

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 2.1-1.5 of the Code of Virginia as it is currently effective and as it may become effective and to amend the Code of Virginia by adding in Title 23 a chapter numbered 4.4:4, consisting of sections numbered 23-38.53:12 through 23-38.53:20, relating to creation of the Advantage Virginia Incentive Program.

[H 1528]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-1.5 of the Code of Virginia as it is currently effective and as it may become effective is amended and reenacted and that the Code of Virginia is amended by adding in Title 23 a chapter numbered 4.4:4, consisting of sections numbered 23-38.53:12 through 23-38.53:20, as follows:

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

Authorities

Assistive Technology Loan Fund Authority.
 Medical College of Virginia Hospitals Authority.
 Richmond Eye and Ear Hospital Authority.
 Small Business Financing Authority.
 Virginia Agriculture Development Authority.
 Virginia College Building Authority.
 Virginia Economic Development Partnership.
 Virginia Housing Development Authority.
 Virginia Information Providers Network Authority.
 Virginia Innovative Technology Authority.
 Virginia Port Authority.
 Virginia Public Building Authority.
 Virginia Public School Authority.
 Virginia Resources Authority.

Boards

Board of Commissioners, Virginia Agriculture Development Authority.
 Board of Commissioners, Virginia Port Authority.
 Board of Directors, Assistive Technology Loan Fund Authority.
 Board of Directors, Medical College of Virginia Hospitals Authority.
 Board of Directors, Richmond Eye and Ear Hospital Authority.
 Board of Directors, Small Business Financing Authority.
 Board of Directors, Virginia Economic Development Partnership.
 Board of Directors, Virginia Innovative Technology Authority.
 Board of Directors, Virginia Resources Authority.
 Board of Regents, Gunston Hall Plantation.
 Board of Regents, James Monroe Memorial Law Office and Library.
Board of Trustees, Advantage Virginia Incentive Program Foundation.
 Board of Trustees, Family and Children's Trust Fund.
 Board of Trustees, Frontier Culture Museum of Virginia.
 Board of Trustees, Jamestown-Yorktown Foundation.
 Board of Trustees, Miller School of Albemarle.
 Board of Trustees, Rural Virginia Development Foundation.
 Board of Trustees, The Science Museum of Virginia.
 Board of Trustees, Virginia Museum of Fine Arts.
 Board of Trustees, Virginia Museum of Natural History.
 Board of Trustees, Virginia Outdoor Foundation.
 Board of Visitors, Christopher Newport University.
 Board of Visitors, George Mason University.
 Board of Visitors, Gunston Hall Plantation.
 Board of Visitors, James Madison University.

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57	Board of Visitors, Longwood College.
58	Board of Visitors, Mary Washington College.
59	Board of Visitors, Norfolk State University.
60	Board of Visitors, Old Dominion University.
61	Board of Visitors, Radford University.
62	Board of Visitors, The College of William and Mary in Virginia.
63	Board of Visitors to Mount Vernon.
64	Board of Visitors, University of Virginia.
65	Board of Visitors, Virginia Commonwealth University.
66	Board of Visitors, Virginia Military Institute.
67	Board of Visitors, Virginia Polytechnic Institute and State University.
68	Board of Visitors, Virginia State University.
69	Commonwealth Health Research Board.
70	Governing Board, Virginia College Building Authority.
71	Governing Board, Virginia Public School Authority.
72	Library Board, The Library of Virginia.
73	Motor Vehicle Dealer Board.
74	State Board for Community Colleges, Virginia Community College System.
75	Virginia-Israel Advisory Board.
76	(Effective until July 1, 2002) Wireless E-911 Service Board.
77	Commissions
78	Advisory Commission on the Virginia Schools for the Deaf and the Blind.
79	Alexandria Historical Restoration and Preservation Commission.
80	Charitable Gaming Commission.
81	Chesapeake Bay Bridge and Tunnel Commission.
82	Hampton Roads Sanitation District Commission.
83	Tobacco Indemnification and Community Revitalization Commission.
84	Districts
85	Chesapeake Bay Bridge and Tunnel District.
86	Hampton Roads Sanitation District.
87	Educational Institutions
88	Christopher Newport University.
89	Frontier Culture Museum of Virginia.
90	George Mason University.
91	James Madison University.
92	Jamestown-Yorktown Foundation.
93	Longwood College.
94	Mary Washington College.
95	Miller School of Albemarle.
96	Norfolk State University.
97	Old Dominion University.
98	Radford University.
99	The College of William and Mary in Virginia.
100	The Library of Virginia.
101	The Science Museum of Virginia.
102	University of Virginia.
103	Virginia Commonwealth University.
104	Virginia Community College System.
105	Virginia Military Institute.
106	Virginia Museum of Fine Arts.
107	Virginia Polytechnic Institute and State University.
108	Virginia State University.
109	Foundations
110	<i>Advantage Virginia Incentive Program Foundation.</i>
111	Chippokes Plantation Farm Foundation.
112	Rural Virginia Development Foundation.
113	Virginia Arts Foundation.
114	Virginia Land Conservation Foundation.
115	Virginia Historic Preservation Foundation.
116	Virginia Outdoor Foundation.
117	Virginia Tobacco Settlement Foundation.

- 118 Museum
 119 Virginia Museum of Natural History.
 120 Partnership
 121 A. L. Philpott Manufacturing Extension Partnership.
 122 Plantation
 123 Gunston Hall Plantation.
 124 § 2.1-1.5. (Delayed effective date) Entities not subject to standard nomenclature.
 125 The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics
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 177 Board of Visitors, Virginia Military Institute.
 178 Board of Visitors, Virginia Polytechnic Institute and State University.

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 180 Commonwealth Health Research Board.
 181 Governing Board, Virginia College Building Authority.
 182 Governing Board, Virginia Public School Authority.
 183 Library Board, The Library of Virginia.
 184 Motor Vehicle Dealer Board.
 185 State Board for Community Colleges, Virginia Community College System.
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 187 (Effective until July 1, 2002) Wireless E-911 Service Board.

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226 Virginia Museum of Natural History.

Partnership

228 A. L. Philpott Manufacturing Extension Partnership.

Plantation

230 Gunston Hall Plantation.

CHAPTER 4.4:4.

ADVANTAGE VIRGINIA INCENTIVE PROGRAM.

232 § 23-38.53:12. *Definitions.*

233 *As used in this chapter:*

234 "Council" shall mean the Virginia Workforce Council, created in § 9-329.1.

235 "Degree" shall have the same meaning as defined in § 23-265.

236 "Degree-granting institution" shall mean an institution authorized to confer degrees pursuant to

237 Chapter 21 (§ 23-265 et seq.) of this title and regulations promulgated under the authority of that

chapter.

"Degree program" shall have the same meaning as defined in § 23-265.

"Eligible degree programs" shall mean degree programs that the Council shall designate as eligible for the Advantage Virginia Incentive Program pursuant to § 23-38.53:16.

"Eligible institutions" shall mean two or four-year Virginia (i) public institutions of higher education and (ii) private, nonprofit and for-profit, nonsectarian, degree-granting institutions of higher education that are institutionally accredited by an accrediting commission recognized by the United States Department of Education, and whose primary purpose is to provide collegiate, graduate, technical or professional education and not to provide religious training or theological education.

"Foundation" shall mean Advantage Virginia Incentive Program Foundation as created by this chapter.

"Fund" shall mean Advantage Virginia Incentive Fund established pursuant to this chapter.

§ 23-38.53:13. Establishment and administration of Advantage Virginia Incentive Program Foundation; appointment, terms, chairman, quorum, etc., of board of trustees.

The Advantage Virginia Incentive Program Foundation (Foundation) is established for the express purpose of preparing persons, through education, to enter occupational areas where there is high demand for workers in the Commonwealth by carrying out the duties as imposed to the Foundation by this chapter. The Foundation is a body politic of the Commonwealth and shall be governed and administered by a board of trustees composed of the chairman of the Virginia Workforce Council and six trustees from the Commonwealth at large, to be appointed by the Governor for four-year terms. Vacancies shall be filled for unexpired terms.

The Governor shall appoint a chairman of the board from among the six trustees-at-large. A majority of the members of the board serving at any one time shall constitute a quorum for the transaction of business.

§ 23-38.53:14. General powers of the Foundation.

The Foundation shall have the following general powers:

1. To have succession until dissolved by the General Assembly, in which event title to the properties of the Foundation, both real and personal, shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the Foundation, pass to and become vested in the Commonwealth;

2. To accept, acquire, hold, and administer gifts, donations, grants, bequests, and other moneys for the purpose for which the Foundation is created;

3. To appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the Foundation may determine; and

4. To perform any lawful acts necessary or appropriate to carry out the purposes of the Foundation.

§ 23-38.53:15. Advantage Virginia Incentive Fund.

A. The Foundation shall establish, administer, manage, and make expenditures and allocations from a special nonreverting fund in the state treasury to be known as the Advantage Virginia Incentive Fund (the Fund). The Fund shall be comprised of (i) moneys appropriated to the Fund by the General Assembly and (ii) gifts, donations, grants, bequests, and other moneys as may be received on its behalf. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of a fiscal year shall remain in the Fund, and shall not revert to the general fund.

B. Pursuant to the provisions of this chapter, moneys in the Fund may be paid to any eligible institution on behalf of students who have been awarded Advantage Virginia Incentive Program scholarships and who are or will be attending such schools or institutions.

§ 23-38.53:16. Advantage Virginia Incentive Program created; purpose.

A. There is hereby created the Advantage Virginia Incentive Program (AVIP) to provide scholarships to students attending eligible institutions who become employed in occupational areas where there is high demand for workers in the Commonwealth. Moneys from the Fund may be paid to eligible institutions on behalf of students who have been awarded AVIP scholarships and who are or will be attending such institutions.

B. By September 1 of each year the Council shall designate (i) occupational areas where there is high demand for workers in the Commonwealth; (ii) professions and skill areas directly related to such occupational areas where there is high demand for workers in the Commonwealth; (iii) the geographical concentration of such occupational areas; and (iv) eligible degree programs that shall be two-year or four-year degree programs, offered by eligible institutions, and that directly lead to employment in such occupational areas where there is high demand for workers in the Commonwealth. An occupational area where there is high demand for workers in the Commonwealth shall include occupations in Virginia localities and planning districts that (i) have annual average unemployment rates for the most

recent calendar year that are fifty percent higher than the final statewide average unemployment rate for the most recent calendar year or (ii) are within planning districts that have annual average unemployment rates for the most recent calendar year that are at least one percent greater than the final annual statewide average for the most recent calendar year; provided that such occupational areas in such Virginia localities and planning districts require, for successful completion, the level of education, skills, and training for which scholarships are granted under this chapter. In making such designations, the Council shall (i) consult with the State Council of Higher Education, the Secretaries of Commerce and Trade, Education, and Technology, and any interested representatives from private sector businesses, labor organizations, trade associations, and individuals, public agencies, or private companies with expertise related to labor markets or geographic and demographic analysis and (ii) seek to ensure that the diverse needs of the Commonwealth are considered and that such designations reflect Virginia's broad, long-term economic, educational, and public policy interests in both the public and private sectors.

C. Subject to the Administrative Process Act (§ 9-6.14:1 et seq.), the Council shall promulgate regulations and procedures which are necessary, convenient, or desirable in administering AVIP as provided in this chapter.

§ 23-38.53:17. Eligibility for AVIP; criteria for maintaining scholarships.

A. In order to be eligible for AVIP, a student must meet the following requirements:

1. Be a citizen of the United States who is domiciled in Virginia as defined by § 23-7.4;
2. Be a graduate of a high school in the Commonwealth with a cumulative secondary school grade point average of at least 2.5 on a scale of 4.0 or its equivalent; and
3. Be enrolled in or accepted for enrollment in any two-year or four-year degree programs designated by the Council as directly leading to employment in occupational areas where there is high demand for workers in the Commonwealth pursuant to § 23-38.53:16.

B. All scholarships shall be awarded for one year, but may be renewed annually if the recipient maintains at least a 2.0 grade point average on a scale of 4.0 or its equivalent and demonstrates continued financial need.

§ 23-38.53:18. Amount of scholarships; contract terms and conditions; repayment of scholarship through employment in an occupational area where there is high demand for workers in the Commonwealth.

A. An eligible student may participate in AVIP for up to ten semesters, or their equivalent, whether or not consecutive, and may be awarded a scholarship of up to \$3,000 per academic year by the Council, not to exceed a maximum of \$12,000, to be used for tuition, books, or fees. No student shall participate in AVIP more than seven years after beginning such participation.

B. Before an AVIP scholarship is awarded, a student shall sign a written contract under the terms of which he agrees to be employed in an occupational area where there is high demand for workers in the Commonwealth, as designated by the Council pursuant to § 23-38.53:16. Such employment shall begin within one calendar year after the student's graduation from an eligible institution and continue thereafter until he has been continuously employed in an occupational area where there is high demand for workers in the Commonwealth for a period of years equal in number to the years that he has been or shall be a beneficiary of an AVIP scholarship. The employment qualifying as repayment of an AVIP scholarship shall be approved by the Council on a yearly basis, with each year of approved employment qualifying the student for repayment of one year's AVIP scholarship.

C. The contract shall provide that if the student fails to comply with the provisions thereof, he shall repay to the Fund all amounts received by him as a beneficiary of an AVIP scholarship with interest, such repayment to be upon such terms and conditions as may be determined by the Council. Such contract shall contain such other provisions as may be necessary, convenient, or desirable in the opinion of the Council to accomplish the purposes of this chapter.

D. As further evidence of the student's promise to make repayment through employment in an occupational area where there is high demand for workers in the Commonwealth, he shall, as to each AVIP scholarship awarded to him and at the time such scholarship is awarded, be required to execute and deliver to the Council a note in a principal sum equal to the amount of such scholarship with interest and penalties, if any, to be determined by the Council. The note shall be accepted by the Council upon the condition that such note, and any other similar notes so given, shall be cancelled by the Council upon the basis of one note for each year in which the student shall be continuously employed in an occupational area where there is high demand for workers in the Commonwealth. No student shall be permitted to plead the statute of limitations or interpose a plea of infancy in the event of an action being brought against him on any such note.

E. As part of its regulations to implement the provisions of this chapter, the Council shall specify repayment procedures in the event a student fails or refuses to maintain eligibility for AVIP during the scholarship year or to fulfill the terms and conditions of his contract with the Council. All money repaid

by the student shall be placed in the Fund.

§ 23-38.53:19. Selection of beneficiaries.

A. In selecting beneficiaries of the AVIP scholarship, the Council shall not select more beneficiaries than the moneys available in the Fund to grant scholarships to such beneficiaries.

B. In selecting beneficiaries, priority shall be given to eligible students (i) who are closest to completing their degree programs designated by the Council under § 23-38.53:16 as directly leading to an occupational area where there is high demand for workers in the Commonwealth, (ii) who demonstrate financial need, and (iii) whose applications were received earliest by the Council.

C. After selecting the beneficiaries, the Council shall inform the Foundation of such beneficiaries, upon which notification the Foundation shall issue scholarship moneys to the beneficiaries or to the institutions in behalf of the beneficiaries as provided in subsection B of § 23-38.53:15.

§ 23-38.53:20. Council not required to enter into contracts.

Nothing in this chapter shall be construed to require the Council to enter into contracts with students who otherwise qualify for AVIP when funds are not available for such purpose or as a promise or guarantee by the Council that a person (i) is or will be admitted to an eligible institution, (ii) is allowed to continue to attend such eligible institution after having been admitted, or (iii) graduated from such institution.