Duties and Powers of the Auditor of Public Accounts

The University proposes to amend the Code of Virginia, Title 30, Chapter 14, §30-133, relating to the duties and powers of the Auditor of Public Accounts. This Code section was amended by SB 934, sponsored by Senator Walter Stosch, during the 2005 Session of the General Assembly, and specifies, in part, that the Auditor of Public Accounts shall compile and maintain a searchable database containing information provided by agencies of the Commonwealth relating to state expenditures, revenues, and demographics. Although the Code section specifically refers to state expenditures and revenues, the Auditor of Public Accounts interprets the requirement to include local expenditures and revenues, including endowment and gift accounts. Based on this interpretation, the University must report expenditures of money not appropriated by the state, and therefore not currently reported to the state.

The Auditor's interpretation that the requirement also applies to “local” funds, including endowment and gift accounts, has a greater impact on the University than on other institutions, because most of its local/private funds are held in the corporate Rectors and Visitors rather than in a related foundation. At the request of the University, Senator Stosch amended the 2006-08 Budget Bill to clarify that gift and endowment funds are excluded from the data reported to the Auditor of Public Accounts. However, the proposed legislation is needed to enact a permanent change to the Code of Virginia.

The University proposes to amend § 30-133 of the Code to specify that private gifts, including endowment funds and unrestricted gifts, are not subject to the provisions of subsection H of §30-133. The goal is to exclude private gifts to institutions of higher education from the data reported to the Auditor of Public Accounts, and to ensure consistency with the public policy of the Commonwealth in respect to endowment funds, as defined in §23-9.2 of the Code.
Proposed legislation for the 2007 Session must be sent to the Governor's Office before the next regular Board of Visitors meeting at the end of September, and is therefore being brought before the Board for consideration at this time.

**ACTION REQUIRED**: Approval by the Board of Visitors

**APPROVAL OF LEGISLATIVE PROPOSAL**

RESOLVED, the Board of Visitors of the University of Virginia approves and endorses the proposed legislation to clarify that private gifts are excluded from the transaction data to be reported to the Auditor of Public Accounts of the Commonwealth for inclusion in a statewide database.

The proposed legislation, which follows, would amend § 30-133, subsection H:

H. 1. The Auditor of Public Accounts shall compile and maintain on its Internet website a searchable database providing certain state expenditure, revenue, and demographic information as described in this subsection. In maintaining the database, the Auditor of Public Accounts shall work with and coordinate his efforts with the Joint Legislative Audit and Review Commission in obtaining, summarizing, and compiling the information to avoid duplication of efforts. The database shall be updated each year by October 15 to provide the information required in this subsection for the 10 most recently ended fiscal years of the Commonwealth.

The online database shall be made available to citizens of the Commonwealth to allow public access to historical revenue collections and appropriations with related demographic information, to the extent that the information is available and provided to the Auditor of Public Accounts. All state departments, courts officers, boards, commissions, institutions, or other agencies of the Commonwealth shall furnish all information requested by the Auditor of Public Accounts and shall cooperate with him to the fullest extent.
For purposes of reporting pursuant to this subsection and implementing the above database, the Auditor of Public Accounts shall include all appropriated funds and other sources under the control of state-supported institutions of higher education, except for the activity of private gifts, including endowment funds and unrestricted gifts referenced in §23-9.2 of the Code of Virginia notwithstanding anything as may be to the contrary herein. The exclusion of this activity does not affect the public access to these records unless otherwise specifically exempted by law.

2. The database shall contain the following for each of the 10 most recently ended fiscal years of the Commonwealth:

   a. Major categories of spending by each secretariat and for major agencies;

   b. The number of full-time state employees;

   c. Total fiscal year revenues from state taxes, fees, and other charges, and total fiscal year revenues from state taxes, fees, and other charges computed on a per capita basis and as a percentage of personal income in the Commonwealth;

   d. With regard to state taxes, fees, and other charges computed on a per capita basis and as a percentage of personal income, a comparison of such statistics for Virginia with the same statistics for other states;

   e. Total fiscal year revenues from federal sources, including the major categories of spending for such revenues;

   f. Total population and total population by various age groups including, but not limited to, school-age population and the population of persons 65 years of age and older;

   g. Student enrollment in grades K through 12;

   h. Enrollment in public institutions of higher education of the Commonwealth;

   i. Enrollment in private institutions of higher education in the Commonwealth;
j. The annual prison population;

k. Virginia adjusted gross income and Virginia taxable income by various age groups;

l. The number of citizens in the Commonwealth receiving food stamps;

m. The number of driver’s licenses issued;

n. The number of registered motor vehicles;

o. The number of full-time private sector employees;

p. The number of households;

q. The number of prepaid tuition contracts outstanding pursuant to Chapter 4.9 (§23-38.75 et seq.) of Title 23 and the estimated total liability under such contracts; and

r. Other data as the Auditor deems appropriate relating to the Commonwealth of Virginia.

3. By October 15 of each year, the Auditor shall also produce a paper copy or a computer file containing the information described in this subsection and shall distribute the copy or file to newspapers of general circulation in the Commonwealth. The distribution shall include the address of the Internet website for the searchable database.

**Investment of Public Funds**

The Code of Virginia, Title 2.2, Chapter 45, §2.2-4500 – 2.2-4517, “Investment of Public Funds Act”, specifies, in part, that public funds may only be held or invested in certain instruments such as fixed income instruments and cash and certain prime quality commercial paper. In April 2002, the University was successful in proposing legislation that made endowment income and gifts exempt from the Investment of Public Funds Act providing greater investment authority and flexibility. The University proposes to make other University funds exempt from this Act, including all non-general fund reserves held by the University, local funds not currently listed under the amended code, tuition, education and general fees, research and sponsored program funds. The goal is to implement an investment strategy that: (a) more effectively matches the duration of invested funds with the ultimate use of
these funds, and (b) maximizes returns consistent with the University’s safety and liquidity objectives.

Proposed legislation for the 2007 Session must be sent to the Governor’s Office before the next regular Board of Visitors meeting at the end of September, and is therefore being brought before the Board for consideration at this time.

ACTION REQUIRED: Approval by the Board of Visitors

APPROVAL OF LEGISLATIVE PROPOSAL

RESOLVED, the Board of Visitors of the University of Virginia approves and endorses the proposed legislation to add other University funds to those funds that may be invested by the Board of Visitors in financial securities other than fixed-income securities.

The proposed legislation, which follows, would make exempt from §2.2-4500 – 2.2-4517 the following:

§23-76.1. Investment of endowment funds, endowment income, and gifts; standard of care; liability; exemption from the Virginia Public Procurement Act.

A. The board of visitors shall invest and manage the endowment funds, endowment income, gifts, all non-general fund reserves held by the University, all local funds, tuition, education and general fees, or research and sponsored program funds of the University in accordance with this section and the provisions of the Uniform Management of Institutional Funds Act (§55-268.1 et seq.).

B. No member of the board of visitors shall be personally liable for losses suffered by an endowment funds, endowment income, gifts, all non-general fund reserves held by the University, all local funds, tuition, education and general fees, or research and sponsored program funds arising from investments made pursuant to the provisions of subsection A.

C. The investment and management of endowment funds, endowment income, gifts, all non-general fund reserves held by the University, all local funds, tuition, education and general fees, or research and sponsored program funds of the University shall not be subject to the provisions of the Virginia Public Procurement Act (§2.2-4300 et seq.).
D. In addition to the investment practices authorized by the Uniform Management of Institutional Funds Act (§55-268.1 et seq.), the board of visitors may also invest or reinvest the endowment funds, endowment income, gifts, all non-general fund reserves held by the University, all local funds, tuition, education and general fees, or research and sponsored program funds in derivatives, options, and financial securities.

1. In this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments, including, without limitation, any contract commonly known as a "swap," which gives the University the right or obligation to deliver or receive delivery of, or make or receive payments based on, changes in the price, value, yield or other characteristic of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

2. In this section, an "option" means an agreement or contract whereby the University may grant or receive the right to purchase or sell, or pay or receive the value of, any personal property asset including, without limitation, any agreement or contract which relates to any security, contract or agreement.

3. In this section, "financial security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.
SHORTAGE OF HEALTH CARE PROFESSIONALS

It has become quite clear that the shortage of health care professionals is worsening to the point where although the population aged 60-80 years is expected to quadruple by 2030, the number of doctors, nurses, and other health care professionals is not increasing at this rate. It is proposed that the General Assembly and the academic health centers in Virginia undertake a study to ascertain methods of rectifying this situation.

The following resolution would indicate support by the Board of Visitors for such a study:

HEALTH CARE PRACTITIONER WORKFORCE SHORTAGE

WHEREAS, the demand for health care in the Commonwealth continues to grow, and is anticipated to increase exponentially in the next few years; and

WHEREAS, one of the major causes of the demand is that the "baby boomer" population is reaching age 65. Those between the ages of 65 and 80 need three or more times the rate of health care as younger people; and

WHEREAS, although the 60-80 year old population is anticipated to quadruple by 2030, the number of doctors, nurses and other health care practitioners is not increasing at the rate of the aging population, which will cause a workforce shortage; and

WHEREAS, the impact of a health care workforce shortage will likely result in limitations to health care for citizens of the Commonwealth;

RESOLVED, the Board of Visitors recognizes a growing workforce shortage of health care practitioners and supports a study, by the General Assembly and academic health centers, of methods to ensure an adequate supply of health care practitioners to serve the Commonwealth’s population into the future.