

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 872

An Act to amend and reenact §§ 2.2-2238, 2.2-2670, 10.1-1413.2, 22.1-199.3, 22.1-208.2:1.1, 22.1-209.1:7, 22.1-291.2, 22.1-343, 23-38.19:4, 23-38.53:12, 23-38.53:16, 23-38.53:18, 23-38.53:19, 59.1-284.16, 59.1-284.17, and 59.1-284.18 of the Code of Virginia and to repeal §§ 22.1-199.3, 22.1-208.2:1.1, 22.1-209.1:7, 22.1-209.1:9, 22.1-209.1:10, and 22.1-291.2, Article 3 (§§ 23-38.19:3, 23-38.19:4, and 23-38.19:5) of Chapter 4.1 of Title 23, §§ 23-38.53:8, 23-38.53:9, and 23-38.53:10, Chapter 4.4:4 (§§ 23-38.53:12 through 23-38.53:20) of Title 23, § 36-139.8, Chapter 22.2 (§§ 59.1-284.7 through 59.1-284.12) and Chapter 22.4 (§§ 59.1-284.16 through 59.1-284.19) of Title 59.1, and Article 4 (§§ 60.2-318 through 60.2-322) of Chapter 3 of Title 60.2 of the Code of Virginia, relating to certain dormant special funds and their associated programs.

[S 3]

Approved April 15, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2238, 2.2-2670, 10.1-1413.2, 22.1-199.3, 22.1-208.2:1.1, 22.1-209.1:7, 22.1-291.2, 22.1-343, 23-38.19:4, 23-38.53:12, 23-38.53:16, 23-38.53:18, 23-38.53:19, 59.1-284.16, 59.1-284.17, and 59.1-284.18 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2238. Economic development services.

A. It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the economy of the Commonwealth. The Authority is charged with the following duties and responsibilities to:

1. See that there are prepared and carried out effective economic development marketing and promotional programs;

2. Make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;

3. Formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the location of new businesses in the Commonwealth and the retention and growth of existing businesses;

4. Encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;

5. Encourage the coordination of the economic development efforts of public institutions, regions, communities, and private industry and collect and maintain data on the development and utilization of economic development capabilities;

6. Establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade;

7. Encourage the export of products and services from the Commonwealth to international markets; and

8. Advise, upon request, the State Board for Community Colleges in designating technical training programs in Virginia's comprehensive community colleges for the Community College Incentive Scholarship Program pursuant to § 23-220.4.

9. Upon request, to advise the State Council of Higher Education for Virginia in designating certain collegiate programs for the Virginia Undergraduate Career and Technical Education Incentive Scholarship Program pursuant to Article 3 (§ 23-38.19:3 et seq.) of Chapter 4.1 of Title 23.

B. The Authority shall prepare a specific plan annually that shall serve as the basis for marketing high unemployment areas of Virginia. This plan shall be submitted to the Governor and General Assembly annually on or before November 1 of each year. The report shall contain the plan and activities conducted by the Authority to market these high unemployment areas. The annual report shall be part of the report required by § 2.2-2242 and shall be distributed in accordance with § 2.2-1127.

§ 2.2-2670. Powers and duties of the Council; Virginia Workforce Network created.

A. The Council shall undertake the following to implement and foster workforce training, exclusive of the career and technical education programs provided through and administered by the public school system:

1. Provide policy advice to the Governor on workforce and workforce development issues;

2. Provide policy direction to local workforce investment boards;

3. Identify current and emerging statewide workforce needs of the business community;

4. Forecast and identify training requirements for the new workforce;

5. Create strategies that will match trained workers with available jobs;

6. Establish the procedures, criteria and performance measures for the Workforce Development Training Fund as established pursuant to Article 4 (§ 60.2-318 et seq.) of Chapter 3 of Title 60.2;

7 6. Provide an annual report to the Governor concerning its actions and determinations under subdivisions 1 through 5;

8 7. Create procedures, guidelines, and directives applicable to local workforce investment boards and the operation of one-stops, as necessary and appropriate to carry out the purposes of this article; and

9 8. Perform any act or function in accordance with the purposes of this article.

B. The Council shall establish at least two committees as follows: one committee to accomplish the aims of the WIA and one committee to focus on high-technology workforce training needs.

C. The Secretary of Commerce and Trade and the Council shall assist the Governor in complying with the provisions of the WIA, including the creation of a Virginia workforce development system to be known as the Virginia Workforce Network.

D. The Council shall assist the Governor in the following areas with respect to workforce development: development of the WIA State Plan; development and continuous improvement of a statewide workforce development system; development of linkages to ensure coordination and nonduplication among programs and activities; review of local plans; designation of local areas; development of local discretionary allocation formulas; development and continuous improvement of comprehensive state performance measures including, without limitation, performance measures reflecting the degree to which one-stop centers provide comprehensive services with all mandatory partners and the degree to which local workforce investment boards have obtained funding from sources other than the WIA; preparation of the annual report to the U.S. Secretary of Labor; development of a statewide employment statistics system; development of incentive grant applications; and development of a statewide system of one-stop centers that provide comprehensive workforce services to employers, employees, and job seekers.

The Council shall share information regarding its meetings and activities with the public.

E. Each local workforce investment board shall develop and submit to the Virginia Workforce Council an annual workforce demand plan for its workforce investment board area based on a survey of local and regional businesses that reflects the local employers' needs and requirements and the availability of trained workers to meet those needs and requirements; designate or certify one-stop operators; identify eligible providers of youth activities; identify eligible providers of intensive services if unavailable at one-stop; develop a budget; conduct local oversight of one-stop operators and training providers in partnership with its local chief elected official; negotiate local performance measures, including incentives for good performance and penalties for inadequate performance; assist in developing statewide employment statistics; coordinate workforce investment activities with economic development strategies and the annual demand plan, and develop linkages among them; develop and enter into memoranda of understanding with one-stop partners and implement the terms of such memoranda; promote participation by the private sector; actively seek sources of financing in addition to WIA funds; report performance statistics to the Virginia Workforce Council; and certify local training providers in accordance with criteria provided by the Virginia Workforce Council.

Each local workforce investment board shall share information regarding its meetings and activities with the public.

F. Each chief local elected official shall consult with the Governor regarding designation of local workforce investment areas; appoint members to the local board in accordance with state criteria; serve as the local grant recipient unless another entity is designated in the local plan; negotiate local performance measures with the Governor; assure that all mandated partners are active participants in the local workforce investment board and one-stop center and collaborate with the local workforce investment board on local plans and program oversight.

G. Each local workforce investment board shall develop and enter into a memorandum of understanding concerning the operation of the one-stop delivery system in the local area with each entity that carries out any of the following programs or activities:

1. Programs authorized under Title I of the WIA;
2. Programs authorized under the Wagner-Peyser Act (29 U.S.C. § 49 et seq.);
3. Adult education and literacy activities authorized under Title II of the WIA;
4. Programs authorized under Title I of the Rehabilitation Act of 1973 (29 U.S.C. § 720 et seq.);
5. Welfare-to-work programs authorized under § 403 (a) (5) of the Social Security Act (42 U.S.C. § 603 (a) (5));
6. Activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. § 3056 et seq.);
7. Postsecondary vocational education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. § 2301 et seq.);
8. Activities authorized under chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. § 2271 et seq.);
9. Activities pertaining to employment and training programs for veterans authorized under chapter 41 of title 38, United States Code;
10. Employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. § 9901 et seq.);
11. Employment and training activities carried out by the United States Department of Housing and

Urban Development;

12. Programs authorized under Title 60.2, in accordance with applicable federal law;

13. Workforce development activities or work requirements of the Temporary Assistance to Needy Families (TANF) program known in Virginia as the Virginia Initiative for Employment, not Welfare (VIEW) program established pursuant to § 63.2-608; and

14. The workforce development activities or work programs authorized under the Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.).

H. The Virginia Secretary of Commerce and Trade, and at his direction, the Virginia Employment Commission, shall be responsible for the coordination of the Virginia Workforce Network and the implementation of the WIA.

§ 10.1-1413.2. Requirements for landfill closure.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Landfill Clean-up and Closure Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of funds appropriated to it by the General Assembly and such other sums as may be made available to it from any other source, public or private, all of which shall be credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes described in subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director. This Fund shall be exempt from indirect costs assessed by the Department of Accounts.

B. The Fund shall be used by the Department solely for the purposes of providing grants to local governments and to political subdivisions which exist to provide solid waste management services for the proper final closure of landfills that are owned by the local governments or political subdivisions, or which are located in the locality and have been abandoned in violation of this chapter, and are not equipped with liner and leachate control systems meeting the requirements of the Board's regulations. The Department shall prioritize *the closure of landfills in need of grants pursuant to this subsection that are owned by local governments or political subdivisions, or that are located in the locality and have been abandoned in violation of this chapter, and are not equipped with liner and leachate control systems meeting the requirements of the Board's regulations.* The prioritization shall be based on the greatest threat to human health and the environment. The Department shall establish a schedule, after public notice and a period for public comment, based upon that prioritization requiring municipal solid waste landfills to cease accepting solid waste in, and to prepare financial closure plans for, disposal areas permitted before October 9, 1993. No municipal solid waste landfill may continue accepting waste after 2020 in any disposal area not equipped with a liner system approved by the Department pursuant to a permit issued after October 9, 1993. Notwithstanding the provisions of subsection N of § 10.1-1408.1, failure by a landfill owner or operator to comply with the schedule established by the Department shall be a violation of this chapter. Grants pursuant to this subsection shall not replace previously existing financial assurances provided to the Department. The provisions of this subsection shall not apply to municipal solid waste landfills utilizing double synthetic liner systems permitted between December 21, 1988, and October 9, 1993, that are part of a post-mining land use plan approved under Chapter 19 (§ 45.1-226 et seq.) of Title 45.1.

C. The Director shall have the authority to access and release moneys in the Fund for purposes of this section for up to \$100,000 per occurrence as long as the disbursement does not exceed the balance of the Fund. If the Director requests a disbursement in excess of \$100,000 or an amount exceeding the current Fund balance, the disbursement shall require the written approval of the Governor.

Disbursements from the Fund may be made for the purposes outlined in subsection B, including, but not limited to, personnel, administrative, and equipment costs and expenses directly incurred by the Department, or by any other agency or political subdivision acting at the direction of the Department.

D. The Department shall develop guidelines which, after approval by the Governor, shall determine how the Fund can be used for the purposes of this section.

§ 22.1-199.3. Virginia Educational Excellence Incentive Reward Program.

A. From such funds as may be appropriated for such purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby established the Virginia Educational Excellence Incentive Reward Program; to be administered by the Board of Education; and a special nonreverting fund within the Department of the Treasury known as the Virginia Educational Excellence Incentive Reward Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

The Department of the Treasury shall administer and manage the Virginia Educational Excellence Incentive Reward Fund, subject to the authority of the Board of Education to provide for its disbursement. The Fund Program shall be disbursed to award incentive grants to public schools meeting

certain performance criteria established by the Board and to support nonmonetary awards recognizing exemplary performance by teachers, administrators, and students across the Commonwealth.

B. The Board shall establish performance criteria for determining eligibility of public schools to receive incentive grants ~~from the Fund~~. Such criteria shall include annual performance benchmarks for individual public schools developed with the assistance of the relevant division superintendents and shall recognize improved and exceptional educational performance in the Commonwealth's public schools. The criteria may be based upon, but shall not be limited to, various school and pupil performance indicators, such as:

1. Pupil academic performance;
2. Standards of Learning end-of-course assessment scores;
3. Student and teacher attendance rates;
4. Graduation rates, including minority graduation rates; and
5. Parental and community involvement.

In establishing such awards criteria, the Board may consider school population information, such as the percentage of students speaking English as a second language, community education and income levels, local ability-to-pay for public education, and schoolwide and divisionwide enrollments.

C. The Board shall establish procedures for determining amounts for incentive grants to public schools. The incentive grants shall be calculated on a per teacher basis and may be used for salary bonuses, professional development, school improvement funds, or other educational initiatives or expenses approved by the Board.

D. The Board shall also establish within the Program a system of nonmonetary awards to recognize exemplary performance by teachers, administrators, and students in the public schools. Teachers, administrators, and students meeting performance criteria established by the Board shall be recognized annually at the regional and state level.

For the purposes of this section, "administrators" shall include principals, assistant principals, and supervisors.

E. The Board may issue guidelines governing the Program as it deems necessary and appropriate.

§ 22.1-208.2:1.1. Reading Incentive Grants Program.

A. From such funds as may be appropriated for such purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby established the Reading Incentive Grants Program, to be administered by the Board of Education, ~~and a special nonreverting fund within the state treasury known as the Reading Incentive Grants Fund. The Fund shall be established on the books of the Comptroller, and any moneys remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.~~

The State Treasurer shall manage the Fund, subject to the authority of the Board of Education to provide for its disbursement. The Fund Program shall be disbursed to award grants on a competitive basis to public schools demonstrating low pupil academic performance. Such grants shall be used to support successful reading programs.

B. The Board shall establish criteria for making grants ~~from the Fund~~, including school eligibility criteria and indicators of low pupil academic performance, and procedures for determining amounts for grants to eligible public schools. The Board may issue guidelines governing the Program as it deems necessary and appropriate.

§ 22.1-209.1:7. Families in Education Incentive Grants Program.

A. From such funds as may be appropriated for such purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby established the Families in Education Incentive Grants Program, to be administered by the Board of Education, ~~and a special nonreverting fund within the state treasury known as the Families in Education Incentive Grants Fund. The Fund shall be established on the books of the Comptroller, and any moneys remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.~~

Subject to the authority of the Board of Education to provide for its disbursement, the Fund shall be ~~disbursed to~~ Program shall award grants on a competitive basis to public schools, with no more than two grants awarded per superintendent's region, to support innovative family and community involvement programs designed to facilitate parents' creation of a supportive learning environment at home and increased involvement in classroom learning and school activities.

B. The Board shall establish criteria for making grants ~~from the Fund~~ and procedures for determining amounts for grants to eligible public schools. The Board may issue guidelines governing the Program as it deems necessary and appropriate.

§ 22.1-291.2. Artists in the Classroom Grants Program.

A. From such funds as may be appropriated for such purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby established the Artists in the Classroom Grants Program, hereinafter known as the "Program," to be administered by the Board of Education, ~~and a special nonreverting fund within the state treasury known as the Artists in the~~

Classroom Grants Fund, hereinafter known as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

B. Subject to the authority of the Board of Education to provide for its disbursement, The Fund Program shall be disbursed to award matching grants to school boards that employ on a full-time basis accomplished artists, musicians, thespians, writers, dancers, or athletes who have demonstrated exemplary professional accomplishment, professional experience, and strong leadership skills. The Program shall promote artistic and athletic excellence among students through direct contact with distinguished artists, musicians, thespians, writers, dancers, and athletes. The Program shall provide students the opportunity to observe and learn first-hand from accomplished professionals. The Program shall foster creativity and expose students to professional artists and athletes as positive role models. The Program shall provide schools additional instructional expertise on staff and the capacity to augment course offerings in the fine arts, performing arts, creative writing, and physical education. The Program shall encourage community involvement through public presentations, performances, exhibitions, and competitions.

C. The Board shall establish criteria and procedures for making grants from the Fund, including procedures for determining local fiscal capacity and effort to employ such accomplished professionals; amounts of grants; and the required local match, which shall be calculated on the basis of the composite index of local ability to pay. The Board may coordinate the Program with the Artists-in-Education Residency Program administered by the Virginia Commission for the Arts where appropriate. The Board may issue guidelines governing the Program as it deems necessary and appropriate.

§ 22.1-343. Powers and duties of Board.

The Board shall have the following powers and duties:

1. To adopt and enforce all necessary rules and regulations for the management and operation of the schools in the Department except that the rules and regulations adopted hereunder shall not conflict with rules and regulations relating to security adopted by the institutions to which the pupils are committed;

2. To visit and inspect the schools at reasonably frequent intervals;

3. To establish schools of the appropriate grades, levels and types in the institutions comprising the Department and to adopt regulations for the admission of pupils thereto;

4. To enter into such agreements with private entities, nonprofit civic organizations, school divisions, and public and private two-year and four-year institutions of higher education as it may deem necessary to provide age appropriate educational programs and training, including career and technical education, career development opportunities, public service projects and other learning experiences in the furtherance of its duties and responsibilities under this chapter for persons committed to the institutions comprising the Department;

5. To promulgate regulations, in cooperation with the Board of Education, for the reenrollment in the public schools of students who have been in the custody of the Department of Juvenile Justice. Such regulations shall include the components required in a reenrollment plan and shall provide for consistency in the curricula, standards and policies between the educational programs required by this chapter, and those of the Board of Education;

6. To develop and administer, cooperatively with the State Council of Higher Education, the Virginia Higher Education Incentive Program, pursuant to § 23-38.53:8;

7. To receive such private gifts, donations, grants, bequests, and other private funds on behalf of and for use by the Virginia Higher Education Incentive Fund, as provided in § 23-38.53:9;

8. To name the various individual schools, but such names need not be associated or identified with the institution or facility within which they are located;

9. To receive and disburse funds from any source for the purposes of providing education in such Department; and

10. To provide technical assistance to local correctional facilities which house convicted state felons, upon request of any such facility, in establishing or improving career and technical, adult and special education programs.

§ 23-38.19:4. Virginia Undergraduate Career and Technical Incentive Scholarships.

A. From such funds as are appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Undergraduate Career and Technical Incentive Scholarship Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Funds may be paid to designated institutions offering designated programs on behalf of students who have been awarded scholarships pursuant to § 23-38.19:5.

Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the State Council of Higher

Education.

B. The Council shall promulgate regulations for the implementation of the provisions of this article and shall award scholarships to eligible students for no more than three academic years. Scholarship amounts shall not exceed (i) full tuition and required fees for recipients attending a four-year public institution of higher education, and (ii) the average tuition and fees charged at four-year public institutions of higher education for recipients attending a four-year private not-for-profit institution of higher education.

§ 23-38.53:12. Definitions.

As used in this chapter:

"Council" shall mean the Virginia Workforce Council, created in § 2.2-2669.

"Degree" shall have the same meaning as defined in § 23-276.1.

"Degree-granting institution" shall mean an institution authorized to confer degrees pursuant to Chapter 21.1 (§ 23-276.1 et seq.) of this title and regulations promulgated under the authority of that chapter.

"Degree program" shall have the same meaning as defined in § 23-276.1.

"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.

"Planning district" means a contiguous area within the boundaries established by the Department of Housing and Community Development.

"Qualified job" means a job that is so designated by the Council, pursuant to § 23-38.53:16, as being in high demand in the Commonwealth.

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

A. *From such funds as may be appropriated for such purpose, and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf*, there is hereby created the Advantage Virginia Incentive Program (AVIP) to provide scholarships to students attending eligible institutions who fill jobs that are in high demand 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) jobs that are in high demand in the Commonwealth as qualified jobs for the purpose of AVIP; (ii) professions and skill areas directly related to qualified jobs; (iii) the geographical concentration of qualified jobs; 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 qualified jobs. 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 (§ 2.2-4000 et seq.), the Council shall promulgate regulations and procedures which are necessary, convenient, or desirable in administering AVIP as provided in this chapter.

§ 23-38.53:18. 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 a qualified job, 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 a qualified job 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 by filling a qualified job, 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 a qualified job. 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 a qualified job, (ii) who demonstrate financial need, (iii) who attended a high school located in a planning district that has annual average unemployment rates for the most recent calendar year that are higher than the final statewide average unemployment rate for the most recent calendar year, and (iv) 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.~~

§ 59.1-284.16. Definitions.

As used in this chapter:

"Business firm" means any corporation, partnership, electing small business (Subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in this Commonwealth.

"Department" means the Department of Business Assistance.

"Eligible firm" means an information technology firm employing at least fifty individuals in permanent full-time positions within an eligible region for a period of ~~thirty-six~~ 36 consecutive months commencing on or after July 1, 1999.

"Eligible region" means the area within the geographic boundaries of (i) the planning district established pursuant to § 15.2-4203 that had the highest annual average unemployment rate in the Commonwealth for the most recent calendar year preceding the effective date of this chapter or (ii) any planning district adjacent to the planning district described in clause (i).

"Fund" means ~~the Information Technology Employment Performance Grant Fund established pursuant to § 59.1-284.19.~~

"Information technology firm" means a business firm engaging in a business classified in code 36 (electronics and other electric equipment) or code 737 (computer and data processing services), as defined in the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget, within an eligible region for a period of ~~thirty-six~~ 36 consecutive months commencing on or after July 1, 1999.

"Permanent full-time position" means a job of an indefinite duration at an information technology firm, for which the standard fringe benefits are paid by the firm for the employee, requiring a minimum of either (i) ~~thirty-five~~ 35 hours of an employee's time a week for the entire normal year of the firm's operations, which "normal year" must consist of at least ~~forty-eight~~ 48 weeks or (ii) 1,680 hours per year. Seasonal or temporary positions, or a position created when a job function is shifted from an existing location in this Commonwealth to an information technology firm located within an eligible region, shall not qualify as permanent full-time positions.

§ 59.1-284.17. Eligibility for information technology employment performance grants.

A. Subject to appropriation of sufficient moneys ~~to the Fund~~, any eligible firm shall be entitled to receive an information technology employment performance grant at such time as it has employed at least ~~fifty~~ 50 individuals in permanent full-time positions within an eligible region for a period of ~~thirty-six~~ 36 consecutive months. An eligible firm shall not receive more than one information technology employment performance grant under this chapter.

B. The amount of the information technology employment performance grant for which an eligible firm is entitled shall be equal to \$1,000 multiplied by the number of individuals employed in permanent full-time positions within the eligible region during the ~~thirty-six~~ 36 consecutive-month period for which the grant is claimed; however, in no event shall the amount of any grant to an eligible firm under this chapter exceed \$150,000.

C. Any eligible firm which receives an information technology employment performance grant under this chapter shall not be eligible for a major business facility job tax credit pursuant to § 58.1-439 or any of the benefits provided under the Enterprise Zone Act (§ 59.1-270 et seq.).

§ 59.1-284.18. Payment of information technology employment performance grants.

A. Grant applications shall be submitted to the Department within ~~twelve~~ 12 months following the date the applicant firm became eligible for a grant. An application for a grant shall include a description of the applicant's business, evidence of the number of permanent full-time employees, the duration of their employment, and other relevant information as the Department may reasonably require. As a condition of receipt of a grant, an eligible firm shall make available to the Department for inspection upon its request all relevant and applicable documents to determine whether the conduct of its business meets the requirements for the receipt of grants as set forth in this chapter. All such documents appropriately identified by the eligible firm shall be considered confidential and proprietary.

B. Upon receiving applications for grants from eligible firms, the Department shall determine the amount of the grants to be distributed to the eligible firms. The Department shall allocate moneys in the following order of priority: (i) first, to unpaid grant amounts carried forward from prior years because eligible firms did not receive the full amount of any grant to which they were eligible in a prior year; and (ii) then to other eligible applicants. If the moneys ~~in the Fund~~ are less than the amount of grants to which applicants in any class of priority are eligible, the moneys ~~in the Fund~~ shall be apportioned among eligible applicants in such class pro rata, based upon the amount of the grant to which an applicant is eligible and the amount of money ~~in the Fund~~ available for allocation to such class.

C. If an eligible firm is allocated less than the full amount of a grant to which it is entitled, the firm shall not be eligible for the deficiency in that year, but the unpaid portion of the grant to which the firm was eligible shall be carried forward by the Department to the following year, during which it shall be in the first class of priority as provided in clause (i) of subsection B.

D. The Director of the Department shall certify to the Comptroller the amount of a grant an eligible firm shall receive. Payments shall be made ~~from the Fund~~ by check issued by the State Treasurer on warrant of the Comptroller. The Comptroller shall not draw any warrants to issue checks for this program without a specific legislative appropriation ~~to the Fund~~ as specified in conditions and restrictions on expenditures in the appropriation act.

E. Actions of the Department relating to the allocation and awarding of grants shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 4 of § 2.2-4002.

2. That §§ 22.1-209.1:10, 23-38.53:9, 23-38.53:15, and 36-139.8, Chapter 22.2 (§§ 59.1-284.7 through 59.1-284.12) of Title 59.1, § 59.1-284.19, and Article 4 (§§ 60.2-318 through 60.2-322) of Chapter 3 of Title 60.2 of the Code of Virginia are repealed.

3. That notwithstanding the revisions made in the first enactment, § 22.1-199.3 of the Code of Virginia is repealed if no specific appropriation has been made to the Virginia Educational Excellence Incentive Reward Program for fiscal year 2004 or fiscal year 2005.

4. That notwithstanding the revisions made in the first enactment, § 22.1-208.2:1.1 of the Code of Virginia is repealed if no specific appropriation has been made to the Reading Incentive Grants Program for fiscal year 2004 or fiscal year 2005.

5. That notwithstanding the revisions made in the first enactment, § 22.1-209.1:7 of the Code of Virginia is repealed if no specific appropriation has been made to the Families in Education Incentive Grants Program for fiscal year 2004 or fiscal year 2005.

6. That notwithstanding the second enactment, § 22.1-209.1:9 of the Code of Virginia are repealed if no specific appropriation has been made to the Community-Based Intervention Program for Suspended and Expelled Students for fiscal year 2004 or fiscal year 2005.

7. That notwithstanding the revisions made in the first enactment, § 22.1-291.2 of the Code of Virginia is repealed if no specific appropriation has been made to the Artists in the Classroom Grants Program for fiscal year 2004 or fiscal year 2005.

8. That notwithstanding the revisions made in the first enactment, Article 3 (§§ 23-38.19:3, 23-38.19:4, and 23-38.19:5) of Chapter 4.1 of Title 23 of the Code of Virginia is repealed if no specific appropriation has been made to the Virginia Undergraduate Career and Technical Incentive Scholarship Program for fiscal year 2004 or fiscal year 2005.

9. That the amendments to § 2.2-2238 of the Code of Virginia of this act shall become effective if no specific appropriation has been made to the Virginia Undergraduate Career and Technical Incentive Scholarship Program for fiscal year 2004 or fiscal year 2005.

10. That notwithstanding the second enactment, §§ 23-38.53:8 and 23-38.53:10 of the Code of Virginia are repealed if no specific appropriation has made to the Virginia Higher Education

Incentive Program for fiscal year 2004 or fiscal year 2005.

11. That notwithstanding the first enactment clause, the amendments to subdivision 6 as provided by this act of § 22.1-343 of the Code of Virginia shall only become effective if no specific appropriation has been made to the Virginia Higher Education Incentive Program for fiscal year 2004 or fiscal year 2005.

12. That notwithstanding the revisions of the first enactment and the second enactment, Chapter 4.4:4 (§§ 23-38.53:12 through 23-38.53:20) of Title 23 of the Code of Virginia is repealed if no specific appropriation has been made to the Advantage Virginia Incentive Program for fiscal year 2004 or fiscal year 2005.

13. That notwithstanding the revisions of the first enactment and the second enactment, Chapter 22.4 (§§ 59.1-284.16 through 59.1-284.19) of Title 59.1 of the Code of Virginia is repealed if no specific appropriation has been made to the Information Technology Employment Performance Grant Program for fiscal year 2004 or fiscal year 2005.