

**VIRGINIA ACTS OF ASSEMBLY — CHAPTER**

*An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.4, consisting of sections numbered 59.1-284.16 through 59.1-284.19, relating to the Information Technology Employment Performance Grant Program; Information Technology Employment Performance Grant Fund.*

[S 1188]

Approved

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.4, consisting of sections numbered 59.1-284.16 through 59.1-284.19, as follows:**

**CHAPTER 22.4.**

**INFORMATION TECHNOLOGY EMPLOYMENT PERFORMANCE GRANT PROGRAM.**

§ 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 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 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 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 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 individuals in permanent full-time positions within an eligible region for a period of thirty-six 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-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 months following the date the applicant firm became eligible for a grant. An application for a grant shall include a description of

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57 the applicant's business, evidence of the number of permanent full-time employees, the duration of their  
 58 employment, and other relevant information as the Department may reasonably require. As a condition  
 59 of receipt of a grant, an eligible firm shall make available to the Department for inspection upon its  
 60 request all relevant and applicable documents to determine whether the conduct of its business meets the  
 61 requirements for the receipt of grants as set forth in this chapter. All such documents appropriately  
 62 identified by the eligible firm shall be considered confidential and proprietary.

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

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

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

80 E. Actions of the Department relating to the allocation and awarding of grants shall be exempt from  
 81 the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) pursuant to subdivision B 4 of  
 82 § 9-6.14:4.1.

83 § 59.1-284.19. Information Technology Employment Performance Grant Fund; grant allocations.

84 There is hereby established a special fund in the state treasury to be known as the Information  
 85 Technology Employment Performance Grant Fund, which shall be administered by the Department. The  
 86 Fund shall include such moneys as may be appropriated by the General Assembly from time to time and  
 87 designated for the Fund. The Fund shall also consist of such other sums as may be made available to it  
 88 from any other source, public or private, and all interest and income from investment of the Fund. Any  
 89 sums remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to  
 90 the general fund but shall remain in the Fund. All moneys designated for the Fund shall be paid into  
 91 the state treasury and credited to the Fund. The Fund shall be used solely for the payment of  
 92 information technology employment performance grants to eligible firms pursuant to this chapter.