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Restructuring Relationships in Virginia

The Changing Compact Between Higher Education Institutions and the State

BY PETER BLAKE

INTRODUCTION BY GOVERNOR MARK WARNER

As governor of Virginia, I brag all the time about our outstanding colleges and universities. I use their reputation to market Virginia as a great place to do business and a wonderful place to live, with a high quality of life. But it's not just me bragging. Our institutions of higher education compete with the best in the nation for faculty and students, and objective observers consistently recognize their quality.

What is less well known about Virginia's colleges and universities—or any state's, for that matter—is how well they collectively meet the needs and priorities of the state. While we value institutional diversity and autonomy, some decisions affecting the entire system need to be negotiated between state policymakers and institutional leaders.

As governor, I've made it my highest priority to promote economic prosperity and bring good jobs to every region of the Commonwealth. This requires a strong educational system. In my year as chairman of the

National Governors Association, I made redesigning the American high school the focus of our nation's governors—and in Virginia that meant making introductory college courses, as well as advanced career and technical training from a certified instructor, available in every high school.

But economic prosperity relies on an excellent educational system not just in high school but at every step, from

preschool to graduate school and beyond.

With this in mind, Virginia recently undertook a significant restructuring of its higher education system. What began as an effort by some institutions to be more independent from the state concluded with an affirmation of common state goals, a

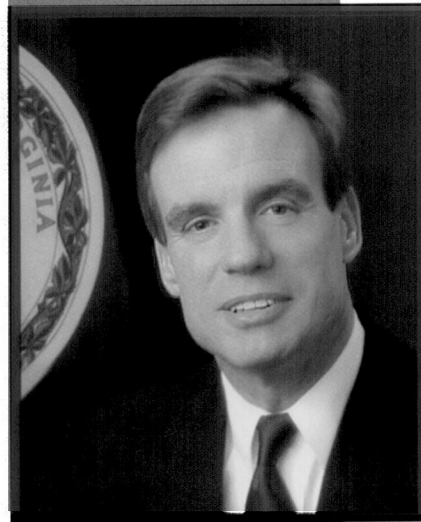
commitment from each institution to meet those goals, and a better understanding about the role of state financial support for higher education. We also restated our belief that institutions that are free from unnecessary regulation will be more innovative and efficient.

Central to our restructuring effort is the link between individual institutional success and the state's prosperity. If we do this well, we can ensure that the strengths of our individual colleges and universities will be harnessed to meet the state's needs for access, affordability, economic development, and improved K-12 student achievement.

While we have been contemplating and discussing the changes enacted in the legislation for a long time, the true test of our success still lies ahead.

The goals we have are the right ones, but how well these changes persist will be determined by future governors, the leadership of the General Assembly, the State Council of Higher Education for Virginia, and the institutions themselves. That said, I'm proud of our work to date and optimistic about the path ahead.

—Virginia Governor Mark Warner



Governor Mark Warner

HISTORY AND CONTEXT OF PRIVATIZATION IN VIRGINIA

The roots of reform in Virginia can be traced to the late 1980s. They are grounded in the work of the 1988 legislatively mandated Virginia Commission on the University of the 21st Century and have been fed by cycles of economic and political change. Put simply, the "U21" commission sought to answer the question, "How can Virginia make constructive and fundamental change within its colleges and universities so they will be ready to meet the demands of life in the 21st century?"

In a short, compelling, and thought-provoking work that remains relevant today, the commission sought to unleash institutional innovation to meet our educational and economic needs. The report praised the higher education system's autonomy, diversity, and cordiality but also urged active engagement among the various parts of the educational enterprise. "This is what will really help students, business, and the state as a whole," the report said. The report also recommended that the General Assembly direct institutions to develop plans that responded to the commission. In this way, the commission laid the groundwork for individual institutional responses to a broad, statewide vision.

Institutions responded favorably to the commission's report. Many pledged to enroll additional Virginia students and improve their opportunities for success. Others proposed new academic programs or

innovative delivery systems. The state's coordinating body, the State Council of Higher Education for Virginia (SCHEV), evaluated and reported on the various proposals and helped to ensure that the individual pieces fit into a broader mosaic. Virginia began pilot programs to decentralize certain administrative functions and to allow colleges and universities that showed they could efficiently and effectively manage their affairs greater autonomy in areas such as procurement, capital outlay, and human resource management.

But optimism about many of these reforms faded as an economic downturn hit Virginia in the early 1990s. Appropriations to the state's institutions were slashed, and tuition increased substantially. Growing weary of the higher prices, successive governors and the General Assembly became more deeply involved in college and university pricing decisions. Tuition was held at the rate of inflation, then was not allowed to rise at all, and finally was reduced by 20 percent—all within a few years.

Colleges and universities began to feel whipsawed. State support had not been keeping up with costs, and institutions—even those with significant market strength—had only minimal control over their prices.

Throughout the 1990s, political changes further complicated the challenges brought about by limited state funds and tuition controls. Wholesale staff turnover at SCHEV and politicized appointments to the boards of visitors eroded confidence

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in the policymaking capacities of the state. Higher education and business leaders began to wonder aloud whether Virginia was still a reliable partner to the public higher education system. The challenges described by the Commission on the University of the 21st Century were upon us, and the old solutions didn't seem to be working. The time had come to explore other options for governance.

In 2002, shortly after Governor Warner entered office, Virginia experienced another economic downturn. By the summer of 2002, the cumulative shortfall exceeded \$6 billion. The Commonwealth addressed it by eliminating dozens of agencies, boards, and commissions; cutting 5,000 state government positions; laying off state workers; reducing state agency budgets by an average of 20 percent; drawing down the revenue-stabilization ("rainy-day") fund; and implementing significant reforms through government-wide efficiency plans.

This was a challenging time for the entire state but especially for our colleges and universities, which continued to face higher expectations and larger enrollments. So amidst the budget struggles, the governor began conversations with business, legislative, and college and university leaders about the future of higher education in Virginia. He convened a higher education summit that focused on enrollment growth, research and economic development, and governance, and we began laying the foundation for measurable results in each area.

Knowing that strong leadership was essential to meeting these challenges, in Executive Order Eight Governor Warner also established the Advisory Commission on Higher Education Board Appointments to ensure that board members are selected based on the basis of merit, experience, sound judgment, and proven leadership. He had been concerned for a long time that some appointments seem to have been made with the goal of promoting a certain political ideology rather than advancing the best interests of higher education in Virginia. This independent, nonpartisan commission helped the governor pick the very best people to serve on our boards. The General Assembly later codified this commission.

These were just some of the actions Governor Warner took to restore public confidence in the stewardship of our colleges and universities, to help develop a consensus about the public purposes of our higher education system, to give our universities the kind of leadership they needed to operate more independently, and to further strengthen the partnership between the state and its colleges and universities.

Then in fall 2002, voters overwhelmingly approved a general obligation bond issue of nearly \$900 million to renovate or build new classrooms, laboratories, and related instructional space at Virginia's colleges and universities. While a lot of work still needed to be done, we were heartened by the public's

response to the institutions' capital needs. We now turned our attention to their public mission and operating needs.

Over the next year, we stayed in close contact with college and university presidents. Together we discussed ways to build a partnership that could result in broader public and financial support for their work. The partnership centered on what the governor called the "four pillars": capacity, research, economic development, and K-12 education. We also worked with the National Collaborative on Postsecondary Education Policy, a project that came out of *Measuring Up* (the first national report card on higher education), to assess our needs and goals and the institutional and policy barriers that stood in our way.

THE CHARTERED UNIVERSITIES INITIATIVE

Meanwhile, representatives of the College of William and Mary, the University of Virginia, and Virginia Tech began to work together to develop plans for a significant restructuring of their relationship with the state. Guided in part by the experience with the university hospitals—which gained more operating authority in the 1990s to respond to similar pressures in healthcare—the institutions developed a plan to help them deal with what they perceived as threats to their health and stability.

We discussed "the chartered universities initiative" with the three institutions at regular intervals throughout 2002 and 2003. In late 2003, they proposed sweeping legislation that would allow them to pursue independent goals and priorities, potentially uncoordinated with those of the higher education system as a whole. Not only did the proposal represent a significant policy shift, it also ran the risk of being overshadowed by other legislative events.

As the governor began to prepare a budget for the 2004-2006 biennium, six-year revenue and budget projections showed that budget shortfalls would continue through 2010. Even an optimistic economic forecast could not support our most basic commit-

ments to traditional state priorities. Funding for K-12 education consumes more of the state budget than any other activity, driven by huge needs: In 2003 we were projecting 100,000 new students by the end of the decade. There were also demands for increased resources for Medicaid, adult corrections, higher education, and the uniquely Virginian personal property tax relief program. Thus, in spring 2003, the governor decided that the 2004 session would be about tax reform, not higher education restructuring. The three universities respectfully stepped back from their proposed legislation and acceded to a study of the concept (Senate Joint Resolution #90).

The governor's tax reform plan had three major objectives:

- 1) Make the tax system more fair,
- 2) Meet Virginia's constitutional commitment to education, and
- 3) Protect the Commonwealth's fiscal integrity (AAA bond rating).

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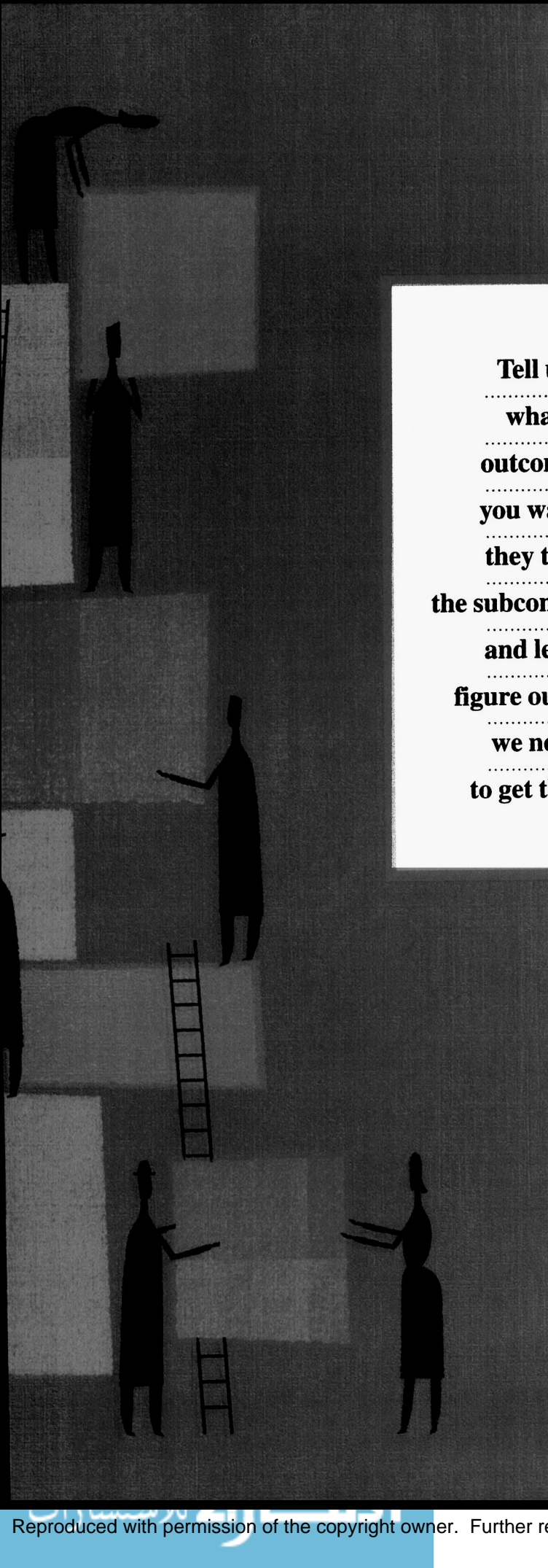
capacity, research,

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and K-12

education.

A vertical illustration on the left side of the page shows a series of silhouettes of people standing on a staircase that ascends from bottom-left to top-right. The silhouettes are dark against a lighter, textured background. Some figures are holding objects or gesturing, suggesting a sequence of events or a process. The overall style is minimalist and graphic.

Ultimately the General Assembly enacted a tax-reform package that met these objectives. It provided sufficient resources for the Commonwealth to make an historic investment in public education—an appropriation of an additional \$1.5 billion for K-12 education and an additional \$278 million for higher education.

These new funds helped soften the effects of underinvestment in our colleges and universities, but they still did not address some of the fundamental problems of the relationship between Richmond and the institutions. The restructuring legislation proposed by the three universities, bolstered by tax reform, provided the platform upon which to construct a new model.

SENATE JOINT RESOLUTION #90: THE STUDY

At the conclusion of the protracted 2004 General Assembly session, policymakers in Richmond began the study of the “administrative and financial relationships between the Commonwealth and its institutions of higher education” called for by Senate Joint Resolution #90.

Several messages emerged during the study. University presidents said they could manage their affairs locally far more effectively and efficiently than officials in Richmond could. Tell us what outcomes you want, they told the subcommittee, and let us figure out how we need to get there. Panel members also heard how fluctuating state support and tuition controls prevented institutions from making sensible long-term plans. Rather than plan for one or two years at a time, the presidents said, give us the wherewithal to plan for four to six years. A third message focused on the auton-

omy of the boards of visitors, particularly on the issues of tuition and revenue. If we entrust board members to make decisions about their respective institutions, the argument went, what is gained by micromanaging and second-guessing from Richmond?

To function effectively in this environment, the College of William and Mary, Virginia Tech, and the University of Virginia said they needed the chartered universities initiative to create agile institutions, enable competitiveness, further reinvigorate the state/institution funding partnership, promote long-range planning, and streamline administrative procedures. Chartered institutions, they said, could more effectively educate students, deliver research results, and perform public service. The institutions volunteered to forgo up to 10 percent of “future incremental appropriations” from the state, funds that could be redirected to other institutions to enroll more students. In exchange, they proposed that they be granted “full authority and responsibility” to “set prices for their services and products.”

As panel members listened to the descriptions of how the Commonwealth could help make individual institutions stronger and more prosperous, they also began to explore a framework that focused on the public purposes of higher education—a theme that has unfolded across the country in the last 12 to 18 months and has been refined by various public-policy organi-

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zations. One higher education veteran compared our colleges and universities to a fleet of ships. When the storm of the 1990s hit, each institution went its own way to ride out the storm. Now that the storm has subsided, he said, the flotilla must re-form.

Of course some may disagree that the storm has passed. Worldwide competition combined with changing demographics and scarce resources may conspire to exacerbate our troubles. But what was evident in the relative calm of the moment was the importance of making the individual parts of our system move in a coordinated way toward common goals.

Aims McGuinness, senior staff member at NCHEMS, drove this point home at an October meeting of the Senate Joint Resolution #90 panel. While most of the discussion had come from the institutional perspective, he said policymakers needed to examine the proposal with the following in mind: the long-term public interest of the state and the implications of changes to the state/institutional relationship for the whole system of higher education and for other areas of state government. His presentation, which included a warning that the state should beware of eating the “candy-covered wasp” of institutional autonomy, made panel members think anew about higher education reform.

Around this time, we engaged leaders in business, public education, higher education, and the legislature in public discussions about the role of higher education in Virginia. We held five open meetings around the state against a backdrop framed by these issues:

- Global economic change and increased competition
- The importance of higher education to our social and civic life
- Profound changes in our population and economy
- Regional and socio-economic disparities in achievement
- Scarcity of resources

At each meeting, Governor Warner asked participants to confirm, alter, or add to this list. In the end, we agreed that these were the urgent state challenges that we should expect our colleges and universities to help us meet.

A staff presentation at the final meeting of the SJ 90 panel summarized how the original concept of the chartered universities initiative had evolved. Rather than just three institutions, the panel wanted legislation that helped all institutions. And rather than focusing solely on institutional effectiveness, the panel wanted legislation that defined a public agenda. The staff presentation captured the sense of the panel with the following questions:

- In exchange for greater autonomy, what should the state expect from its institutions of higher education?
- How can institutional plans be tied to statewide needs and expectations?
- How can the state evaluate institutional performance in meeting the state’s goals and objectives?

- What incentives can the state provide to encourage desirable institutional behavior?

THE POLITICAL PROCESS

The 2005 legislative session was mercifully short. But every day was full, and most involved drafting and redrafting—publicly or behind the scenes—the restructuring legislation. Legislators had their hands full trying to reconcile competing interests. The College of William and Mary, Virginia Tech, and the University of Virginia wanted elements of the original chartered universities initiative to remain intact. The other institutions wanted to gain as much administrative autonomy as they could. Government agencies wanted to hold on to their authority. Legislators wanted to make sure they still retained control over issues such as access and affordability (among other things, they worried about the impact of rising tuitions on Virginia’s prepaid tuition program). Employee groups wanted to protect their salaries, benefits, and working conditions.

The result of the legislative process—not always pretty, not always satisfying, but usually correct—was a complex, 32-page bill that amended 13 sections of the Code of Virginia and added 45 sections and three subchapters. Under the bill, one of three levels of autonomy will be available to each public institution of higher education, depending on its financial strength and ability to manage day-to-day operations. All institutions will gain increased authority to act with little or no prior approval from central state government. All institutions that meet performance criteria will qualify for financial incentives. And institutions at the third level (“covered institutions”) will have a separately negotiated management agreement with the state.

Specifically, the legislation:

- Granted all institutions increased flexibility in areas such as purchasing, capital outlay, and personnel in return for a commitment to meeting the state’s objectives with respect to access, academic quality, economic development, and affordability.
 - Established eligibility criteria and a process for negotiating individual management agreements through which any public institution can gain a greater level of autonomy than is provided to all institutions.
 - Required institutions to develop six-year plans to help guide state policymakers and institutional leaders and to provide predictability and transparency for students and parents.
 - Strengthened post-audit reviews and financial and administrative standards.
- In Virginia, the governor has the authority to offer amendments to legislation passed in a preceding legislative session. Governor Warner’s proposed substitute bill retained the basic framework of the original bill. It sharpened the language to align the legislation more closely to his priorities for government reforms and accountability. It also:

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TERMS OF THE AGREEMENT

Institutions commit to meeting the following basic state policy objectives:

- 1) Make higher education accessible, especially for underrepresented populations;
- 2) Make it affordable, regardless of family income;
- 3) Provide a broad range of academic programs;
- 4) Maintain high academic standards;
- 5) Improve student retention and progress toward the timely award of degrees;
- 6) Develop uniform articulation agreements with community colleges;
- 7) Stimulate economic development—and for those seeking further autonomy, assume additional responsibility for economic development in distressed areas;
- 8) Increase externally funded research and improve technology transfer where appropriate;
- 9) Work actively with the schools to improve student achievement;
- 10) Prepare a six-year plan; and
- 11) Meet financial and administrative management standards.

In exchange, institutions will receive additional operation autonomy, including the right to:

- 1) Dispose of surplus property locally;
- 2) Contract with local building officials for Uniform Building Code review;
- 3) Acquire easements;
- 4) Enter into an operating/income or capital lease for academic uses, or for property owned by the institution or a related foundation for non-academic purposes;
- 5) Convey an easement;
- 6) Sell surplus real property valued at less than \$5 million;
- 7) Certify vendors locally;
- 8) Make information technology purchases over \$100,000 without prior approval from the state CIO;
- 9) Establish policies for designating administrative and professional faculty;
- 10) Be eligible to receive the financial incentives provided elsewhere in the legislation;
- 11) Be exempt from reporting sole-source procurements to the Secretary of Education;
- 12) Determine best project-delivery method for capital construction without approval from state agencies; and
- 13) Pursue memoranda of understanding.

In addition, the agreement reaffirms institutional authority to set tuitions, which in the past the General Assembly has overridden through the Appropriations Act. ☺

- Strengthened legislative oversight by requiring any amended management agreements—not just new agreements—to be approved by the General Assembly.

- Clarified language regarding higher education's commitment to access, research, technology transfer, economic development, K-12 student achievement, and management efficiencies.

- More directly linked individual institutional performance to overall statewide goals through the SCHEV strategic planning process.

- Further defined areas in which institutions can have operational flexibility with reasonable legislative and gubernatorial oversight.

- Granted current employees of covered institutions the choice to remain in the existing state classified system or to move to a new personnel system, and required covered institutions to conduct periodic salary and benefits comparisons.

- Strengthened covered institutions' commitment to cost containment and to meeting the financial aid needs of lower- and middle-income students.

- Made clarifying and technical changes that made the bill conform to legislative intent and existing law.

At the core of the legislation is the authority of each institution's board of visitors to set policy and oversee institutional operations for certain financial and administrative functions. The legislation also strengthens the coordination and oversight roles for the State Council of Higher Education for Virginia. That was why Governor Warner included amendments to the restructuring legislation to codify the Advisory Commission on Higher Education Board Appointments, which was discussed earlier. Virginia higher education had to have the best leadership if institutions were going to have more authority to maneuver in a rapidly changing world.

ENACTING REFORM

With the legislative session behind us, our work truly began. The legislation gives the State Council of Higher Education crucial responsibilities for ensuring that the many parts connect and make sense for institutions, policymakers, and the public. SCHEV is responsible for developing education-related performance indicators to measure whether the institutions are contributing to state objectives, coming up with a format for institutional six-year plans, developing a statewide strategic plan that addresses the state's goals and objectives, reviewing and assessing the institutions' six-year plans in the context of SCHEV's strategic plan, and so on. The responsibility is great but central to the success of our restructuring effort.

The legislation also contained ambitious deadlines. In July 2005, SCHEV approved revised enrollment projections through 2012. These formed the basis for the institutions' six-year plans, as well as for estimating general fund and tuition revenues. By August, all of the state institutions' governing boards passed resolutions committing to the 11 state goals articulated in the legislation. In September, SCHEV recommended a set of performance measures related to those goals. In October, institutions submitted six-year financial, academic, and enrollment plans. In November, the governor's staff prepared objective measures of financial and administrative management performance.

Developing performance measures proved to be a challenge for some of the more abstract goals. While it is relatively simple

to judge whether an institution has met its targets for student enrollment or degrees conferred, it is altogether different to assess whether an institution is “affordable” or whether it “actively contributes” to economic development. This is especially true under an accountability model that focuses on outcomes rather than activities. For these more elusive goals, we recommended a combination of relatively imprecise indicators and peer reviews as a way to assess whether an institution has met the legislative standards. As specific and immediate as we want the measures to be, we recognize that some of them will take time to refine and to gain acceptance in the broader community.

In November, the governor’s office also submitted to the General Assembly management agreements with the three institutions that first brought forward the concept of chartered universities—the College of William and Mary, Virginia Tech, and the University of Virginia.

With additional rights come additional responsibilities, both of which are established in management agreements that delineate them for the respective boards of visitors in the areas of capital construction, information technology, procurement, human resources, and financial administration.

MOVING FORWARD

Our colleges and universities already are beginning to work within this new framework. Institutions have announced new or expanded student financial aid programs.

They have strengthened their role in the public schools and regional economic development initiatives.

Four-year institutions have entered into groundbreaking agreements with the Virginia Community College System to clear the pathway to transfer. The College of William and Mary has started a community conversation around the theme of what it means to be both a “public and great university.”

Along with our efforts to provide adequate financial support for our colleges and universities, Virginia’s restructuring initiative marks a clear departure from how business had been done before. This would not have been possible without the good intentions of many people and a unique alignment of political, institutional, and financial conditions. Governor Warner’s administration had the great fortune to serve the state during a time when its colleges and universities had strong, committed leadership and the State Council of Higher Education was reemerging as a constructive force. We also worked with dedicated and thoughtful leaders in the General Assembly and the business community. Together we forged this new relationship and helped build a stronger, more responsive system of higher education. Together we will ensure that higher education remains a public trust. ☐

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