

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 2.2-115, 2.2-903.1, 2.2-2319, 2.2-2320, 2.2-5103, 3.2-305, and*
3 *3.2-3108 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of*
4 *Chapter 6 of Title 2.2 a section numbered 2.2-621, relating to the job investment and incentive grant*
5 *programs; information to verify employment status.*

6 [S 1320]
7 Approved

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

9 **1. That §§ 2.2-115, 2.2-903.1, 2.2-2319, 2.2-2320, 2.2-5103, 3.2-305, and 3.2-3108 of the Code of**
10 **Virginia are amended and reenacted and that the Code of Virginia is amended by adding in**
11 **Article 2 of Chapter 6 of Title 2.2 a section numbered 2.2-621 as follows:**

12 **§ 2.2-115. Governor's Development Opportunity Fund.**

13 A. As used in this section, unless the context requires otherwise:

14 "New job" means employment of an indefinite duration, created as the direct result of the private
15 investment, for which the firm pays the wages and standard fringe benefits for its employee, requiring a
16 minimum of either (i) 35 hours of the employee's time a week for the entire normal year of the firm's
17 operations, which "normal year" must consist of at least 48 weeks or (ii) 1,680 hours per year.

18 Seasonal or temporary positions, positions created when a job function is shifted from an existing
19 location in the Commonwealth to the location of the economic development project, positions with
20 suppliers, and multiplier or spin-off jobs shall not qualify as new jobs. The term "new job" shall include
21 positions with contractors provided that all requirements included within the definition of the term are
22 met.

23 "Prevailing average wage" means that amount determined by the Virginia Employment Commission
24 to be the average wage paid workers in the city or county of the Commonwealth where the economic
25 development project is located. The prevailing average wage shall be determined without regard to any
26 fringe benefits.

27 "Private investment" means the private investment required under this section.

28 B. There is created the Governor's Development Opportunity Fund (the Fund) to be used by the
29 Governor to attract economic development prospects and secure the expansion of existing industry in the
30 Commonwealth. The Fund shall consist of any funds appropriated to it by the general appropriation act
31 and revenue from any other source, public or private. The Fund shall be established on the books of the
32 Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the
33 general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund.
34 The Governor shall report to the Chairmen of the House Committees on Appropriations and Finance and
35 the Senate Committee on Finance as funds are awarded in accordance with this section.

36 C. Funds shall be awarded from the Fund by the Governor as grants or loans to political
37 subdivisions. The criteria for making such grants or loans shall include (i) job creation, (ii) private
38 capital investment, and (iii) anticipated additional state tax revenue expected to accrue to the state and
39 affected localities as a result of the capital investment and jobs created. Loans shall be approved by the
40 Governor and made in accordance with guidelines established by the Virginia Economic Development
41 Partnership and approved by the Comptroller. Loans shall be interest-free unless otherwise determined
42 by the Governor and shall be repaid to the Fund. The Governor may establish the interest rate to be
43 charged; otherwise, any interest charged shall be at market rates as determined by the State Treasurer
44 and shall be indicative of the duration of the loan. The Virginia Economic Development Partnership
45 shall be responsible for monitoring repayment of such loans and reporting the receivables to the
46 Comptroller as required.

47 Beginning with the five fiscal years from fiscal year 2006-2007 through fiscal year 2010-2011, and
48 for every five fiscal years' period thereafter, in general, no less than one-third of the moneys
49 appropriated to the Fund in every such five-year period shall be awarded to counties and cities having
50 an annual average unemployment rate that is greater than the final statewide average unemployment rate
51 for the calendar year that immediately precedes the calendar year of the award. However, if such
52 one-third requirement will not be met because economic development prospects in such counties and
53 cities are unable to fulfill the applicable minimum private investment and new jobs requirements set
54 forth in this section, then any funds remaining in the Fund at the end of the five-year period that would
55 have otherwise been awarded to such counties and cities shall be made available for awards in the next
56 five fiscal years' period.

57 D. Funds may be used for public and private utility extension or capacity development on and off
58 site; public and private installation, extension, or capacity development of high-speed or broadband
59 Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding
60 capability of existing programs; site acquisition; grading, drainage, paving, and any other activity
61 required to prepare a site for construction; construction or build-out of publicly or privately owned
62 buildings; training; or grants or loans to an industrial development authority, housing and redevelopment
63 authority, or other political subdivision for purposes directly relating to any of the foregoing. However,
64 in no case shall funds from the Fund be used, directly or indirectly, to pay or guarantee the payment for
65 any rental, lease, license, or other contractual right to the use of any property.

66 It shall be the policy of the Commonwealth that moneys in the Fund shall not be used for any
67 economic development project in which a business relocates or expands its operations in one or more
68 Virginia localities and simultaneously closes its operations or substantially reduces the number of its
69 employees in another Virginia locality. The Secretary of Commerce and Trade shall enforce this policy
70 and for any exception thereto shall promptly provide written notice to the Chairmen of the Senate
71 Finance and House Appropriations Committees, which notice shall include a justification for any
72 exception to such policy.

73 E. 1. a. Except as provided in this subdivision, no grant or loan shall be awarded from the Fund
74 unless the project involves a minimum private investment of \$5 million and creates at least 50 new jobs
75 for which the average wage, excluding fringe benefits, is no less than the prevailing average wage. For
76 projects, including but not limited to projects involving emerging technologies, for which the average
77 wage of the new jobs created, excluding fringe benefits, is at least twice the prevailing average wage for
78 that locality or region, the Governor shall have the discretion to require no less than one-half the
79 number of new jobs as set forth for that locality in this subdivision.

80 b. Notwithstanding the provisions of subdivision a, a grant or loan may be awarded from the Fund if
81 the project involves a minimum private investment of \$100 million and creates at least 25 new jobs for
82 which the average wage, excluding fringe benefits, is no less than the prevailing average wage.

83 2. Notwithstanding the provisions of subdivision 1 a, in localities (i) with an annual unemployment
84 rate for the most recent calendar year for which such data is available that is greater than the final
85 statewide average unemployment rate for that calendar year or (ii) with a poverty rate for the most
86 recent calendar year for which such data is available that exceeds the statewide average poverty rate for
87 that year, a grant or loan may be awarded from the Fund pursuant to subdivision 1 a if the project
88 involves a minimum private investment of \$2.5 million and creates at least 25 new jobs for which the
89 average wage, excluding fringe benefits, is no less than 85 percent of the prevailing average wage.

90 3. Notwithstanding the provisions of subdivisions 1 a and 2, in localities (i) with an annual
91 unemployment rate for the most recent calendar year for which such data is available that is greater than
92 the final statewide average unemployment rate for that calendar year and (ii) with a poverty rate for the
93 most recent calendar year for which such data is available that exceeds the statewide average poverty
94 rate for that year, a grant or loan may be awarded from the Fund pursuant to such subdivisions if the
95 project involves a minimum private investment of \$1.5 million and creates at least 15 new jobs for
96 which the average wage, excluding fringe benefits, is no less than 85 percent of the prevailing average
97 wage.

98 4. For projects that are eligible under subdivision 2 or 3, the average wage of the new jobs,
99 excluding fringe benefits, shall be no less than 85 percent of the prevailing average wage. In addition,
100 for projects in such localities, the Governor may award a grant or loan for a project paying less than 85
101 percent of the prevailing average wage but still providing customary employee benefits, only after the
102 Secretary of Commerce and Trade has made a written finding that the economic circumstances in the
103 area are sufficiently distressed (i.e., high unemployment or underemployment and negative economic
104 forecasts) that assistance to the locality to attract the project is nonetheless justified. However, the
105 minimum private investment and number of new jobs required to be created as set forth in this
106 subsection shall still be a condition of eligibility for an award from the Fund. Such written finding shall
107 promptly be provided to the chairs of the Senate Committee on Finance and the House Committee on
108 Appropriations.

109 F. 1. The Virginia Economic Development Partnership shall assist the Governor in developing
110 objective guidelines and criteria that shall be used in awarding grants or making loans from the Fund.
111 *The guidelines may require that as a condition of receiving any grant or loan incentive that is based on*
112 *employment goals, a recipient company must provide copies of employer quarterly payroll reports that*
113 *have been provided to the Virginia Employment Commission to verify the employment status of any*
114 *position included in the employment goal.* The guidelines may include a requirement for the affected
115 locality or localities to provide matching funds which may be cash or in-kind, at the discretion of the
116 Governor. The guidelines and criteria shall include provisions for geographic diversity and a cap on the
117 amount of funds to be provided to any individual project. At the discretion of the Governor, this cap

118 may be waived for qualifying projects of regional or statewide interest. In developing the guidelines and
119 criteria, the Virginia Economic Development Partnership shall use the measure for Fiscal Stress
120 published by the Commission on Local Government of the Department of Housing and Community
121 Development for the locality in which the project is located or will be located as one method of
122 determining the amount of assistance a locality shall receive from the Fund.

123 2. a. Notwithstanding any provision in this section or in the guidelines, each political subdivision that
124 receives a grant or loan from the Fund shall enter into a contract with each business beneficiary of
125 funds from the Fund. A person or entity shall be a business beneficiary of funds from the Fund if grant
126 or loan moneys awarded from the Fund by the Governor are paid to a political subdivision and (i)
127 subsequently distributed by the political subdivision to the person or entity or (ii) used by the political
128 subdivision for the benefit of the person or entity but never distributed to the person or entity.

129 b. The contract between the political subdivision and the business beneficiary shall provide in detail
130 (i) the fair market value of all funds that the Commonwealth has committed to provide, (ii) the fair
131 market value of all matching funds (or in-kind match) that the political subdivision has agreed to
132 provide, (iii) how funds committed by the Commonwealth (including but not limited to funds from the
133 Fund committed by the Governor) and funds that the political subdivision has agreed to provide are to
134 be spent, (iv) the minimum private investment to be made and the number of new jobs to be created
135 agreed to by the business beneficiary, (v) the average wage (excluding fringe benefits) agreed to be paid
136 in the new jobs, (vi) the prevailing average wage, and (vii) the formula, means, or processes agreed to
137 be used for measuring compliance with the minimum private investment and new jobs requirements,
138 including consideration of any layoffs instituted by the business beneficiary over the course of the
139 period covered by the contract.

140 The contract shall state the date by which the agreed upon private investment and new job
141 requirements shall be met by the business beneficiary of funds from the Fund and may provide for the
142 political subdivision to grant up to a 15-month extension of such date if deemed appropriate by the
143 political subdivision subsequent to the execution of the contract. Any extension of such date granted by
144 the political subdivision shall be in writing and promptly delivered to the business beneficiary, and the
145 political subdivision shall simultaneously provide a copy of the extension to the Virginia Economic
146 Development Partnership.

147 The contract shall provide that if the private investment and new job contractual requirements are not
148 met by the expiration of the date stipulated in the contract, including any extension granted by the
149 political subdivision, the business beneficiary shall be liable to the political subdivision for repayment of
150 a portion of the funds provided under the contract. The contract shall include a formula for purposes of
151 determining the portion of such funds to be repaid. The formula shall, in part, be based upon the fair
152 market value of all funds that have been provided by the Commonwealth and the political subdivision
153 and the extent to which the business beneficiary has met the private investment and new job contractual
154 requirements. Any such funds repaid to the political subdivision that relate to the award from the
155 Governor's Development Opportunity Fund shall promptly be paid over by the political subdivision to
156 the Commonwealth by payment remitted to the State Treasurer. Upon receipt by the State Treasurer of
157 such payment, the Comptroller shall deposit such repaid funds into the Governor's Development
158 Opportunity Fund.

159 c. The contract shall be amended to reflect changes in the funds committed by the Commonwealth or
160 agreed to be provided by the political subdivision.

161 d. Notwithstanding any provision in this section or in the guidelines, whenever layoffs instituted by a
162 business beneficiary over the course of the period covered by a contract cause the net total number of
163 the new jobs created to be fewer than the number agreed to, then the business beneficiary shall return
164 the portion of any funds received pursuant to the repayment formula established by the contract.

165 3. Notwithstanding any provision in this section or in the guidelines, prior to executing any such
166 contract with a business beneficiary, the political subdivision shall provide a copy of the proposed
167 contract to the Attorney General. The Attorney General shall review the proposed contract (i) for
168 enforceability as to its provisions and (ii) to ensure that it is in appropriate legal form. The Attorney
169 General shall provide any written suggestions to the political subdivision within seven days of his
170 receipt of the copy of the contract. The Attorney General's suggestions shall be limited to the
171 enforceability of the contract's provisions and the legal form of the contract.

172 4. Notwithstanding any provision in this section or in the guidelines, a political subdivision shall not
173 expend, distribute, pledge, use as security, or otherwise use any award from the Fund unless and until
174 such contract as described herein is executed with the business beneficiary.

175 G. Within the 30 days immediately following June 30 and December 30 of each year, the Governor
176 shall provide a report to the Chairmen of the House Committees on Appropriations and Finance and the
177 Senate Committee on Finance which shall include, but is not limited to, the following information
178 regarding grants and loans awarded from the Fund during the immediately preceding six-month period

179 for economic development projects: the name of the company that is the business beneficiary of the
 180 grant or loan and the type of business in which it engages; the location (county, city, or town) of the
 181 project; the amount of the grant or loan committed from the Fund and the amount of all other funds
 182 committed by the Commonwealth from other sources and the purpose for which such grants, loans, or
 183 other funds will be used; the amount of all moneys or funds agreed to be provided by political
 184 subdivisions and the purposes for which they will be used; the number of new jobs agreed to be created
 185 by the business beneficiary; the amount of investment in the project agreed to be made by the business
 186 beneficiary; the timetable for the completion of the project and new jobs created; the prevailing average
 187 wage; and the average wage (excluding fringe benefits) agreed to be paid in the new jobs.

188 H. The Governor shall provide grants and commitments from the Fund in an amount not to exceed
 189 the dollar amount contained in the Fund. If the Governor commits funds for years beyond the fiscal
 190 years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the
 191 funds the Governor has committed, and the funds shall remain in the Fund for those future fiscal years.
 192 No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are
 193 currently available in the Fund.

194 **§ 2.2-621. Grants by the Commonwealth; certification of employment.**

195 *Every state agency may require as a condition of receiving any grant or other incentive that is based*
 196 *on employment goals, a recipient company must provide copies of employer quarterly payroll reports*
 197 *that have been provided to the Virginia Employment Commission to verify the employment status of any*
 198 *position included in the employment goal.*

199 *As used in this section, "state agency" means the same as that term is defined in § 2.2-4347.*

200 **§ 2.2-903.1. Virginia Jobs Investment Program; composition; general qualifications.**

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

207 B. The Program shall consist of the following component programs:

- 208 1. The Virginia New Jobs Program;
- 209 2. The Workforce Retraining Program;
- 210 3. The Small Business New Jobs and Retraining Programs; and
- 211 4. The Small Business Jobs Grant Fund Program.

212 C. To be eligible for assistance under any of the component programs of the Program, a company
 213 must:

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

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

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

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

225 D. There is hereby established in the state treasury a special nonreverting fund to be known as the
 226 Virginia Jobs Investment Program Fund. The Fund shall consist of any moneys appropriated thereto by
 227 the General Assembly from time to time and designated for the Fund. Any moneys deposited to or
 228 remaining in the Fund during or at the end of each fiscal year or biennium, including interest thereon,
 229 shall not revert to the general fund but shall remain in the Fund and be available for allocation under
 230 this article in ensuing fiscal years. Moneys in the Fund shall be used solely for grants to eligible
 231 businesses as provided in this article, except for assistance under the Small Business Jobs Grant Fund
 232 Program. The total amount of funds provided to eligible businesses under this article for any year,
 233 except for assistance under the Small Business Jobs Grant Fund Program, shall not exceed the amount
 234 appropriated by the General Assembly to the Fund for such year, plus any carryover from previous
 235 years. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants
 236 issued by the Comptroller upon written request signed by the Director or his designee. The Fund shall
 237 be administered by the Director.

238 E. As used in this article:

239 "Capital investment" means an investment in real property, personal property, or both, at a

240 manufacturing or basic nonmanufacturing facility within the Commonwealth that is or may be
 241 capitalized by the company and that establishes or increases the productivity of the manufacturing
 242 facility, results in the utilization of a more advanced technology than is in use immediately prior to such
 243 investment, or both.

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

248 **§ 2.2-2319. Cooperative Marketing Fund.**

249 A. There is established the Cooperative Marketing Fund (Marketing Fund) for the purpose of
 250 encouraging, stimulating, and supporting the tourism segment of the economy of the Commonwealth and
 251 the direct and indirect benefits that flow from the success of such industry. To create the public-private
 252 partnership envisioned by such Marketing Fund, the Marketing Fund shall be established out of the sums
 253 appropriated by the General Assembly for the purpose of matching private funds to be used for the
 254 promotion, marketing, and advertising of the Commonwealth's many tourist attractions and locations.
 255 Proposals shall be eligible for matching grant funds under this section only if they promote, benefit,
 256 market and advertise locations or destinations that are (i) solely within the territorial limits of the
 257 Commonwealth or (ii) in both the Commonwealth and any adjoining state, in which instance the
 258 matching grant funds should be used to promote locations and destinations located within the territorial
 259 limits of the Commonwealth. The funds made available in the appropriations act for the Marketing Fund
 260 shall be administered and managed by the Authority.

261 B. In the event more than one person seeks to take advantage of the benefits conferred by this
 262 section and the Marketing Fund is insufficient to accommodate all such requests, the matching formula
 263 shall be adjusted, to the extent practicable, to afford each request for which there is a valid public
 264 purpose an equitable share.

265 C. All persons seeking to receive or qualify for such matching funds shall apply to the Authority in
 266 January of the year preceding the fiscal year for which funds are sought, and to the extent the Governor
 267 concurs in such funding request, it shall be reflected in the Governor's Budget Bill filed pursuant to
 268 § 2.2-1509. The application shall set forth the applicant's proposals in detail. The Authority shall develop
 269 guidelines setting forth the criteria it will weigh in considering such applications; such guidelines may
 270 indicate a preference for proposals submitted by nonprofit organizations. *The guidelines may require that*
 271 *as a condition of receiving any grant or other incentive that is based on employment goals, a recipient*
 272 *company must provide copies of employer quarterly payroll reports provided to the Virginia Employment*
 273 *Commission to verify the employment status of any position included in the employment goal.*

274 **§ 2.2-2320. Governor's Motion Picture Opportunity Fund.**

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

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

293 **§ 2.2-5103. Requirements for grants generally.**

294 A. Any eligible manufacturer, eligible company, or research and development service eligible to
 295 apply for a grant under this chapter shall provide evidence, satisfactory to the Secretary, of the amount
 296 of the capital investment, the number of new jobs created as a result of the capital investment and such
 297 other evidence that requirements of this chapter have been satisfied. An eligible manufacturer, eligible
 298 company, or research and development service whose application has been approved shall continue to
 299 comply with the requirements for grant eligibility during the grant payment period. The Partnership shall
 300 verify that the conditions for approval of any grant have been satisfied. *The Partnership may require*

301 *that as a condition of receiving any grant or loan incentive that is based on employment goals, a*
302 *recipient manufacturer, company, or research and development service must submit copies of employer*
303 *quarterly payroll reports provided to the Virginia Employment Commission to verify the employment*
304 *status of any position included in the employment goal.*

305 B. Prior to any grant payment, the Partnership shall certify to (i) the Comptroller and (ii) each
306 applicant the amount of the grant to which such applicant is entitled. Subject to the appropriation by the
307 General Assembly of sufficient moneys to the appropriate subfund, payment of such grant shall be made
308 from the subfund by check issued by the State Treasurer on warrant of the Comptroller within 60 days
309 of certification.

310 C. As a condition of receipt of a grant, a major eligible employer or eligible company shall make
311 available to the Partnership for inspection upon request all relevant and applicable documents to
312 determine whether the requirements for the receipt of grants as set forth in this chapter have been
313 satisfied. All such documents appropriately identified by the major eligible employer or eligible
314 company shall be considered confidential and proprietary.

315 D. Within 30 days of each calendar quarter, the Secretary shall provide a report to the chairmen of
316 the House Committee on Appropriations and the Senate Committee on Finance that shall include, but is
317 not limited to, the following information: the name of the eligible manufacturer, eligible company, or
318 research and development service determined to be eligible for a grant; the product it manufactures, the
319 nature of the research, or the products it produces or services it provides, as applicable; the locality of
320 the manufacturing, research and development, or other facility; the amount of the grant made or
321 committed from the Fund; the number of new jobs created or projected to be created; the amount of the
322 manufacturer's, eligible company's, or research and development service's capital investment; and the
323 timetable for the completion of the capital investment and new jobs created or employment creation, as
324 applicable.

325 E. The Secretary shall provide grants and commitments from the Fund in an amount not to exceed
326 the dollar amount contained in the Fund. If funds are committed for years beyond the fiscal years
327 covered under the existing appropriation act, the State Treasurer shall set aside and reserve such funds
328 as have been committed, and such funds shall remain in the Fund for those future fiscal years. No grant
329 shall be payable in the years beyond the existing appropriation act unless such funds are currently
330 available in the Fund.

331 **§ 3.2-305. Guidelines and criteria for awarding grants from Fund.**

332 The Secretary of Agriculture and Forestry, in consultation with the Virginia Economic Development
333 Partnership, the Virginia Department of Agriculture and Consumer Services, and the Virginia
334 Department of Forestry, shall assist the Governor in developing objective guidelines and criteria that
335 shall be used in awarding grants from the Fund. The guidelines may include a requirement for the
336 affected localities to provide matching funds, which may be cash or in-kind, at the discretion of the
337 Governor. *The guidelines may require that as a condition of receiving any grant incentive that is based*
338 *on employment goals, a recipient company must provide copies of employer quarterly payroll reports*
339 *provided to the Virginia Employment Commission to verify the employment status of any position*
340 *included in the employment goal.* The guidelines and criteria shall include provisions for geographic
341 diversity, a requirement that a project purchase a minimum percentage of Virginia-grown or
342 Virginia-produced agricultural or forestal products to which its processes are adding value, and a cap on
343 the amount of funds to be provided to any individual project.

344 **§ 3.2-3108. Distribution of Fund.**

345 The Fund shall be distributed by the Commission for the following purposes:

346 1. The compensation of Virginia tobacco farmers for the decline or elimination of the tobacco quota
347 based on averaging the basic burley and flue-cured quota as allocated by the USDA for the crop years
348 1995 through 1998.

349 To the extent quota holders in Virginia are not otherwise compensated by a national tobacco
350 community trust fund or a federal tobacco loss assistance program that is based on substantially the
351 same distribution criteria established by the Commission for indemnification payments and to the extent
352 moneys are available in the Fund, the Fund shall be used to compensate quota holders in an amount
353 equal to the total lost asset value in quota incurred annually by such quota holders.

354 To the extent active tobacco producers in Virginia are not otherwise compensated by a national
355 tobacco community trust fund or a federal tobacco loss assistance program that is based on substantially
356 the same distribution criteria established by the Commission for indemnification payments and to the
357 extent moneys are available in the Fund, the Fund shall be used to compensate active tobacco producers
358 for the economic loss resulting from any annual quota reduction.

359 For the purposes of this section, the total asset loss value in quota and economic losses for tobacco
360 farmers in Virginia shall be estimated to be \$1.2 billion.

361 The Commission may establish criteria for determining economic loss resulting from any annual

362 quota reduction, including any similar criteria established pursuant to the creation of a national tobacco
363 community trust fund;

364 2. The stimulation of economic growth and development in tobacco-dependent communities in an
365 equitable manner throughout the southside and southwest regions of the Commonwealth, to assist such
366 communities in reducing their dependency on, or finding alternative uses for, tobacco and
367 tobacco-related business; and

368 3. Scientific research performed at one of the Commonwealth's National Cancer Institute-designated
369 research institutes designed to advance the treatment and prevention of cancers that directly impact the
370 citizens of tobacco-dependent communities throughout the southside and southwest regions of the
371 Commonwealth.

372 *The Commission may require that as a condition of receiving any grant or loan incentive that is*
373 *based on employment goals, a recipient company must provide copies of employer quarterly payroll*
374 *reports provided to the Virginia Employment Commission to verify the employment status of any position*
375 *included in the employment goal.*