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HOUSE BILL NO. 1191

Offered January 16, 2014

A *BILL to amend and reenact §§ 2.2-1611, 2.2-2233.1, 2.2-2320, 3.2-3106, 33.1-221, 33.1-221.1:1, 33.1-221.1:8, and 62.1-132.3:2 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-206.1, 2.2-2238.2, and 15.2-6011.1 and by adding in Chapter 49 of Title 59.1 a section numbered 59.1-550, relating to annual report; evaluation of the effectiveness of economic development incentive grants.*

Patrons—Massie, Ramadan, Campbell, Garrett and Toscano

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1611, 2.2-2233.1, 2.2-2320, 3.2-3106, 33.1-221, 33.1-221.1:1, 33.1-221.1:8, and 62.1-132.3:2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-206.1, 2.2-2238.2, and 15.2-6011.1 and by adding in Chapter 49 of Title 59.1 a section numbered 59.1-550 as follows:

§ 2.2-206.1. Economic incentive grant programs; responsibilities of the Secretary.

A. The Secretary shall report to the Chairs of the Senate Finance and the House Appropriations and Finance Committees by November 30 of each year on the effectiveness of economic development incentive grant programs administered by the Commonwealth in meeting performance goals and stimulating economic activity. The report shall include economic development incentive grant programs administered by the following entities relating to the specific programs and funds:

1. Virginia Economic Development Partnership: Advanced Shipbuilding Training Facility Grant Program, Aerospace Engine Manufacturing Performance Grant Program, Clean Energy Manufacturing Incentive Grant Program, Governor's Development Opportunity Fund, Investment Partnership Grant subfund, Major Eligible Employer Grant subfund, Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program, Specialized Biotechnology Research Performance Grant Program, and Economic Development Incentive Grant subfund;

2. Department of Small Business and Supplier Diversity: Virginia Jobs Investment Program;

3. Department of Housing and Community Development: Enterprise Zone Job Creation and Real Property Investment Grant Programs;

4. Tobacco Indemnification and Community Revitalization Commission: Tobacco Region Opportunity Fund;

5. Virginia Tourism Authority: Governor's Motion Picture Opportunity Fund;

6. Department of Rail and Public Transportation: Rail Industrial Access Grant;

7. Department of Transportation: Economic Development Access Program and Transportation Partnership Opportunity Fund;

8. Virginia Port Authority: Port of Virginia Economic and Infrastructure Development Zone Grant Program;

9. Innovation and Entrepreneurship Investment Authority: Commonwealth Research Commercialization Fund and Growth Acceleration Program; and

10. Virginia Coalfield Economic Development Authority: Coalfield Regional Opportunity Fund.

B. The report required by subsection A shall include for each of the previous three fiscal years for each program (i) a summary containing descriptive information, including the total number of grant awards approved, the total dollar amount approved, the average dollar amount approved per job expected when applicable, and the total dollar amount repaid when applicable; (ii) performance of projects completed or that have reached performance milestones on program-specific outcome measures, including the actual and expected number of jobs created, dollar amount of capital invested, average wages paid, proportion of expected jobs, capital invested, and average wages that was actually realized, and proportion of projects that met or exceeded the project-specific goals relevant to their program, such as job creation, capital investment, and average wages; (iii) performance on financial measures for projects completed or that have reached performance milestones, consisting of each program's actual return on investment compared with its predicted rate of return; (iv) estimated economic impact for projects completed or that have reached performance milestones, as measured by estimated state tax revenues generated directly and indirectly by the projects completed or that have reached performance milestones; and (v) a brief qualitative description of the program's performance and trends over the previous three fiscal years.

§ 2.2-1611. Virginia Jobs Investment Program; composition; general qualifications; report.

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59 A. As used in this article, unless the context requires a different meaning:

60 "Capital investment" means an investment in real property, personal property, or both, at a
61 manufacturing or basic nonmanufacturing facility within the Commonwealth that is or may be
62 capitalized by the company and that establishes or increases the productivity of the manufacturing
63 facility, results in the utilization of a more advanced technology than is in use immediately prior to such
64 investment, or both.

65 "Full-time employee" means a natural person employed for indefinite duration in a position requiring
66 a minimum of either (i) 35 hours of the employee's time per week for the entire normal year, which
67 "normal year" shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary
68 employees shall not qualify as new full-time employees under this article.

69 B. There is hereby created the Virginia Jobs Investment Program (the Program) to support private
70 sector job creation by encouraging the expansion of existing Virginia businesses and the start-up of new
71 business operations in Virginia. The Program shall support existing businesses and economic
72 development prospects by offering funding to offset recruiting and training and retraining costs incurred
73 by companies that are either creating new jobs or implementing technological upgrades and by providing
74 assistance with workforce-related challenges and organizational development workshops.

75 C. The Program shall consist of the following component programs:

- 76 1. The Virginia New Jobs Program;
- 77 2. The Workforce Retraining Program;
- 78 3. The Small Business New Jobs and Retraining Programs; and
- 79 4. The Small Business Jobs Grant Fund Program.

80 D. To be eligible for assistance under any of the component programs of the Program, a company
81 shall:

82 1. Create or sustain employment for the Commonwealth in a basic sector industry or function, which
83 would include businesses or functions that directly or indirectly derive more than 50 percent of their
84 revenues from out-of-state sources, as determined by the Department;

85 2. Pay a minimum entry-level wage rate per hour of at least 1.35 times the federal minimum wage.
86 In areas that have an unemployment rate of one and one-half times the statewide average unemployment
87 rate, the wage rate minimum may be waived by the Department. Only full-time positions that qualify for
88 benefits shall be eligible for assistance;

89 3. Submit copies of employer quarterly payroll reports provided by the company to the Virginia
90 Employment Commission to verify the employment status of each position that has been included in a
91 grant awarded under a component program; and

92 4. Meet such additional criteria as may be set forth by the Department.

93 E. There is hereby established in the state treasury a special nonreverting fund to be known as the
94 Virginia Jobs Investment Program Fund. The Fund shall consist of any moneys appropriated thereto by
95 the General Assembly from time to time and designated for the Fund. Any moneys deposited to or
96 remaining in the Fund during or at the end of each fiscal year or biennium, including interest thereon,
97 shall not revert to the general fund but shall remain in the Fund and be available for allocation under
98 this article in ensuing fiscal years. Moneys in the Fund shall be used solely for grants to eligible
99 businesses as provided in this article, except for assistance under the Small Business Jobs Grant Fund
100 Program. The total amount of funds provided to eligible businesses under this article for any year,
101 except for assistance under the Small Business Jobs Grant Fund Program, shall not exceed the amount
102 appropriated by the General Assembly to the Fund for such year plus any carryover from previous years.
103 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued
104 by the Comptroller upon written request signed by the Director or his designee. The Fund shall be
105 administered by the Director.

106 F. *The Department shall provide to the Virginia Economic Development Partnership Authority by*
107 *August 30 of each year the following information for each of the previous three fiscal years regarding*
108 *the component programs of the Program: (i) a summary containing descriptive information on the total*
109 *number of grant awards approved, the total dollar amount approved, and the average dollar amount*
110 *approved per job expected; (ii) performance of projects completed or that have reached performance*
111 *milestones on program-specific outcome measures, including the actual and expected number of jobs*
112 *created, average wages paid, and the proportion of projects that met or exceeded their project-specific*
113 *goals with respect to job creation, capital invested, and average wages; and (iii) any other related*
114 *information requested by the Virginia Economic Development Partnership Authority for purposes of*
115 *reporting on the effectiveness of all economic development incentive programs in meeting their*
116 *performance goals and stimulating economic activity.*

117 **§ 2.2-2233.1. Commonwealth Research Commercialization Fund; continued; purposes; report.**

118 A. For purposes of this section:

119 "Guidelines" means guidelines developed and published by the Authority regarding the administration
120 of the Commonwealth Research Commercialization Fund.

"Qualified research and technologies" means research programs or technologies identified in the Commonwealth Research and Technology Strategic Roadmap as areas of focus for technology investment in the Commonwealth, which may include but are not limited to the fields of energy, conservation, environment, microelectronics, robotics and unmanned vehicle systems, advanced shipbuilding, or lifespan biology and medicine.

"Qualifying institution" means a public or private institution of higher education in the Commonwealth or its associated intellectual property foundation that adopts a policy regarding the ownership, protection, assignment, and use of intellectual property pursuant to § 23-4.3.

"SBIR" means the Small Business Innovation Research Program authorized under 15 U.S.C. § 638.

"STTR" means the Small Business Technology Transfer Program authorized under 15 U.S.C. § 638.

B. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is created in the state treasury a special nonreverting, permanent fund, to be known as the Commonwealth Research Commercialization Fund (the Fund), to be administered by the Authority pursuant to the guidelines. 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 at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the chairman or the vice-chairman of the Authority, or, if so authorized by the Authority, bearing his facsimile signature, and the official seal of the Authority.

C. Awards from the Fund shall be made by the Authority, pursuant to the guidelines and upon the recommendation of the Research and Technology Investment Advisory Committee. Awards from the Fund shall only be made to applications that further the goals set forth in the Commonwealth Research and Technology Strategic Roadmap.

D. Awards from the Fund may be granted for the following programs:

1. For fiscal years beginning with a Fund balance of less than \$7 million, an SBIR matching funds program for Virginia-based technology businesses. Businesses meeting the following criteria shall be eligible to apply for an award:

a. The applicant has received a Phase I SBIR award from the National Institute of Health targeted at the development of qualified research or technologies;

b. The applicant employs fewer than 12 full-time employees;

c. At least 51 percent of the applicant's employees reside in Virginia; and

d. At least 51 percent of the applicant's property is located in Virginia.

Applicants shall be eligible for matching grants of up to \$50,000 of the Phase I award. All applicants shall be required to submit a commercialization plan with their application.

2. For fiscal years beginning with a Fund balance of \$7 million or greater, an SBIR and STTR matching funds program for Virginia-based technology businesses. Businesses meeting the following criteria shall be eligible to apply for an award:

a. The applicant has received an SBIR or STTR award targeted at the development of qualified research or technologies;

b. The applicant employs fewer than 12 full-time employees;

c. At least 51 percent of the applicant's employees reside in Virginia; and

d. At least 51 percent of the applicant's property is located in Virginia.

Applicants shall be eligible for matching grants of up to \$100,000 for Phase I awards and up to \$500,000 for Phase II awards. All applicants shall be required to submit a commercialization plan with their application.

3. A matching funds program to assist qualifying institutions and other research institutions in leveraging federal and private funds designated for the commercialization of qualified research or technologies. The chairman of the Authority is authorized to issue letters of financial commitment to assist applicants in leveraging federal and private funds.

4. A facilities enhancement loan program for qualifying institutions and political subdivisions to provide lease or credit guarantees to assist in financing facilities utilized for commercializing qualified research or technologies developed at qualifying institutions. The facilities enhancement loan program shall have the following parameters:

a. Qualifying institutions and political subdivisions may apply to the Fund for loans to the extent that such institution's or political subdivision's outstanding principal balance at any one time does not exceed \$500,000. Loan applications shall include business plans that detail and explain the anticipated uses of funds received and the proposed repayment schedule.

b. Loans from the Fund shall take the form of a contractual commitment to the recipient qualifying institution or political subdivision for a line of credit for up to five years, along with an approved

182 schedule of repayment. During the contractual period the recipient qualifying institution or political
183 subdivision may draw upon the line of credit for any expense for which the loan was made, not to
184 exceed the stated amount of the loan award. At the end of the contractual period, the line of credit shall
185 terminate and the outstanding balance of the withdrawals on that line of credit shall become the
186 established basis for that loan.

187 c. During the contractual period, deferred interest shall accumulate on the outstanding balance at a
188 rate of three percent compounded annually. Borrowing institutions or political subdivisions may prepay
189 part or all of any loan received from the Fund without penalty, and, if repayment is completed within
190 the contractual period of the line of credit, the accumulated interest obligation shall be forgiven.

191 d. Repayment of the established basis shall consist of a maximum of 84 equal monthly payments of
192 principal and compounded interest at the determined rate beginning on the first day of the month
193 following the end of the contractual period.

194 5. A commercialization program to incentivize the commercialization of a product or service related
195 to a qualifying technology. An eligible applicant shall have operations in the Commonwealth, and the
196 project proposed by the applicant shall:

197 a. Commercialize a product or service related to a qualifying technology;

198 b. Have a demonstrable economic development benefit to the Commonwealth;

199 c. Match the award, on at least a one-to-one basis, from other available funds, including funds from
200 an institution of higher education collaborating on the project; and

201 d. Have a reasonable probability of enhancing the Commonwealth's national and global
202 competitiveness.

203 Priority shall be given to those applications that propose projects that (i) are collaborative between
204 private and nonprofit entities, public or private agencies, and qualifying institutions or research
205 institutions; (ii) project a short time to commercialization, although transformative projects with a longer
206 projected time to commercialization shall not be discounted; (iii) have active third-party equity holders;
207 (iv) have technology and management in place that are likely to successfully bring the product or
208 service to the marketplace; or (v) are from applicants who have a history of successful projects funded
209 by the Fund.

210 6. An eminent researcher recruitment program to acquire and enhance research superiority at public
211 qualifying institutions. For purposes of applications pursuant to this subdivision, the applicant shall be a
212 state institution of higher education. In order to qualify for an award, the applicant shall:

213 a. Demonstrate that the researcher being recruited would create research superiority at the institution;

214 b. Demonstrate that the institution making the application has sufficient technology transfer processes
215 and other research capabilities in place to meet the needs of the researcher being recruited;

216 c. Involve a private sector partner with business operations in the Commonwealth;

217 d. Demonstrate that the research conducted by the researcher is in a qualifying technology; and

218 e. Match the award, on at least a one-to-one basis, with 50 percent of the match from the applicant
219 and 50 percent of the match from the private sector partner.

220 E. Any application for an award from the Fund shall include a strategic plan that, at a minimum,
221 identifies (i) how the proposed project fits into the Commonwealth Research and Technology Strategic
222 Roadmap, (ii) other funds that may be reasonably expected from other sources as a result of an award
223 from the Fund, (iii) the potential for commercialization of the research or technology underlying the
224 application, and (iv) opportunities for public and private collaboration.

225 F. No award shall be made from the Fund until a performance agreement or memorandum of
226 understanding is agreed to by the Authority and the recipient of the award memorializing the terms and
227 conditions of the award. Such agreement or memorandum of understanding shall set forth any conditions
228 for receipt of the award, any dates certain for the completion of certain acts by the recipient, and
229 provisions for the repayment of any award, including the rate of interest to be charged if any, if the
230 recipient does not meet the terms of the agreement. In the event that an award is to be made over a
231 multi-year period, the performance agreement or memorandum of understanding shall establish certain
232 benchmarks or performance standards against which to measure the interim success of the project before
233 additional funds are disbursed from the Fund.

234 G. The chairman of the Authority shall provide the Governor and the General Assembly with an
235 annual report to include a detailed list of awards and loans committed, the amount of each approved
236 award or loan, a description of the approved proposals, and the amount of federal or private matching
237 funds anticipated where applicable, a statement concerning how the approved proposals further the goals
238 of the Commonwealth Research and Technology Strategic Roadmap, and an assessment of the
239 effectiveness of the Fund.

240 H. The Authority shall provide to the Virginia Economic Development Partnership Authority by
241 August 30 of each year the following information for each of the previous three fiscal years regarding
242 grants issued pursuant to this section: (i) a summary containing descriptive information on the total
243 number of grant awards approved, the total dollar amount approved, and the average dollar amount

approved per job expected; (ii) performance of projects completed or that have reached performance milestones on program-specific outcome measures, including the actual and expected number of jobs created, average wages paid, and the proportion of projects that met or exceeded their project-specific goals with respect to job creation, capital invested, and average wages; and (iii) any other related information requested by the Virginia Economic Development Partnership Authority for purposes of reporting on the effectiveness of all economic development incentive programs in meeting their performance goals and stimulating economic activity.

I. Administrative expenses related to implementing the guidelines and review process may be reimbursed from the Fund.

§ 2.2-2238.2. Economic development incentive grants; annual report.

A. The Authority shall collect the information necessary to produce the annual report pursuant to § 2.2-206.1 on the effectiveness of the Advanced Shipbuilding Training Facility Grant Program, Aerospace Engine Manufacturing Performance Grant Program, Clean Energy Manufacturing Incentive Grant Program, Governor's Development Opportunity Fund, Investment Partnership Grant subfund Major Eligible Employer Grant subfund, Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program, Specialized Biotechnology Research Performance Grant Program, Economic Development Incentive Grant subfund, Virginia Jobs Investment Program, Enterprise Zone Job Creation and Real Property Investment Grant Programs, Tobacco Region Opportunity Fund, Governor's Motion Picture Opportunity Fund, Rail Industrial Access Program, Economic Development Access Program, Transportation Opportunity Fund, Port of Virginia Economic and Infrastructure Development Zone Grant Program, Commonwealth Research Commercialization Fund and Growth Acceleration Program, and Coalfield Regional Opportunity Fund.

B. The Authority shall obtain information for each program consisting of (i) a summary of descriptive information, including the total number of grant awards approved, the total dollar amount approved, the average dollar amount approved per job expected, and the total dollar amount repaid when applicable; (ii) performance of projects completed or that have reached performance milestones on program-specific outcome measures, including the actual and expected number of jobs created, dollar amount of capital invested, average wages paid, and the proportion of projects that met or exceeded their project-specific goals, including job creation, capital investment, and average wages. Each agency administering the program shall provide the Authority with all necessary information. The Authority shall (i) summarize the information collected from each agency; (ii) calculate the proportion of expected jobs, capital invested, and average wages that was actually realized as applicable for each program, (iii) determine the performance on financial measures for projects completed or that have reached performance milestones, consisting of each program's actual rate of return compared with its predicted rate of return; (iv) estimate the impact on the economy for projects completed or that have reached performance milestones, as measured by estimated state tax revenues generated directly and indirectly by the projects completed or that have reached performance milestones; and (v) provide a brief qualitative description of the program's performance and trends over the previous three fiscal years.

§ 2.2-2320. Governor's Motion Picture Opportunity Fund.

A. There is created a Governor's Motion Picture Opportunity Fund (the Fund) to be used, in the sole discretion of the Governor, to support the film and video industries in Virginia by providing the means for attracting production companies and producers who make their projects in the Commonwealth using Virginia employees, goods and services. The Fund shall consist of any moneys appropriated to it in the general appropriation act or revenue from any other source. The Fund shall be established on the books of the Comptroller and any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund.

B. The Fund shall be used by the Governor to assist production companies or producers that meet the eligibility requirements set forth in the guidelines. The Authority shall assist the Governor in the development of guidelines for the use of the Fund. The guidelines may require that as a condition of receiving any grant or loan incentive that is based on employment goals, a recipient company must provide copies of employer quarterly payroll reports provided to the Virginia Employment Commission to verify the employment status of any position included in the employment goal. The guidelines should include provisions for geographic diversity and a cap on the amount of money available for a certain project. The types of projects eligible for consideration will be feature films, children's programs, documentaries, television series or other television programs designed to fit a thirty-minute or longer format slot. Projects not eligible are industrial, corporate or commercial projects, education programs not intended for rebroadcast, adult films, music videos and news shows or reports.

C. The Authority shall provide to the Virginia Economic Development Partnership Authority by August 30 of each year the following information for each of the previous three fiscal years regarding grants and loans issued pursuant to this section: (i) a summary containing descriptive information on the total number of grant awards approved, the total dollar amount approved, and the average dollar

305 *amount approved per job expected; (ii) performance of projects completed or that have reached*
306 *performance milestones on program-specific outcome measures, including the actual and expected*
307 *number of jobs created, average wages paid, and the proportion of projects that met or exceeded their*
308 *project-specific goals with respect to job creation, capital invested, and average wages; and (iii) any*
309 *other related information requested by the Virginia Economic Development Partnership Authority for*
310 *purposes of reporting on the effectiveness of all economic development incentive grant programs in*
311 *meeting their performance goals and stimulating economic activity.*

312 **§ 3.2-3106. Tobacco Indemnification and Community Revitalization Fund; tax credits for**
313 **technology industries in tobacco-dependent localities; report.**

314 A. Money received by the Commonwealth pursuant to the Master Settlement Agreement shall be
315 deposited into the state treasury subject to the special nonreverting funds established by subsection B
316 and by §§ 3.2-3104 and 32.1-360.

317 B. There is created in the state treasury a special nonreverting fund to be known as the Tobacco
318 Indemnification and Community Revitalization Fund. The Fund shall be established on the books of the
319 Comptroller. Subject to the sale of all or any portion of the Commission Allocation, 50 percent of the
320 annual amount received by the Commonwealth from the Master Settlement Agreement shall be paid into
321 the state treasury and credited to the Fund. In the event of such sale: (i) the Commission Allocation
322 shall be paid in accordance with the agreement for the period of sale; and (ii) the Fund shall receive the
323 amounts withdrawn from the Endowment in accordance with § 3.2-3104. Interest earned on moneys in
324 the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including
325 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the
326 Fund. Moneys in the Fund shall be used solely for the purposes described in this chapter. Starting with
327 the fiscal year beginning July 1, 2000, through December 31, 2009, the Commission may deposit
328 moneys from the Fund into the Technology Initiative in Tobacco-Dependent Localities Fund, established
329 under § 58.1-439.15, for purposes of funding the tax credits provided in §§ 58.1-439.13 and 58.1-439.14
330 and the grants provided in § 58.1-439.17. Expenditures and disbursements from the Fund shall be made
331 by the State Treasurer on warrants issued by the Comptroller upon written authorization signed by the
332 chairman of the Commission or his designee. The Fund shall also consist of other moneys received by
333 the Commission, from any source, for the purpose of implementing the provisions of this chapter.

334 C. The obligations of the Commission shall not be a debt or grant or loan of credit of the
335 Commonwealth, and the Commonwealth shall not be liable thereon, nor shall such obligations be
336 payable out of any funds other than those credited to the Fund.

337 D. *The Commission shall provide to the Virginia Economic Development Partnership Authority by*
338 *August 30 of each year the following information for each of the previous three fiscal years regarding*
339 *grants issued pursuant to this section: (i) a summary containing descriptive information on the total*
340 *number of grant awards approved, the total dollar amount approved, and the average dollar amount*
341 *approved per job expected; (ii) performance of projects completed or that have reached performance*
342 *milestones on program-specific outcome measures, including the actual and expected number of jobs*
343 *created, average wages paid, and the proportion of projects that met or exceeded their project-specific*
344 *goals with respect to job creation, capital invested, and average wages; and (iii) any other related*
345 *information requested by the Virginia Economic Development Partnership Authority for purposes of*
346 *reporting on the effectiveness of all economic development incentive programs in meeting their*
347 *performance goals and stimulating economic activity.*

348 **§ 15.2-6011.1. Additional reporting requirement.**

349 *The Authority shall provide to the Virginia Economic Development Partnership Authority by August*
350 *30 of each year the following information for each of the previous three fiscal years regarding grants*
351 *issued pursuant to § 15.2-6011: (i) a summary containing descriptive information on the total number of*
352 *grant awards approved, the total dollar amount approved, and the average dollar amount approved per*
353 *job expected; (ii) performance of projects completed or that have reached performance milestones on*
354 *program-specific outcome measures, including the actual and expected number of jobs created, average*
355 *wages paid, and the proportion of projects that met or exceeded their project-specific goals with respect*
356 *to job creation, capital invested, and average wages; and (iii) any other related information requested*
357 *by the Virginia Economic Development Partnership Authority for purposes of reporting on the*
358 *effectiveness of all economic development incentive grant programs in meeting their performance goals*
359 *and stimulating economic activity.*

360 **§ 33.1-221. Funds for access roads to economic development sites and airports; construction,**
361 **maintenance, etc., of such roads.**

362 A. Notwithstanding any other provision of law, there shall be appropriated to the Commonwealth
363 Transportation Board funds derived from taxes on motor fuels, fees and charges on motor vehicle
364 registrations, road taxes or any other state revenue allocated for highway purposes, which shall be used
365 by the Board for the purposes hereinafter specified, after deducting the costs of administration before
366 any of such funds are distributed and allocated for any road or street purposes.

Such funds shall be expended by the Board for constructing, reconstructing, maintaining or improving access roads within counties, cities and towns to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed and to licensed, public-use airports; in the event there is no such establishment or airport already constructed or for which the construction is under firm contract, a county, city, or town may guarantee to the Board by bond or other acceptable device that such will occur and, should no establishment or airport acceptable to the Board be constructed or under firm contract within the time limits of the bond, such bond shall be forfeited. The time limits of the bond shall be based on regular review and consideration by the Board. Towns which receive highway maintenance payments under § 33.1-41.1 shall be considered separately from the counties in which they are located when receiving allocations of funds for access roads.

B. In deciding whether or not to construct or improve any such access road, and in determining the nature of the road to be constructed, the Board shall base its considerations on the cost thereof in relation to the volume and nature of the traffic to be generated as a result of developing the airport or the economic development site. Within any economic development site or airport, the total volume of traffic to be generated shall be taken into consideration in regard to the overall cost thereof. No such access road shall be constructed or improved on a privately owned economic development site.

C. Any access road constructed or improved under this section shall constitute a part of the secondary system of state highways or the road system of the locality in which it is located and shall thereafter be constructed, reconstructed, maintained and improved as other roads in such system.

D. The Board shall provide to the Virginia Economic Development Partnership Authority by August 30 of each year the following information for each of the previous three fiscal years regarding grants issued pursuant to this section: (i) a summary containing descriptive information on the total number of grant awards approved, the total dollar amount approved, and the average dollar amount approved per job expected; (ii) performance of projects completed or that have reached performance milestones on program-specific outcome measures, including the actual and expected number of jobs created, average wages paid, and the proportion of projects that met or exceeded their project-specific goals with respect to job creation, capital invested, and average wages; and (iii) any other related information requested by the Virginia Economic Development Partnership Authority for purposes of reporting on the effectiveness of all economic development incentive grant programs in meeting their performance goals and stimulating economic activity.

§ 33.1-221.1:1. Fund for construction of industrial access railroad tracks.

A. The General Assembly declares it to be in the public interest that access railroad tracks and facilities be constructed to certain industrial commercial sites where rail freight service is or may be needed by new or substantially expanded industry and that financial assistance be provided to areas seeking to furnish rail freight trackage between the normal limits of existing or proposed common carrier railroad tracks and facilities and the actual site of existing or proposed commercial or industrial buildings or facilities. This section is enacted in furtherance of these purposes and is intended to be comparable to the fund for access roads to economic development sites, established pursuant to § 33.1-221.

B. The funding for this program shall be set forth in the Appropriations Act.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, such funds for constructing, reconstructing, or improving industrial access railroad tracks and related facilities. The Director of the Department of Rail and Public Transportation may consult with the Commissioner of Agriculture and Consumer Services and the Chief Executive Officer of the Virginia Economic Development Partnership, or their designated representatives, concerning applications for funds. Funds shall be spent directly by the Director of the Department of Rail and Public Transportation or by reimbursement of the local entities, private or public.

D. Funds may be used to construct, reconstruct, or improve part or all of the necessary tracks and related facilities on public or private property currently used or being developed, existent or prospective, for single industries or industrial subdivisions under firm contract or already constructed, including those subdivisions owned or promoted by railroad companies and others. Applications for funds must be approved by the local governing body.

E. In deciding whether to construct any such access track, the Commonwealth Transportation Board shall consider the cost thereof in relation to prospective volume of rail traffic, capital investment, potential employment, and other economic and public benefits. The Commonwealth Transportation Board shall adopt procedures to encourage widespread use of the funds, shall limit allocation of funds so

428 that no county, city or town receives more than 50 percent of the funds in any one fiscal year unless
429 there are not sufficient applications prior to May 1 of each year to use the available funds, and shall
430 consider the practices of the Department of Transportation in distributing funds for access roads to
431 economic development sites under § 33.1-221.

432 F. Tracks and facilities constructed with such funds shall be the property of the Commonwealth for
433 the useful life of the project as determined by the Director of the Department of Rail and Public
434 Transportation and shall be made available for use by all common carriers using the railway system to
435 which they connect. The landowners or using businesses shall, prior to the commitment of funds by the
436 Director of the Department of Rail and Public Transportation, be contractually committed to the
437 perpetual maintenance of such tracks and facilities so constructed and to the payment of any costs
438 related to the future relocation or removal of such tracks and facilities.

439 G. *The Director of the Department of Rail and Public Transportation shall provide to the Virginia*
440 *Economic Development Partnership Authority by August 30 of each year the following information for*
441 *each of the previous three fiscal years regarding grants that have been issued pursuant to this section:*
442 *(i) a summary containing descriptive information on the total number of grant awards approved, the*
443 *total dollar amount approved, and the average dollar amount approved per job expected; (ii)*
444 *performance of projects completed or that have reached performance milestones on program-specific*
445 *outcome measures, including the actual and expected number of jobs created, average wages paid, and*
446 *the proportion of projects that met or exceeded their project-specific goals with respect to job creation,*
447 *capital invested, and average wages; and (iii) any other related information requested by the Virginia*
448 *Economic Development Partnership Authority for purposes of reporting on the effectiveness of all*
449 *economic development incentive grant programs in meeting their performance goals and stimulating*
450 *economic activity.*

451 **§ 33.1-221.1:8. Transportation Partnership Opportunity Fund.**

452 A. There is created the Transportation Partnership Opportunity Fund (the Fund) to be used by the
453 Governor to encourage the development of transportation projects through design-build pursuant to
454 subdivision (2)(b) of § 33.1-12, the Public-Private Transportation Act (§ 56-556 et seq.) and to provide
455 funds to address the transportation aspects of economic development opportunities. The Fund shall
456 consist of any funds appropriated to it by the general appropriation act and revenue from any other
457 source, public or private. The Fund shall be established on the books of the Comptroller, and any funds
458 remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in
459 the Fund. All interest and dividends that are earned on the Fund shall be credited to the Fund. The
460 Governor shall report to the chairmen of the House Committees on Appropriations, Finance, and
461 Transportation and the Senate Committees on Finance and Transportation as funds are awarded in
462 accordance with this section.

463 B. The Fund shall be a component of the Commonwealth Transportation Fund but not a component
464 or subcomponent of the Transportation Trust Fund or the Highway Maintenance and Operating Fund.
465 Provisions of this title and Title 58.1 relating to the allocations or disbursements of proceeds of the
466 Commonwealth Transportation Fund, the Transportation Trust Fund, or the Highway Maintenance and
467 Operating Fund shall not apply to the Fund.

468 C. Funds shall be awarded from the Fund by the Governor as grants, revolving loans, or other
469 financing tools and equity contributions to (i) an agency or political subdivision of the Commonwealth
470 or (ii) a private entity or operator which has submitted a proposal or signed a comprehensive agreement
471 to develop a transportation facility pursuant to § 56-556 et seq. Loans shall be approved by the
472 Governor and made in accordance with procedures established by the Commonwealth Transportation
473 Board and approved by the Comptroller. Loans shall be interest-free and shall be repaid to the Fund.
474 The Governor may establish the duration of any loan, but such term shall not exceed seven years. The
475 Virginia Department of Transportation shall be responsible for monitoring repayment of such loans and
476 reporting the receivables to the Comptroller as required.

477 D. Grants or revolving loans may be used for transportation capacity development on and off site;
478 road, rail, mass transit, or other transportation access costs beyond the funding capability of existing
479 programs; studies of transportation projects including but not limited to environmental analysis,
480 geotechnical assessment, survey, design and engineering, advance right-of-way acquisition, traffic
481 analysis, toll sensitivity studies, financial analysis, or anything else permitted by law. Funds may be
482 used for any transportation project or any transportation facility. Any transportation infrastructure
483 completed with moneys from the Fund shall not become private property, and the results of any studies
484 or analysis completed as a result of a grant or loan from the Fund shall be property of the
485 Commonwealth.

486 E. The Commonwealth Transportation Board, in consultation with the Secretary of Transportation
487 and the Secretary of Commerce and Trade, shall develop guidelines and criteria that shall be used in
488 awarding grants or making loans from the Fund; however, no grant shall exceed \$5 million and no loan
489 shall exceed \$30 million. No grant or loan shall be awarded until the Governor has provided copies of

the guidelines and criteria to the chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Transportation. The guidelines and criteria shall include provisions including, but not limited to, the number of jobs and amounts of investment that must be committed in the event moneys are being used for an economic development project, a statement of how the studies and analysis to be completed using moneys from the Fund will advance the development of a transportation facility, a process for the application for and review of grant and loan requests, a timeframe for completion of any work, the comparative benefit resulting from the development of a transportation project, assessment of the ability of the recipient to repay any loan funds, and other criteria as necessary to support the timely development of transportation projects. The criteria shall also include incentives to encourage matching funds from any other local, federal, or private source.

F. Within 30 days of each six-month period ending June 30 and December 31, the Governor shall provide a report to the chairmen of the House Committees on Appropriations, Finance and Transportation and the Senate Committees on Finance and Transportation which shall include, but is not limited to, the following information: the location (county, city, or town) of the project; the amount of the grant or loan made or committed from the Fund and the purpose for which it will be used; the number of jobs created or projected to be created and the amount of a company's investment in the Commonwealth if the project is part of an economic development opportunity.

G. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the total value of the moneys contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds set aside and reserved shall remain in the Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

H. The Board shall provide to the Virginia Economic Development Partnership Authority by August 30 of each year the following information for each of the previous three fiscal years regarding grants issued pursuant to this section: (i) a summary containing descriptive information on the total number of grant awards approved, the total dollar amount approved, and the average dollar amount approved per job expected; (ii) performance of projects completed or that have reached performance milestones on program-specific outcome measures, including the actual and expected number of jobs created, average wages paid, and the proportion of projects that met or exceeded their project-specific goals with respect to job creation, capital invested, and average wages; and (iii) any other related information requested by the Virginia Economic Development Partnership Authority for purposes of reporting on the effectiveness of all economic development incentive grant programs in meeting their performance goals and stimulating economic activity.

§ 59.1-550. Additional reporting requirement.

The Department shall provide to the Virginia Economic Development Partnership Authority by August 30 of each year the following information for each of the previous three fiscal years regarding grants issued pursuant to this chapter: (i) a summary containing descriptive information on the total number of grant awards approved, the total dollar amount approved, and the average dollar amount approved per job; (ii) performance of projects completed or that have reached performance milestones on program-specific outcome measures, including the actual and expected number of jobs created, average wages paid, and the proportion of projects that met or exceeded their project-specific goals with respect to job creation, capital invested, and average wages; and (iii) any other related information requested by the Virginia Economic Development Partnership Authority for purposes of reporting on the effectiveness of all economic development incentive grant programs in meeting their performance goals and stimulating economic activity.

§ 62.1-132.3:2. Grants to companies locating or expanding in the Port of Virginia Economic and Infrastructure Development Zone; grant fund established.

A. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, and any funds transferred at the request of the Executive Director from the Port Opportunity Fund created pursuant to § 62.1-132.3:1, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Port of Virginia Economic and Infrastructure Development Zone Grant Fund (the Fund), to be administered by the Virginia Port Authority. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director. Moneys in the Fund shall be used solely for the purpose of grants to qualified applicants to the Port of Virginia Economic and Infrastructure Development Zone Grant Program.

551 B. The Virginia General Assembly does hereby designate the following localities to be part of the
552 Port of Virginia Economic and Infrastructure Development Zone: the Counties of Brunswick,
553 Chesterfield, Charles City, Clarke, Dinwiddie, Frederick, Gloucester, Greensville, Henrico, Hanover, Isle
554 of Wight, James City, Mecklenburg, Montgomery, New Kent, Page, Prince George, Shenandoah,
555 Southampton, Surry, Sussex, Warren, and York; and the Cities of Chesapeake, Colonial Heights,
556 Emporia, Franklin, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth,
557 Richmond, Suffolk, Virginia Beach, Williamsburg, and Winchester.

558 C. As used in this section, unless the context requires a different meaning:

559 "New, permanent full-time position" means a job of an indefinite duration, created by a qualified
560 company as a result of operations within the Zone, requiring a minimum of 35 hours of an employee's
561 time per week for the entire normal year of the company's operations, which normal year shall consist
562 of at least 48 weeks, or a position of indefinite duration that requires a minimum of 35 hours of an
563 employee's time per week for the portion of the taxable year in which the employee was initially hired
564 for the qualified company's location within the Zone. Seasonal or temporary positions, or jobs created
565 when a position is shifted from an existing location in the Commonwealth to the qualified company's
566 location within the Zone, and positions in building and grounds maintenance, security, and other
567 positions that are ancillary to the principal activities performed by the employees at the qualified
568 company's location within the Zone shall not qualify as new, permanent full-time positions.

569 "Qualified company" means a corporation, limited liability company, partnership, joint, venture, or
570 other business entity that (i) locates or expands a facility within the Zone; (ii) creates at least 25 new,
571 permanent full-time positions for qualified full-time employees at a facility within the Zone during its
572 first year of operation within the Zone or during the year when the expansion occurs; (iii) is involved in
573 maritime commerce or exports or imports manufactured goods through the Port of Virginia; and (iv) is
574 engaged in one or more of the following: the distribution, freight forwarding, freight handling, goods
575 processing, manufacturing, warehousing, crossdocking, transloading, or wholesaling of goods exported
576 and imported through the Port of Virginia; ship building and ship repair; dredging; marine construction;
577 or offshore energy exploration or extraction.

578 "Qualified full-time employee" means an employee filling a new, permanent full-time position in the
579 qualified company's location within the Zone. A "qualified full-time employee" does not include an
580 employee (i) for whom a tax credit was previously earned pursuant to § 58.1-439 or 58.1-439.12:06 by a
581 related party as defined in § 267(b) of the Internal Revenue Code or by a trade or business under
582 common control as defined in § 52(b) of the Internal Revenue Code; (ii) who was previously employed
583 in the same job function at an existing location in Virginia by a related party as defined in § 267(b) of
584 the Internal Revenue Code; or (iii) whose job function was previously performed at a different location
585 in Virginia by an employee of a related party as defined in § 267(b) of the Internal Revenue Code or a
586 trade or business under common control as defined in § 52(b) of the Internal Revenue Code.

587 "Zone" means the Port of Virginia Economic and Infrastructure Development Zone.

588 D. Beginning January 1, 2013, but not later than June 30, 2020, and subject to appropriation, any
589 qualified company that locates or expands a facility within the Port of Virginia Economic and
590 Infrastructure Development Zone shall be eligible to apply for a one-time grant from the Fund, in an
591 amount determined as follows:

592 1. One thousand dollars per new, permanent full-time position if the qualified company creates at
593 least 25 new, permanent full-time positions for qualified full-time employees during its first year of
594 operation within the Zone or during the year in which the expansion occurs;

595 2. Fifteen hundred dollars per new, permanent full-time position if the qualified company creates at
596 least 50 new, permanent full-time positions for qualified full-time employees during its first year of
597 operation within the Zone or during the year in which the expansion occurs;

598 3. Two thousand dollars per new, permanent full-time position if the qualified company creates at
599 least 75 new, permanent full-time positions for qualified full-time employees during its first year of
600 operation within the Zone or during the year in which the expansion occurs; and

601 4. Three thousand dollars per new, permanent full-time position if the qualified company creates at
602 least 100 new, permanent full-time positions for qualified full-time employees during its first year of
603 operation within the Zone or during the year in which the expansion occurs.

604 E. The maximum amount of grant allowable per qualified company in any given fiscal year is
605 \$500,000. The maximum amount of grants allowable among all qualified companies in any given fiscal
606 year is \$5,000,000.

607 F. To qualify for a grant pursuant to this section, a qualified company must apply for the grant not
608 later than March 31 in the year immediately following the location or expansion of a facility within the
609 Zone pursuant to an application process developed by the Virginia Port Authority. Within 90 days after
610 the filing deadline, the Executive Director shall certify to the Comptroller and the qualified company the
611 amount of grant to which the qualified company is entitled under this section. Payment of each grant
612 shall be made by check issued by the Treasurer of Virginia on warrant of the Comptroller within 60

613 days of such certification and in the order that each completed eligible application is received. In the
614 event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the
615 Fund or \$5,000,000, such grants shall be paid in the next fiscal year in which funds are available.

616 G. Prior to receipt of a grant, the qualified company shall enter into a memorandum of understanding
617 with the Virginia Port Authority establishing the requirements for maintaining the number of new,
618 permanent full-time positions for qualified employees at the qualified company's location within the
619 Zone. If the number of new, permanent full-time positions for any of the three years immediately
620 following receipt of a grant falls below the number of new, permanent full-time positions created during
621 the year for which the grant is claimed, the amount of the grant must be recalculated using the
622 decreased number of new, permanent full-time positions and the qualified company shall repay the
623 difference.

624 H. No qualified company shall apply for a grant nor shall one be awarded under this section to an
625 otherwise qualified company if (i) a credit pursuant to § 58.1-439 or 58.1-439.12:06 is claimed for the
626 same employees or for capital expenditures at the same facility by the qualified company, by a related
627 party as defined in § 267(b) of the Internal Revenue Code, or by a trade or business under common
628 control as defined in § 52(b) of the Internal Revenue Code or (ii) the qualified company was a party to
629 a reorganization as defined in § 368(b) of the Internal Revenue Code, and any corporation involved in
630 the reorganization as defined in § 368(a) of the Internal Revenue Code previously received a grant under
631 this section for the same facility or operations.

632 I. The Virginia Port Authority, with the assistance of the Virginia Economic Development
633 Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the
634 grant, including the affirmative determination that each applicant is a qualified company, as defined
635 above, engaged in a port-related business. The guidelines shall be exempt from the Administrative
636 Process Act (§ 2.2-4000 et seq.).

637 J. *The Authority shall provide to the Virginia Economic Development Partnership Authority by*
638 *August 30 of each year the following information for each of the previous three fiscal years regarding*
639 *grants issued pursuant to this section: (i) a summary containing descriptive information on the total*
640 *number of grant awards approved, the total dollar amount approved, and the average dollar amount*
641 *approved per job expected; (ii) performance of projects completed or that have reached performance*
642 *milestones on program-specific outcome measures, including the actual and expected number of jobs*
643 *created, average wages paid, and the proportion of projects that met or exceeded their project-specific*
644 *goals with respect to job creation, capital invested, and average wages; and (iii) any other related*
645 *information requested by the Virginia Economic Development Partnership Authority for purposes of*
646 *reporting on the effectiveness of all economic development incentive grant programs in meeting their*
647 *performance goals and stimulating economic activity.*