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SENATE BILL NO. 350

Offered January 20, 2000

A BILL 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 23-38.53:19, and by adding in Chapter 3 of Title 58.1 an article numbered 20.2 consisting of sections numbered 58.1-514 through 58.1-516, relating to the creation of the Advantage Virginia Incentive Program.

Patrons—Ticer, Colgan, Howell and Whipple; Delegate: Almand

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. 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 23-38.53:19, and by adding in Chapter 3 of Title 58.1 an article numbered 20.2 consisting of sections numbered 58.1-514 through 58.1-516, as follows:

CHAPTER 4.4:4.**ADVANTAGE VIRGINIA INCENTIVE PROGRAM.**

§ 23-38.53:12. 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 and shall be governed and administered by a board of trustees composed of the State Treasurer or his designee 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.

§ 23-38.53:13. 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.

§ 23-38.53:14. 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 ("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 public institutions of higher education or private, accredited and nonprofit institutions of collegiate education in the Commonwealth whose primary purpose is to provide collegiate, graduate, or professional education and not to provide religious training or theological education on behalf of students who have been awarded Advantage Virginia Incentive Program scholarships and who are or will be attending such schools or institutions.

§ 23-38.53:15. Advantage Virginia Incentive Program created; purpose.

A. There is hereby created the Advantage Virginia Incentive Program (AVIP) to provide scholarships to students attending public institutions of higher education or private, accredited and nonprofit institutions of collegiate education in the Commonwealth whose primary purpose is to provide

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60 collegiate, graduate, or professional education and not to provide religious training or theological
61 education who become employed in occupational areas where there is high demand for workers in the
62 Commonwealth. Moneys from the Fund may be paid to such institutions on behalf of students who have
63 been awarded AVIP scholarships and who are or will be attending such schools or institutions. Unless
64 otherwise indicated, as used in this chapter, "accredited" means any institution approved to confer
65 degrees pursuant to Chapter 21 (§ 23-265 et seq.) of this title.

66 B. By September 1 of each year the Virginia Workforce Council, created in § 9-329.1 (the
67 "Council"), shall designate (i) occupational areas where there is high demand for workers in the
68 Commonwealth; (ii) professions and skill areas directly related to such occupational areas where there
69 is high demand for workers in the Commonwealth; and (iii) two-year or four-year degree programs,
70 approved pursuant to Chapter 21 (§ 23-265 et seq.) of this title and regulations promulgated under the
71 authority of that chapter, which directly lead to employment in such occupational areas where there is
72 high demand for workers in the Commonwealth. In making such designations, the Council shall (i)
73 consult with the State Council of Higher Education, the Secretaries of Commerce and Trade, Education,
74 and Technology, and any interested representatives from private sector businesses, labor organizations,
75 trade associations, and individuals, public agencies, or private companies with expertise related to labor
76 markets or geographic and demographic analysis, and (ii) seek to ensure that the diverse needs of the
77 Commonwealth are considered and that such designations reflect Virginia's broad, long-term economic,
78 educational, and public policy interests in both the public and private sectors.

79 C. Subject to the Administrative Process Act (§ 9-6.12:1 et seq.), the Council shall promulgate
80 regulations and procedures which are necessary, convenient, or desirable in administering AVIP as
81 provided in this chapter.

82 § 23-38.53:16. Eligibility for AVIP; criteria for maintaining scholarships.

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

84 1. Be domiciled in Virginia as defined by § 23-7.4;

85 2. Be a graduate of a high school in the Commonwealth with a cumulative secondary school grade
86 point average of at least 2.5 on a scale of 4.0 or its equivalent;

87 3. Be enrolled in or accepted for enrollment in any two-year or four-year degree programs
88 designated by the Council as directly leading to employment in occupational areas where there is high
89 demand for workers in the Commonwealth pursuant to § 23-38.53:15; and

90 4. demonstrate financial need.

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

94 § 23-38.53:17. Amount of scholarships; contract terms and conditions; repayment of scholarship
95 through employment in an occupational area where there is high demand for workers in the
96 Commonwealth.

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

101 B. Before an AVIP scholarship is awarded, a student shall sign a written contract under the terms of
102 which he agrees to be employed in an occupational area where there is high demand for workers in the
103 Commonwealth, as designated by the Council pursuant to § 23-38.53:15. Such employment shall begin
104 within one calendar year after the student's graduation from a public institution of higher education or
105 private, accredited and nonprofit institutions of collegiate education in the Commonwealth whose
106 primary purpose is to provide collegiate, graduate, or professional education and not to provide
107 religious training or theological education and continue thereafter until he has been continuously
108 employed in an occupational area where there is high demand for workers in the Commonwealth for a
109 period of years equal in number to the years that he has been or shall be a beneficiary of an AVIP
110 scholarship. The employment qualifying as repayment of an AVIP scholarship shall be approved by the
111 Council on a yearly basis, with each year of approved employment qualifying the student for repayment
112 of one year's AVIP scholarship.

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

118 D. As further evidence of the student's promise to make repayment through employment in an
119 occupational area where there is high demand for workers in the Commonwealth, he shall, as to each
120 AVIP scholarship awarded to him and at the time such scholarship is awarded, be required to execute
121 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.

§ 23-38.53:18. 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 § 23-35.53:15 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 § 23-38.53:14.

§ 23-38.53:19. 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 a public institution of higher education or private, accredited and nonprofit institutions of collegiate education in the Commonwealth whose primary purpose is to provide collegiate, graduate, or professional education and not to provide religious training or theological education, (ii) allowed to continue to attend such schools or institutions in Virginia after having been admitted, or (iii) graduated from such institutions in Virginia.

Article 20.2.

Tax Credits for Advantage Virginia Incentive Fund.

§ 58.1-514. Tax credit for contribution to the Advantage Virginia Incentive Fund.

A. A taxpayer contributing to the Advantage Virginia Incentive Fund, as established pursuant to § 23.38-53:14, shall be allowed a tax credit against taxes imposed pursuant to Article 2 (§ 58.1-320 et seq.), Article 6 (§ 58.1-360 et seq.), Article 9 (§ 58.1-390 et seq.), and Article 10 (§ 58.1-400 et seq.) of Chapter 3 of this title pursuant to this article.

B. The tax credits created by this article shall only be allowed if the total sum certain of the taxpayers' contributions to the Advantage Virginia Incentive Fund, to be determined as of December 31 of each year, is equal to or greater than the amount certain appropriated by the General Assembly for the Advantage Virginia Incentive Fund for that taxable year. If the total sum certain of the taxpayers' contributions are less than the amount certain appropriated by the General Assembly for that year, each contributor shall have the option to have his contribution refunded to him.

§ 58.1-515. Amount of the tax credit.

A. A taxpayer shall be allowed a tax credit in the amount equal to fifty percent of the contributions made to the Advantage Virginia Incentive Fund. The amount of tax credit available to a taxpayer in a taxable year shall not exceed the amount of tax imposed to the taxpayer for that taxable year.

B. The total amount of tax credits allowed under this article for a taxable year shall not exceed two and one-half million dollars. If the credits exceed two and one-half million dollars for a taxable year, they shall be allocated by the Department of Taxation on a pro rata basis. If credits are less than two and one-half million dollars for a taxable year, the unused amount shall be utilized in the succeeding taxable year in addition to the two and one-half million dollars of credit allowed during that year.

§ 58.1-516. Department of Taxation to promulgate regulations.

Subject to the Administrative Process Act (§ 9-6.14:1 et seq.), the Department of Taxation shall promulgate regulations (i) establishing procedures for claiming the tax credit provided by this article and (ii) providing for the allocation of tax credits among taxpayers requesting credits in the event the amount of credits for which requests are made exceeds the available amount of credits in any one taxable year. #