for emeritus status be approved.



## **RESOLUTION FOR EMERITUS STATUS**

**June 7, 2004**

**WHEREAS**, Dr. John R. Ficenec faithfully served Virginia Tech for 36 years in the College of Arts & Sciences and now, the College of Science, beginning in 1968; and

**WHEREAS**, as a member of the faculty in the Physics Department, he was a dedicated teacher of a wide range of courses from the introductory level to the advanced graduate level, and he advised and counseled numerous undergraduate and graduate students; and

**WHEREAS**, he served on a wide range of committees at the departmental, college and university levels; and he served as associate head, acting head, associate chair, and interim chair of the Physics Department for various periods; and

**WHEREAS**, he made important contributions to the research area of experimental elementary particles physics, specifically, the investigations of multiplicity distributions in high energy collisions, the production of exotic baryons and mesons, and the search for the elusive magnetic monopoles, collaborating with a global array of physicists at Brookhaven National Laboratory, Fermi National Accelerator Laboratory, and Thomas-Jefferson National Accelerator Facility; and

**WHEREAS**, he authored 81 publications, co-edited a book, and gave numerous presentations at both national and international conferences;

**THEREFORE**, be it resolved that the Board of Visitors recognizes Dr. John R. Ficenec for his service to the university with the title of Professor Emeritus of Physics.

### **RECOMMENDATION:**

That the above resolution recommending Dr. John R. Ficenec for emeritus status be approved.

**RESOLUTION FOR EMERITA STATUS**  
**June 7, 2004**

**WHEREAS**, Dr. Judith H. Jones faithfully served Virginia Tech for 25 years, beginning in 1979; and

**WHEREAS**, she provided excellent service in various administrative roles including Director, Federal Grant Programs; Associate Director, Disabled Student Services and Title IX for Equal Opportunity/Affirmative Action (EO/AA); Director, EO/AA; Associate Vice Provost, Extension Division; and Associate Director, Virginia Cooperative Extension. In addition, she provided outstanding leadership in focusing extension programs and activities state-wide as Interim Director, Virginia Cooperative Extension, and Associate Dean, College of Agriculture and Life Sciences; and

**WHEREAS**, she authored two publications and organized and conducted numerous seminars; and she served in a number of professional organizations, including Administrative Advisor of the Southern Region Middle Management Program Leadership Committee and serves as an Extension Committee on Organization and Policy representative to the National Extension Leadership Development Advisory Council; and

**WHEREAS**, she was awarded national certification as a Senior Professional in Human Resources by the Society for Human Resources Management;

**THEREFORE**, be it resolved that the Board of Visitors recognizes Dr. Judith H. Jones for her service to the university with the title of Associate Director Emerita of Extension Administration.

**RECOMMENDATION:**

That the above resolution recommending Dr. Judith H. Jones for emerita status be approved.

**RESOLUTION FOR EMERITA STATUS**  
**June 7, 2004**

**WHEREAS**, Ms. Beatrice T. Mahan faithfully served Virginia Tech for 26 years in Budget & Financial Planning; and

**WHEREAS**, she served with dedication and diligence as Associate Vice President for Budget and Financial Planning, Director of Budget Development, and Assistant Director of Institutional Research, and she was key in the mentoring and professional development of numerous university employees in the financial and budget areas; and

**WHEREAS**, she provided leadership for numerous university-wide activities such as the development and administration of the annual faculty review process, the establishment of the annual tuition and fees rates and revenue budgets, and the development of the faculty compensation plan; and

**WHEREAS**, Ms. Mahan was instrumental in developing university funding proposals and she was the successful recipient of external resources for numerous university initiatives such as the Virginia Bioinformatics Institute, the Virginia Microelectronics Consortium, the Institute for Advanced Learning and Research, and the expansion of the Equipment Trust Fund program; and

**WHEREAS**, she was instrumental in developing university operating budgets and key in the development of long-term strategies to support the continuing operations and high level of university services through years of limited and declining state support; and

**WHEREAS**, she served and represented the University on various commissions and committees, including the Commission on Administrative and Professional Faculty Affairs, the Finance Advisory Committee to the State Council on Higher Education for Virginia, and numerous search committees;

**THEREFORE**, be it resolved that the Board of Visitors recognizes Ms. Beatrice T. Mahan for her service to the university with the title of Associate Vice President Emerita for Budget & Financial Planning.

**RECOMMENDATION:**

That the above resolution recommending Ms. Beatrice T. Mahan for emerita status be approved.

## FACULTY LEAVES

Virginia Tech's program of professional development for tenured faculty members provides two kinds of opportunities: Study-Research Leaves at one-half salary for up to one year and one-semester Research Assignments at full salary.

The following faculty member is requesting a Study-Research Leave for the purpose and period of time specified:

**Golde I. Holtzman**, Associate Professor, Department of Statistics, for AY 2004-2005, to complete a textbook manuscript and to obtain an outside perspective by teaching at another university.

The following faculty member is requesting a change to the leave which the Board of Visitors approved at their meeting of March 29, 2004. The change is from Study-Research Leave for the AY 2004-2005 to Research Assignment for Fall Semester, 2004.

**Katherine Soniat**, Associate Professor, Department of English, to write the proposed new collection of poems, A Wheel of Quartz and Sand, and to complete another collection, Garden Alchemy.

### **RECOMMENDATION:**

That the above faculty leaves be approved as requested.

Resolution Naming  
The Bonnie Lou and Bill Wampler Classroom  
In the Alphin-Stuart Arena

WHEREAS, Bonnie Lou and Bill Wampler have been community and state leaders since being active 4-H club members and All-Stars in their native Rockingham County; and

WHEREAS, Bill and his family have been poultry and beef industry leaders who understand the importance of sharing and supporting new ideas in both industries; and

WHEREAS, Bonnie Lou and Bill Wampler have been devoted supporters of scholastic achievement by endowing scholarships in the College of Agriculture and Life Sciences and establishing endowments for Virginia 4-H; and

WHEREAS, the Wampplers have continued their support of agriculture by contributing unselfishly to the Alphin-Stuart Arena; and

WHEREAS, the Wampplers, as worthy members of Ut Prosim, truly exemplify "That We May Serve";

NOW, THEREFORE, BE IT RESOLVED that, in admiration and recognition of the commitments they have made to the College of Agriculture and Life Sciences and Virginia Tech, there will be a classroom in the Alphin-Stuart Arena known as **The Bonnie Lou and William D. Wampler Classroom.**

RECOMMENDATION: That the above resolution naming **The Bonnie Lou and William D. Wampler Classroom** be approved.

## **DESCRIPTION OF FACULTY PERSONNEL CHANGES**

(Prepared by Personnel Services)

### **I. FACULTY PERSONNEL & SALARY CHANGES**

This section includes new appointments and changes in appointments for the general faculty, including faculty in the colleges and in the library, and for administrative and professional faculty in all areas under educational & general funding.

#### **A. New Appointments**

This section includes documentation of all new faculty appointments for the positions noted above. Some appointments, for example visiting faculty, may be “restricted” with a fixed-term appointment. If a senior-level appointment (Associate or Full Professor) is to be made with tenure, it is so noted.

#### **B. Adjustments in Appointment and/or Salary**

This section includes a listing and brief explanation of all off-cycle salary adjustments, conversion of positions from classified to faculty status, changes in the percent of employment (example: 50% to 75%), etc.

### **II. SPONSORED RESEARCH FACULTY**

Section II documents appointments and changes to faculty positions funded by sponsored grants and contracts. These positions are usually “restricted” with a fixed-term appointment. Occasionally, appointments may be designated as regular (non-restricted) and will be noted as such.

#### **A. New Appointments**

This section includes appointments such as Visiting Assistant Professor, Professional Lecturer, or Instructor, as well as any of the various “Special Research-Ranked Faculty” titles, such as Research Associate, Postdoctoral Associate, or Research Scientist. Faculty appointed to these positions are funded from sponsored grants and contracts on one-year or multi-year appointments, which may be renewed depending on availability of funding, need for services, and performance.

#### **B. Adjustments in Appointment and/or Salary**

This section contains annual merit adjustments for faculty not included in the special research-ranked positions, changes in rank, special adjustments made for equity, funding availability, or changes in job responsibilities, and similar changes. Also included are adjustments in the percentage of employment and reappointments.

**FACULTY PERSONNEL CHANGES**  
**June 6-7, 2004**

**TEACHING AND RESEARCH FACULTY**

***NEW APPOINTMENTS***

NAME	TITLE	DEPARTMENT	EFF DATE	% APPT	ANNUAL RATE
<u>Agriculture &amp; Life Sciences</u>					
Scaglia, Guillermo	Assistant Professor	Animal & Poultry Sciences	1-Jan-04	100 \$	60,000
Tokuhisa, James	Assistant Professor	Horticulture	1-Apr-05	100 \$	65,000
<u>Architecture and Urban Studies</u>					
Bubanje-Nance, Earthea	Assistant Professor	Urban Affairs & Planning	10-Aug-04	100 \$	53,000
Hirt, Sonia	Assistant Professor	Cntr for Public Administration & Policy	25-Dec-04	100 \$	52,000
Khademian, Anne	Associate Professor w/Tenure	Cntr for Public Administration & Policy	10-Aug-04	100 \$	79,000
Schweitzer, Lisa	Assistant Professor	Urban Affairs & Planning	10-Aug-04	100 \$	52,500
Wheeler, Joseph	Assistant Professor	Architecture	10-Aug-04	100 \$	50,000
<u>Business</u>					
Gnyawali, Devi	Associate Professor	Management	25-Apr-04	100 \$	82,675
Ovtchinnikov, Alexei	Assistant Professor	Finance	10-Aug-04	100 \$	122,000
<u>Engineering</u>					
Paul, Mark	Assistant Professor	Mechanical Engineering	10-Aug-04	100 \$	68,000
Terpenny, Janis	Associate Professor w/Tenure	Engineering Fundamentals	10-Aug-04	100 \$	80,000
<u>Liberal Arts &amp; Human Sciences</u>					
Abbate, Janet	Assistant Professor	Science & Tech in Society	10-Aug-04	100 \$	52,000
Casey, Patrick	Associate Professor	Music	10-Aug-04	100 \$	77,000
Chandler, Gena	Assistant Professor	English	10-Aug-04	100 \$	55,000
Copulsky, Jerome	Assistant Professor	Interdisciplinary Studies	10-Aug-04	100 \$	48,000
Cowden, Tracy	Assistant Professor	Music	10-Aug-04	100 \$	45,000
Epstein, Brian	Assistant Professor	Philosophy	10-Aug-04	100 \$	50,000
Evia, Carlos	Assistant Professor	English	10-Aug-04	100 \$	45,000
Hawdon, James	Associate Professor w/Tenure	Sociology	10-Aug-04	100 \$	69,000
Stokes, Ashli	Assistant Professor	Communication	10-Aug-04	100 \$	52,000
Williams, Andrew	Assistant Professor	Communication	10-Aug-04	100 \$	52,000

Continued

**TEACHING AND RESEARCH FACULTY*****NEW APPOINTMENTS***

NAME	TITLE	DEPARTMENT	EFF DATE	% APPT	ANNUAL RATE
<u>Natural Resources</u>					
Kolivras, Korine	Assistant Professor	Geography	10-Aug-04	100 \$	56,000
Lawson, Steven	Assistant Professor	Forestry	1-Jun-04	100 \$	66,000
Resler, Lynn	Assistant Professor	Geography	10-Aug-04	100 \$	56,000
<u>Science</u>					
Chang, Jannet	Visiting Asst Professor - Rstr	Economics	10-Aug-04	100 \$	60,000
Chermak, John	Instructor - Rstr	Geosciences	10-Aug-04	100 \$	36,000
Dave, Chetan	Visiting Asst Professor - Rstr	Economics	10-Aug-04	100 \$	60,000
Kreiman, Victor	Visiting Asst Professor - Rstr	Mathematics	10-Aug-04	100 \$	45,000
Kulkarni, Rahul	Assistant Professor	Physics	10-Aug-04	100 \$	51,500
Raghavan, Ramaswamy	Professor w/Tenure	Physics	10-Apr-04	100 \$	150,000
Robinson, Hans	Assistant Professor	Physics	10-Jan-05	100 \$	58,000
Wahl, Charlotte	Visiting Asst Professor - Rstr	Mathematics	10-Aug-04	100 \$	45,000
<u>Veterinary Medicine</u>					
Carter, Laura	Instructor - Rstr	Biomedical Sci & Pathobiology	25-Mar-04	100 \$	68,000



**TEACHING AND RESEARCH FACULTY*****ADJUSTMENTS***

NAME	TITLE	DEPARTMENT	EFF DATE	% APPT	ANNUAL RATE
<u>Agriculture &amp; Life Sciences</u>					
Davy, Kevin	Associate Professor w/Tenure	Human Nutrition, Food, & Exercise	10-Aug-03	100 \$	105,307
Hong, Chuanuxe	Assistant Professor	Hampton Roads AREC	25-Mar-04	100 \$	67,308
Hosig, Kathy	Assoc Professor w/Tenure	Human Nutrition, Food, & Exercise	25-Dec-03	100 \$	70,000
Wilkinson, Carol	Assoc Professor, Dir Southern Piedmont AREC	Southern Piedmont AREC	1-Mar-04	100 \$	71,066
<u>Liberal Arts &amp; Human Sciences</u>					
Barton, Jennifer	Instructor - Rstr	English	25-Dec-03	100 \$	28,000
De Wolf, Peggy	Assistant Professor	Sociology	25-Dec-03	100 \$	21,399
Lorber, Anne	Instructor	English	25-Dec-03	50 \$	18,479
Padilla-Falto, Olga	Assistant Professor	Foreign Languages	10-Aug-04	100 \$	42,000
Watson, Ronda	Assistant Professor	Foreign Languages	10-Aug-04	100 \$	42,000
<u>Veterinary Medicine</u>					
Purswell, Beverly	Professor, Interim Dept Head	Large Animal Clinical Sci	25-Mar-04	100 \$	96,900

**ADMINISTRATIVE AND PROFESSIONAL*****NEW APPOINTMENTS***

NAME	TITLE	DEPARTMENT	EFF DATE	% APPT	ANNUAL RATE
<u>Agriculture &amp; Life Sciences</u>					
Craig, Teresa	Assoc Extension Agent - Rstr	VA Cooperative Extension	10-Apr-04	100 \$	31,000
Harris, Gloria	Assoc Extension Agent - Rstr	VA Cooperative Extension	10-Mar-04	100 \$	41,000
Hectus, Alison	Assoc Extension Agent	VA Cooperative Extension	10-Mar-04	100 \$	33,000
Herdman, Wendy	Assoc Extension Agent	VA Cooperative Extension	10-Mar-04	100 \$	31,000
Hess, William	Assoc Extension Agent	VA Cooperative Extension	10-Apr-04	100 \$	35,000
Kiracofe, Ashlie	Assoc Extension Agent - Rstr	VA Cooperative Extension	25-Feb-04	100 \$	32,000
Lightner, Rochelle	Assoc Extension Agent - Rstr	VA Cooperative Extension	10-May-04	100 \$	31,000
Maguire, Elizabeth	Assoc Extension Agent - Rstr	VA Cooperative Extension	25-Feb-04	100 \$	31,000
McVay, Crystal	Assoc Extension Agent	VA Cooperative Extension	10-Mar-04	100 \$	34,000
Moe, Elizabeth	Assoc Extension Agent - Rstr	VA Cooperative Extension	10-Apr-04	100 \$	31,000
Moore, Amy	Assoc Extension Agent - Rstr	VA Cooperative Extension	10-May-04	100 \$	31,000
Moore-Sivels, Gina	Assoc Extension Agent	VA Cooperative Extension	25-Mar-04	100 \$	43,000
Shelhamer, Julie	Assoc Extension Agent - Rstr	VA Cooperative Extension	10-Mar-04	100 \$	35,000
Smith, Christopher	Program Director	VA Cooperative Extension	15-Apr-04	100 \$	35,000
Stegon, Nancy	Assoc Extension Agent - Rstr	VA Cooperative Extension	10-Apr-04	100 \$	38,000
Swanson, Carrie	Assoc Extension Agent - Rstr	VA Cooperative Extension	25-Mar-04	100 \$	39,000
Wages, Joan	Assoc Extension Agent - Rstr	VA Cooperative Extension	25-Mar-04	100 \$	36,000
Wilson, Amber	Assoc Extension Agent - Rstr	VA Cooperative Extension	10-Apr-04	100 \$	35,592
<u>Athletics</u>					
Cantley, Stacy	Asst Women's Basketball Coach	Athletics	6-Apr-04	100 \$	48,000
Dunkenberger, Elizabeth	Head Women's Basketball Coach	Athletics	6-Apr-04	100 \$	165,917
Fahey, Erin	Asst Women's Soccer Coach	Athletics	25-Feb-04	80 \$	20,000
Greenman, Shellie	Asst Women's Basketball Coach	Athletics	6-Apr-04	100 \$	75,000
Jameson, Jill	Dir of Women's Basketball	Athletics	10-May-04	100 \$	37,000
Kelsey, Bobbie	Asst Women's Basketball Coach	Athletics	6-Apr-04	100 \$	65,000
Sexton, John	Asst Men's Soccer Coach	Athletics	25-Feb-04	80 \$	20,000
Yantis, April	Asst Volleyball Coach	Athletics	5-Apr-04	100 \$	30,000
<u>Dean of Libraries</u>					
Liao, Yan	Instructor-Cataloger	Library	25-May-04	100 \$	39,000
<u>Engineering</u>					
Slagle, Melissa	Coor of Student Support Services - Rstr	Cntr for the Enhancement of Engineering Diversity	10-May-04	100 \$	34,000

Continued

**ADMINISTRATIVE AND PROFESSIONAL*****NEW APPOINTMENTS***

NAME	TITLE	DEPARTMENT	EFF DATE	% APPT	ANNUAL RATE
<u>Vice President for Development &amp; University Relations</u>					
Crowther, Otis	Dir of Development for Pamplin College of Business	University Development	12-Apr-04	100 \$	85,000
Feil, Barry	Dir of Special Events	University Development	15-May-04	100 \$	72,000
Murphy, Thomas	Assoc Dir of Gift Planning	University Development	28-Jun-04	100 \$	81,000
<u>Vice President for Student Affairs</u>					
Charoensiri, Kanitta	Director	Schiffert Health Center	1-Jul-04	100 \$	120,000
Fawcett, Jeffrey	Asst Commandant for Recruiting	Military Affairs	1-Jul-04	100 \$	39,000
<u>Vice Provost for Outreach &amp; International Affairs</u>					
Bennett, Barbara	Assoc Dir for Outreach Prog Development	VA Tech Roanoke Center	15-May-04	100 \$	67,000
Berkely-Coats, Gerald	Asst Dir for International Support Srvcs	Assoc Provost for International Affairs	26-Apr-04	100 \$	49,500
Short, Susan	Dir of VA Tech Roanoke Cntr	VA Tech Roanoke Center	1-Jun-04	100 \$	86,500

**ADMINISTRATIVE AND PROFESSIONAL****ADJUSTMENTS**

NAME	TITLE	DEPARTMENT	EFF DATE	% APPT	ANNUAL RATE
<u>Agriculture &amp; Life Sciences</u>					
Belcher, Shelia	Assoc Extension Agent - Rstr	VA Cooperative Extension	25-Mar-04	100 \$	31,000
Calhoun, David	Interim Assoc Director	VA Cooperative Extension	1-Mar-04	100 \$	86,500
Clark, Victoria	Area Prog Coor - Rstr	VA Cooperative Extension	10-Apr-04	100 \$	60,300
Rosson, Charles	Assoc Extension Agent - Rstr	VA Cooperative Extension	25-Feb-04	100 \$	43,600
Seaton, Karen	Assoc Extension Agent - Rstr	VA Cooperative Extension	10-Mar-04	100 \$	33,000
Thiel-Goin, Carl	Extension Agent	VA Cooperative Extension	25-Feb-04	100 \$	33,000
<u>Athletics</u>					
Greenberg, Brad	Asst Men's Basketball Coach	Athletics	1-May-04	100 \$	79,000
Johnson, Jack	Dir of Strength & Conditioning	Athletics	10-May-04	100 \$	45,491
Mitchell, Terry	Asst Dir of Strength & Conditioning	Athletics	10-May-04	100 \$	35,675
Odom, Robert	Asst Men's Basketball Coach	Athletics	1-May-04	100 \$	66,000
Skeeters, Eric	Asst Men's Basketball Coach	Athletics	1-May-04	100 \$	57,000
<u>Dean of Libraries</u>					
Finn, Mary	Instructor	Library	25-Feb-04	100 \$	40,880
<u>President</u>					
Fornash, Laura	Legislative Liaison - Dir of VA Tech Richmond Cntr	President's Office	10-May-04	100 \$	73,632
<u>Provost</u>					
Campos, Mary	Program Coordinator - Rstr	Women's Center	25-May-04	100 \$	31,000
McCoy, Traci	Assistant Registrar	Office of the Univ Registrar	25-Feb-04	100 \$	40,000
<u>Research Division</u>					
Richardson, David	Director, Office of Sponsored Programs	Sponsored Programs	10-Apr-04	100 \$	90,000
<u>Vice President for Alumni Relations</u>					
Barker, Mara	Assoc Dir of Alumni Relations	Alumni Relations	1-May-04	100 \$	54,000

Continued

**ADMINISTRATIVE AND PROFESSIONAL*****ADJUSTMENTS***

NAME	TITLE	DEPARTMENT	EFF DATE	% APPT	ANNUAL RATE
<u>Vice President for Student Affairs</u>					
Blackburn, Sean	Complex Director	Student Programs	10-Mar-04	100 \$	26,000
<u>Vice Provost for Outreach &amp; International Affairs</u>					
Anderson, Myron	Asst Dir for Prog Develop	CE Program Development	15-Mar-04	100 \$	49,056
Aughenbaugh, John	Associate Director	VA Tech Richmond Center	1-Apr-04	100 \$	50,000
Schroder, Michael	Assistant Director	CE Program Development	1-Mar-04	100 \$	60,225

**SPECIAL RESEARCH FACULTY*****NEW APPOINTMENTS***

NAME	TITLE	DEPARTMENT	EFF DATE	% APPT	ANNUAL RATE
<b><u>Agriculture &amp; Life Sciences</u></b>					
Alvarez, Monica	Research Associate - Rstr	Animal & Poultry Science	10-Aug-04	100 \$	21,000
Hontecillas-Magarzo, Raquel	Postdoctoral Associate - Rstr	Human Nutrition, Food & Exercise	1-Mar-04	80 \$	35,000
Mammadov, Jafar	Postdoctoral Associate - Rstr	Crop & Soil Environmental Sci	3-Mar-04	100 \$	30,000
McGrath, Joshua	Postdoctoral Associate - Rstr	Crop & Soil Environmental Sci	19-Apr-04	100 \$	38,000
Ratnaparkhe, Milind	Postdoctoral Associate - Rstr	Crop & Soil Environmental Sci	1-Apr-04	100 \$	30,000
Sanders, Jason	Postdoctoral Associate - Rstr	Eastern Shore AREC	15-Mar-04	100 \$	35,000
Tarrago-Trani, Maria	Research Scientist - Rstr	Biochemistry	30-Mar-04	50 \$	25,000
Zhu, Fei	Postdoctoral Associate - Rstr	Biochemistry	1-Mar-04	100 \$	28,000
<b><u>Engineering</u></b>					
Chandran, Kartik	Postdoctoral Associate - Rstr	Civil & Environmental Engineering	1-Jun-04	100 \$	38,000
Kim, Meeok	Postdoctoral Associate - Rstr	Civil & Environmental Engineering	3-May-04	50 \$	15,000
Lee, Yong-Kul	Research Associate - Rstr	Chemical Engineering	2-Mar-04	100 \$	30,000
Lorch, Markus	Postdoctoral Associate - Rstr	Computer Science	7-May-04	100 \$	60,000
Olgun, Guney	Postdoctoral Associate - Rstr	Civil & Environmental Engineering	25-Apr-04	95 \$	42,105
Schultz, Jeffrey	Postdoctoral Associate - Rstr	Materials Science & Engineering	10-Apr-04	100 \$	35,000
<b><u>Executive Vice President</u></b>					
Guo, Yongjian	Research Associate - Rstr	VA Bioinformatics Institute	14-Jun-04	100 \$	57,000
Indukuri, Kiran	Research Associate - Rstr	VA Bioinformatics Institute	17-May-04	100 \$	50,000
Jarrah, Abdul	Research Associate - Rstr	VA Bioinformatics Institute	15-Jul-04	100 \$	68,000
Jhaveri, Jinal	Research Associate - Rstr	VA Bioinformatics Institute	24-May-04	100 \$	50,000
Kommididi, Chaitanya	Research Associate - Rstr	VA Bioinformatics Institute	3-May-04	100 \$	52,500
Li, Jian	Research Associate - Rstr	VA Bioinformatics Institute	26-Apr-04	100 \$	52,500
Liu, Hui	Research Associate - Rstr	VA Bioinformatics Institute	24-May-04	100 \$	57,500
Martins, Ana	Postdoctoral Associate - Rstr	VA Bioinformatics Institute	1-Oct-04	100 \$	50,000
Rajagopalan, Balaji	Research Associate - Rstr	VA Bioinformatics Institute	10-May-04	100 \$	51,000
Rout, Satyabrata	Research Associate - Rstr	VA Bioinformatics Institute	25-Apr-04	100 \$	38,000
Shuman, Joel	Postdoctoral Associate - Rstr	VA Bioinformatics Institute	10-Mar-04	100 \$	45,000
Sun, Qihong	Postdoctoral Associate - Rstr	VA Bioinformatics Institute	15-May-04	100 \$	40,000
Vaghela, Nishant	Research Associate - Rstr	VA Bioinformatics Institute	17-May-04	100 \$	50,000
Wu, Eric	Research Associate - Rstr	VA Bioinformatics Institute	3-May-04	100 \$	51,000
Yu, Qiang	Research Associate - Rstr	VA Bioinformatics Institute	15-Mar-04	100 \$	54,000

Continued

**SPECIAL RESEARCH FACULTY*****NEW APPOINTMENTS***

NAME	TITLE	DEPARTMENT	EFF DATE	% APPT	ANNUAL RATE
<u>Liberal Arts &amp; Human Sciences</u>					
Tickle, Benjamin	Project Associate - Rstr	Educational Leadership & Policy Studies	10-Apr-04	100 \$	47,500
<u>Natural Resources</u>					
Keane, Shannon	Project Associate - Rstr	Conservation Management Institute	22-Mar-04	100 \$	29,000
Royle, Denise	Project Associate - Rstr	Conservation Management Institute	8-Mar-04	100 \$	33,000
Wolf, Eric	Project Associate - Rstr	Conservation Management Institute	22-Mar-04	100 \$	29,000
<u>Research Division</u>					
Fumero-Aguilo, Maria	Research Associate - Rstr	Transportation Institute	10-May-04	100 \$	52,000
<u>Science</u>					
Ahn, Young	Postdoctoral Associate - Rstr	Biology	1-Apr-04	100 \$	30,000
Csikasz-Nagy, Attila	Postdoctoral Associate - Rstr	Biology	1-Jan-04	100 \$	36,000
Fan, Jian	Postdoctoral Associate - Rstr	Chemistry	12-Mar-04	100 \$	30,000
Koike, Masafumi	Postdoctoral Associate - Rstr	Physics	1-Apr-04	100 \$	36,000
Vanpeteghem, Carine	Postdoctoral Associate - Rstr	Geosciences	28-Jun-04	100 \$	30,000
Warek, Ujwala	Postdoctoral Associate - Rstr	Biology	18-Feb-04	100 \$	28,000
Yelnykov, Oleksandr	Postdoctoral Associate - Rstr	Physics	26-Aug-04	100 \$	30,000

**SPECIAL RESEARCH FACULTY*****ADJUSTMENTS***

NAME	TITLE	DEPARTMENT	EFF DATE	% APPT	ANNUAL RATE
<u>Agriculture &amp; Life Sciences</u>					
Wright, Donald	Research Associate	Southwest VA AREC	25-Mar-04	100 \$	46,640
<u>Executive Vice President</u>					
Baker, Darleen	Project Associate - Rstr	VA Bioinformatics Institute	18-Mar-04	100 \$	40,000
Evans, Clive	Research Scientist - Rstr	VA Bioinformatics Institute	24-May-04	100 \$	68,985
Yoon, Jung	Research Associate - Rstr	VA Bioinformatics Institute	18-May-04	100 \$	41,000
<u>Liberal Arts &amp; Human Sciences</u>					
Barrier, Helen	Project Associate - Rstr	Educational Leadership & Policy St	10-Mar-04	100 \$	43,318
<u>Research Division</u>					
Thompson, Christie	Research Associate - Rstr	Cntr Wireless Telecommunication	10-Mar-04	100 \$	70,914
<u>Science</u>					
Warren, Paige	Research Scientist - Rstr	Biology	25-Feb-04	100 \$	32,000
<u>Vice President for Business Affairs</u>					
Weyer, Maureen	Project Associate - Rstr	Personnel Services	25-Jun-03	100 \$	36,500



**RESEARCH AND DEVELOPMENT DISCLOSURE REPORT  
January 1, 2004 - March 31, 2004**

<b>Reason for Conflict</b>	<b>Sponsor</b>	<b>Owner</b>	<b>Principal Investigator</b>	<b>Co - P.I.'s</b>	<b>College</b>	<b>Period of Performance</b>	<b>Award Amount</b>	<b>Short Title<sup>(1)</sup></b>
Faculty-owned Business	Nanosonic, Inc.	R. O. Claus	J. McGrath	No Co-PI	Liberal Arts	Feb 04 - Sep 05	\$120,000	New Proton Exchange Membranes
Faculty-owned Business	Nanosonic, Inc.	R. O. Claus	W. Spillman	No Co-PI	Univ. Center	Feb 04 - Jul 04	\$5,000	Self Assembled Nanostructured Health Monitoring Sensors
Faculty-owned Business	Nanosonic, Inc.	R. O. Claus	J. Riffle	No Co-PI	Liberal Arts	Feb 04 - Jul 04	\$10,000	Polymer Flip Chips with Extreme Temperature Stability in Space
Faculty-owned Business	Aeroprobe Corporation	D. Telionis	D. Telionis	N. Dowling	Engineering	Mar 04 - Aug 05	\$15,092	Multi-Hole Calibration Improvements in Hardware and Software
Faculty-owned Business	Avid LLC	A. Myklebust	W. Mason	A. Myklebust	Engineering	Dec 03 - May 04	\$16,625	Upper Surface Blowing Aerodynamics for Runway Independent Aircraft
Faculty-owned Business	Avid LLC	A. Myklebust	J. Helge Bohn	A. Myklebust	Engineering	Dec 03 - May 04	\$17,777	Automated B-Spline Parametric Aircraft Model Generation
Faculty-owned Business	Adaptive Technologies, Inc.	W. Saunders	J. Carneal	M. E. Johnson	Univ. Center	Jan 04 - Jun 04	\$20,500	Natural Hearing Restoration for Encapsulating Helmets
Faculty-owned Business	Adaptive Technologies, Inc.	W. Saunders	R. West	W. Saunders	Engineering	Sep 03 - Nov 05	\$160,647	Acoustic Finite Element Models for Design Advancements in Passive Noise Reduction of Helmet Mounted Noise Defenders: Phase 2

<sup>(1)</sup>More detailed information on the subject of the project is available upon request.

**2004-2005 PROMOTION, TENURE, AND CONTINUED APPOINTMENT PROGRAM**  
**VIRGINIA TECH**

Traditionally, increases for faculty promoted in the spring are effective at the beginning of the academic year (or in the case of calendar-year faculty, at the beginning of the fiscal year). Consistent with the 2004-2005 faculty compensation plan, salary adjustments are proposed at this time for faculty who have been promoted in rank during the 2003-2004 academic year. The following raises are recommended for promotions to:

Professor	\$3,500
Associate Professor	2,500
Assistant Professor	2,000

Extension faculty are also eligible for promotion in rank. The three ranks for extension faculty are Associate Agent, Agent, and Senior Agent. The following raises are recommended for promotions to:

Senior Agent	\$2,500
Agent	2,000

After the intensive evaluation of departments, colleges, and the University promotion and tenure (or continued appointment) committee, and in accordance with the faculty compensation plan, the following faculty are recommended for promotion and/or tenure or continued appointment.

		Recommended Salary for 2004-05		Increase over 2003-04		Code
				Amount	Percent	
<b><u>COLLEGE OF AGRICULTURE &amp; LIFE SCIENCES</u></b>						
Cox Ruby H	Professor	78,315	CY	\$3,500	4.68	2
Duncan Susan E	Professor	75,905	CY	3,500	4.83	2
Eifert Joseph D	Asso Prof	70,308	CY	2,500	3.69	3
Ellerbrock Michael J	Professor	98,068	CY	3,500	3.70	2
Greiner Scott P	Asso Prof	66,300	CY	2,500	3.92	3
Jahncke Michael L	Professor	97,284	CY	3,500	3.73	2
Lewis Edwin E	Asso Prof	67,705	CY	2,500	3.83	3
Lewis Ronald M	Asso Prof	78,700	CY	0	0.00	1
Luckhart Shirley	Asso Prof	68,500	CY	2,500	3.79	3
Mallikarjunan Parameswarakuma	Asso Prof	79,600	CY	2,500	3.24	3
O'Keefe Sean F	Asso Prof	78,728	CY	0	0.00	1
Tu Zhijian	Asso Prof	68,700	CY	2,500	3.78	3
Tyler Brett M	Professor	143,200	CY	0	0.00	1
Williams Jay H	Professor	77,010	AY	3,500	4.76	2
<b><u>COLLEGE OF ARCHITECTURE &amp; URBAN STUDIES</u></b>						
Casto Marilyn D	Asso Prof	55,755	AY	0	0.00	1
Ebrahim Alnoor S	Asso Prof	67,115	AY	2,500	3.87	3
Richardson Jesse J	Asso Prof	57,260	AY	2,500	4.57	3
Whitney Bradley Alan	Asso Prof	51,975	AY	2,500	5.05	3
<b><u>COLLEGE OF BUSINESS</u></b>						
Zobel Christopher W	Asso Prof	93,000	AY	2,500	2.76	3
<b><u>COLLEGE OF ENGINEERING</u></b>						
Bell Amy E	Asso Prof	73,600	AY	2,500	3.52	3
Brown Alan J	Professor	81,600	AY	0	0.00	1
Corcoran Sean G	Asso Prof	74,292	AY	2,500	3.48	3
Dankowicz Harry J	Asso Prof	69,700	AY	2,500	3.72	3
DaSilva Luiz A	Asso Prof	71,200	AY	2,500	3.64	3
Edwards Stephen H	Asso Prof	75,800	AY	2,500	3.41	3
Ellis Michael W	Asso Prof	66,900	AY	2,500	3.88	3
Kampe Jeanceleste M	Asso Prof	59,800	AY	2,500	4.36	3
Lai Jih S	Professor	89,300	AY	3,500	4.08	2
Leo Donald J	Professor	112,965	CY	3,500	3.20	2
Little John C	Professor	81,900	AY	3,500	4.46	2
Love Brian J	Professor	77,600	AY	3,500	4.72	2
Martin James R	Professor	87,700	AY	3,500	4.16	2
Raman Sanjay	Asso Prof	77,500	AY	2,500	3.33	3

		Recommended Salary for 2004-05		Increase over 2003-04		Code
				Amount	Percent	
Ravindran Binoy	Asso Prof	67,100	AY	2,500	3.87	3
VanCott Kevin E	Asso Prof	73,500	AY	2,500	3.52	3
Viehland Dwight D	Professor	83,700	AY	3,500	4.36	3
Widdowson Mark A	Professor	86,800	AY	3,500	4.20	2

**COLLEGE OF LIBERAL ARTS & HUMAN SCIENCES**

Breslau Daniel	Asso Prof	53,114	AY	2,500	4.94	3
Cook Samuel R	Asso Prof	53,875	AY	2,500	4.87	3
Dubinsky James M	Asso Prof	54,142	AY	2,500	4.84	3
Eska Joseph F	Professor	57,531	AY	3,500	6.48	2
Ewing Edward T	Asso Prof	45,235	AY	2,500	5.85	3
Folkart Jessica A	Asso Prof	51,748	AY	2,500	5.08	3
Hicks David	Asso Prof	53,924	AY	2,500	4.86	3
Johnson Sharon P	Asso Prof	46,673	AY	2,500	5.66	3
Nichols William D.	Asso Prof	55,537	AY	0	0.00	1
Schofield-Tomschin Sherry	Asso Prof	53,523	AY	2,500	4.90	3
Tedesco John C	Asso Prof	53,000	AY	2,500	4.95	3

**COLLEGE OF NATURAL RESOURCES**

Aust Wallace M	Professor	81,760	CY	3,500	4.47	2
Berkson, James M.	Asso Prof					6
Hammett Alfred L	Professor	84,320	CY	3,500	4.33	2
Stauffer Dean F	Professor	81,603	CY	3,500	4.48	2

**COLLEGE OF SCIENCE**

Donovan John J	Asso Prof	56,000	AY	2,500	4.67	3
Imhof Matthias G	Asso Prof	57,500	AY	2,500	4.55	3
Morris John R	Asso Prof	59,500	AY	2,500	4.39	3
Phillips John B	Professor	74,500	AY	3,500	4.93	2
Sible Jill C	Asso Prof	59,500	AY	2,500	4.39	3
Spotila James A	Asso Prof	57,500	AY	2,500	4.55	3
Stevens Ann M	Asso Prof	62,500	AY	2,500	4.17	3

**COLLEGE OF VETERINARY MEDICINE**

Broadstone Richard V	Professor	86,100	CY	3,500	4.24	2
Crisman Mark V	Professor	83,900	CY	3,500	4.35	2
Lanz Otto I	Asso Prof	74,000	CY	2,500	3.50	3
Saker Korinn E	Asso Prof	75,100	CY	2,500	3.44	3

		Recommended Salary for 2004-05		Increase over 2003-04		Code
				Amount	Percent	
<b><u>LIBRARIES</u></b>						
Aschmann Althea D	Asst Prof	52,905	CY	0	0.00	4
Seamans Nancy H	Asso Prof	77,028	CY	2,500	3.35	5
<b><u>VIRGINIA COOPERATIVE EXTENSION</u></b>						
Abel Jennifer L	Agent	39,813	CY	2,000	5.29	2
Adcock Michelle D	Agent	37,077	CY	2,000	5.70	2
Gilland Traci D	Agent	38,673	CY	2,000	5.45	2
Hahn Johanna F	Senior Agent	51,483	CY	2,500	5.10	2
Hamm Mary Donna	Agent	36,555	CY	2,000	5.79	2
Orband James M	Senior Agent	58,003	CY	2,500	4.50	2
Overbay Andrew Edward	Agent	37,546	CY	2,000	5.63	2
Peek Crystal Ledbetter	Agent	36,438	CY	2,000	5.81	2
Reiter James S	Agent	36,616	CY	2,000	5.78	2
Sutphin Stuart K.	Agent	48,283	CY	2,000	4.32	2
Williams Mary E	Agent	37,090	CY	2,000	5.70	2
Willis James R	Agent	43,661	CY	2,000	4.80	2

Code

- 1: Tenure
- 2: Promotion
- 3: Promotion with Tenure
- 4: Continued Appointment
- 5: Promotion and Continued Appointment
- 6: Promotion and Tenure for Federal Employee

## EXCEPTION TO THE VIRGINIA CONFLICT OF INTEREST ACT

**WHEREAS**, the Code of Virginia section 2.1-639.6 prohibits the control over the employment of an immediate family member; and

**WHEREAS**, exceptions are provided under the following conditions:

*"The personal interest of an officer or employee of a state institution of higher education in additional contracts of employment with his own governmental agency which accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are engaged in teaching, research or administrative support positions at the educational institution, (ii) the governing board of the educational institution finds that it is in the best interests of the institution and the Commonwealth for such dual employment to exist, and (iii) after such finding, the board ensures that the officer or employee, or the immediate family member, does not supervise, evaluate, or otherwise participate in personnel decisions regarding the other."; and*

**WHEREAS**, John Albright was asked to fill in for Professor Shelley Martin in the School of Architecture + Design who was on personal leave for family reasons for part of the spring term; and

**WHEREAS**, Mr. Albright brings unique expertise as a practicing architect to this part-time temporary appointment since he has worked at the highest levels of the profession of architecture by national and international standards, including 13 years of professional practice as an Associate at Skidmore, Owings, and Merrill of Chicago, and 14 years as a partner in the firm of Destefano and Partners in Chicago; and

**WHEREAS**, Mr. Albright is married to Kathryn Albright, Director of Architecture Foundations, and the adjunct appointment pays \$15,000 for the period March 10-May 9, exceeding the threshold of \$10,000 for a potential conflict of interest, therefore requiring specific review and approval by the Board of Visitors; and

**WHEREAS**, Mr. Albright reported to Professor Scott Poole, Director of the School of Architecture + Design, for the period of his appointment eliminating any participation or influence over personnel decisions by his spouse;

**THEREFORE**, be it resolved that an exception to the Conflict of Interest Act be granted by the Board of Visitors as provided by the Code of Virginia with appropriate safeguards for the fair evaluation of Mr. Albright by persons other than his spouse, under oversight of the director of the School of Architecture + Design.

### **RECOMMENDATION:**

That an exception to the Conflict of Interest Act be granted by the Board of Visitors as provided by the Code of Virginia with appropriate safeguards for the fair evaluation of John Albright during the temporary appointment period.

June 7, 2004

**Resolution on Virginia Bioinformatics Institute  
Policy Advisory Board Reappointment**

WHEREAS, the Board of Visitors has authorized the establishment of the Virginia Bioinformatics Institute Policy Advisory Board; and,

WHEREAS, in accordance with the terms of the Resolution, the Board of Visitors must appoint to the Policy Advisory Board two members of the Board of Visitors, four persons at large, one non-elected representative from the Tobacco Indemnification and Community Revitalization Commission, and three persons upon recommendation by the Governor of Virginia; and

WHEREAS, John Alderson's three-year term as a member at large expires on June 30, 2004, and the University wishes to reappoint Mr. Alderson for a four-year term; now,

THEREFORE, BE IT RESOLVED, that the Board of Visitors hereby reappoints the following person to serve on the Virginia Bioinformatics Institute Policy Advisory Board for the term denoted:

John Alderson

4-year term (2008)

**RECOMMENDATION:**

That the resolution reappointing a member to the Virginia Bioinformatics Institute Policy Advisory Board be approved.

June 7, 2004

**NCAA WOMEN'S BASKETBALL TOURNAMENT  
BONUS RECOMMENDATIONS**

The Virginia Tech Women's Basketball program had another successful season culminating in post-season NCAA Tournament play; the Lady Hokies finished their season with a record of 23-wins and 8-losses. The Virginia Tech Lady Hokies fell to the Penn State Lady Lions in the second round, after defeating Iowa in the first round of the NCAA East Regional tournament held in Blacksburg, Virginia. Virginia Tech Women's Basketball has appeared in post-season play in each of the last seven years, with 20 or more regular season wins.

In recognition of their dedication and efforts, the university proposes to award bonuses to the women's basketball coaching staff and training staff, in accordance with the terms of coaches' contracts and the university's post season play bonus policy. The bonuses are one-time awards and do not affect base salaries. All bonuses are funded from the Athletic Department budget for post-season play.

RECOMMENDATION: That the contractual bonuses as described on the attached schedule be ratified.

June 7, 2004



**NCAA WOMEN'S BASKETBALL TOURNAMENT BONUSES****June 7, 2004**

<u>Contractual Bonus</u>	<u>Contract Owner</u>	<u>Title</u>	<u>Bonus Amount</u>
Henrickson, Bonnie	Henrickson	Head Basketball Coach	\$ 10,000
Kramer, Kelly	Henrickson	Assistant Coach	\$ 3,000
Lange, Karen	Henrickson	Assistant Coach	\$ 3,000
O'Connor, Katie	Henrickson	Assistant Coach	\$ 3,000
Chones, Emily	Gentry	Coordinator of Strength and Conditioning/ Women's Olympic Sports	<u>\$ 2,982</u>

**TOTAL CONTRACTUAL BONUSES****\$ 21,982**