

SENATE BILL NO. 496

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator Carroll Foy)

A BILL to amend and reenact §§ 2.2-2485, 2.2-2489, and 2.2-5101 of the Code of Virginia, relating to Virginia Growth and Opportunity Act; Virginia Investment Performance Grants.

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

**1. That §§ 2.2-2485, 2.2-2489, and 2.2-5101 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-2485. Virginia Growth and Opportunity Board; membership; terms; compensation.**

A. The Virginia Growth and Opportunity Board is established as a policy board in the executive branch of state government. The purpose of the Board is to promote collaborative regional economic and workforce development opportunities and activities.

B. The Board shall have a total membership of ~~24~~ 25 members that shall consist of seven legislative members, 14 nonlegislative citizen members, and ~~three~~ four ex officio members. Members shall be appointed as follows: four members of the House of Delegates, consisting of the Chairman of the House Committee on Appropriations and three members appointed by the Speaker of the House of Delegates; three members of the Senate, consisting of the Chairman of the Senate Committee on Finance and Appropriations and two members appointed by the Senate Committee on Rules; two nonlegislative citizen members to be appointed by the Speaker of the House of Delegates, who shall be from different regions of the Commonwealth and have significant private-sector business experience; two nonlegislative citizen members to be appointed by the Senate Committee on Rules, who shall be from different regions of the Commonwealth and have significant private-sector business experience; two nonlegislative citizen members to be appointed by the Governor, who shall be from different regions of the Commonwealth and have significant private-sector business experience; and eight nonlegislative citizen members to be

27 appointed by the Governor, subject to the confirmation of the General Assembly, who shall have  
28 significant private-sector business experience. Of the Governor's nonlegislative citizen appointments  
29 subject to General Assembly confirmation, no more than two appointees may be from any one region of  
30 the Commonwealth. The Speaker of the House of Delegates and the Senate Committee on Rules shall  
31 submit a list of recommended nonlegislative citizens with significant private-sector business experience  
32 for the Governor to consider in making his nonlegislative citizen appointments. The Governor shall also  
33 appoint ~~three~~ four Secretaries from the following, who shall serve ex officio with voting privileges: the  
34 Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Education,  
35 the Secretary of Labor, and the Secretary of Finance. Nonlegislative citizen members shall be citizens of  
36 the Commonwealth.

37 C. Legislative members and ex officio members of the Board shall serve terms coincident with  
38 their terms of office. After the initial staggering of terms, nonlegislative citizen members shall be  
39 appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall  
40 be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. No  
41 House member appointed by the Speaker of the House shall serve more than four consecutive two-year  
42 terms, no Senate member appointed by the Senate Committee on Rules shall serve more than two  
43 consecutive four-year terms, and no nonlegislative citizen member shall serve more than two consecutive  
44 four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not  
45 constitute a term in determining the member's eligibility for reappointment.

46 D. The Board shall elect a chairman and vice-chairman from among its membership. The chairman  
47 shall be a nonlegislative citizen member. A majority of the members shall constitute a quorum.

48 E. Any decision by the Board shall require an affirmative vote of a majority of the members of the  
49 Board.

50 F. Legislative members of the Board shall receive such compensation as provided in § 30-19.12,  
51 and nonlegislative citizen members shall receive compensation as provided in § 2.2-2813 for the  
52 performance of their duties. All members shall be reimbursed for all reasonable and necessary expenses  
53 incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

54 G. Staff support and technical assistance to the Board and the Governor in carrying out the  
55 provisions of this article shall be provided by the agencies of the Secretariats of Commerce and Trade,  
56 Education, and Finance.

57 **§ 2.2-2489. Award of grants to regional councils.**

58 A. The Board shall establish guidelines, procedures, and objective criteria for the award and  
59 distribution of grants from the Fund to regional councils.

60 B. In order to qualify to receive grants from the Fund, a regional council shall develop an economic  
61 growth and diversification plan to (i) promote private-sector growth and opportunity in the region; (ii)  
62 identify issues of economic competitiveness for the region, including gaps in education and skills required  
63 to meet existing and prospective employer needs within the region; and (iii) outline steps that the  
64 collaborating business, education, and government entities in the region will pursue to expand economic  
65 opportunity, diversify the economy, and align workforce development activities with the education and  
66 skills needed by employers in the region. A regional council shall review such plan not less than biennially  
67 while the regional council is receiving grants from the Fund.

68 C. The Board shall only consider those regional activities endorsed by a regional council in its  
69 application for grants from the Fund. For any regional activity included in a regional council's application,  
70 the regional council shall identify (i) the amount of grants requested and the number of years for which  
71 grants are sought; (ii) the participating business, education, and government entities and their respective  
72 roles and contributions; (iii) the private, local, and other sources of nonstate funding that the grant from  
73 the Fund will assist in generating, including specific amounts pledged by such sources as of the application  
74 date; (iv) how the regional activity addresses the skills gaps identified in the council's economic growth  
75 and diversification plan; and (v) the economic impact or other outcomes that are reasonably expected to  
76 result from the proposed regional activity, including timetables and means of measurement.

77 D. Regional activities eligible for grants from the Fund shall be focused on high-impact,  
78 collaborative projects in a region that promote new job creation, entrepreneurship, and new capital  
79 investment; leverage nonstate resources to enhance collaboration; foster research, development, and  
80 commercialization activities; encourage cooperation among public bodies to reduce costs and duplication

81 of government services; and promote other economic or workforce development activities consistent with  
82 this article that are authorized by the Board. The Board shall give initial priority to grant proposals that  
83 promote workforce development and other activities focused on eliminating skills gaps identified in a  
84 region's economic growth and diversification plan.

85 E. In determining a regional council's eligibility to receive grants from the Fund, and the amount  
86 of such grants, the Board shall review and score the proposed regional activities. Scores shall be assigned  
87 on the basis of predetermined criteria established by the Board in its guidelines and procedures based on  
88 the following factors:

89 1. The expected economic impact or outcome of the activity, with particular emphasis on goals  
90 identified in the regional council's plan for economic growth and diversification;

91 2. The fiscal resources from non-Fund sources that will be committed to the activity, including  
92 local or federal funds, private contributions, and cost savings expected to be achieved through regional  
93 collaboration;

94 3. The number and percentage of localities, including political subdivisions and bodies corporate  
95 and politic, within the region that are participating in the activity, the portion of the region's population  
96 represented by the participating localities, and the participation of localities that are outside of the  
97 applicant region;

98 4. The compatibility with other projects, programs, or existing infrastructure in a region to  
99 maximize the leverage of grants from the Fund to encourage new collaborative activities;

100 5. The expected economic impact and outcomes of the project and the complexity of the project  
101 relative to the size of the economy of the region or to the population of the participating localities;

102 6. The projected cost savings and other efficiencies generated by the proposed activity, and the  
103 local resources generated by collaboration that have been or will be repurposed to support the activity;

104 7. The character of the regional collaboration, including the nature and extent of the regional effort  
105 involved in developing and implementing the proposed activity, the complexity of the activity, the  
106 prospective impact on relations between and among the affected localities, and the prospective impact on  
107 collaboration between and among business, education, and government entities in the region;

108 8. Interstate, inter-regional, and other beneficial forms of collaboration, if any, that will  
109 accompany, result from, or be encouraged by the activity;

110 9. Efficiency in the administration and oversight of regional activities; and

111 10. Other factors deemed to be appropriate by the Board.

112 F. Each regional council awarded a grant from the Fund shall issue an annual report that shall  
113 include, at a minimum, an assessment of the impact and outcomes from regional activities supported by  
114 grants from the Fund and the region's overall progress in addressing the goals and strategies identified in  
115 the region's plan for economic growth and diversification. Such assessment shall address performance  
116 criteria prescribed in the program guidelines and procedures.

117 G. Subject to the provisions of § 2.2-2488 and this section, once a regional council becomes  
118 eligible for grants from the Fund, the regional council may continue to apply for and receive grants from  
119 the Fund to support economic activities consistent with the regional council's economic growth and  
120 diversification plan in such amounts and for such duration as the Board may determine in accordance with  
121 its guidelines and procedures. The Board may terminate any payments to regional councils that fail to  
122 perform in accordance with this article, the Board's guidelines or procedures, or any conditions expressly  
123 agreed upon as part of a grant award, or for malfeasance. The Board may require the refund of moneys  
124 from the Fund upon such termination. Grants that are terminated shall revert to the Fund for distribution  
125 on an unallocated competitive basis.

126 H. In making Fund recommendations and awards, the Board may consider regional activities that  
127 commenced prior to the enactment of this article, provided that the grant-funded program or project will  
128 expand the scope of, or increase the number of localities participating in, such preexisting activity.

129 I. No regional council may have outstanding grant commitments of more than 25 percent of the  
130 total amount appropriated to the Fund.

131 J. The year for grant payments shall be the Commonwealth's fiscal year following the calendar  
132 year in which the region qualifies, with payments made annually by the Comptroller upon certification by  
133 the Board. Grant amounts shall be made at the sole discretion of the Board.

134 K. (Effective until July 1, 2025) Any grant awarded from the Fund to a regional council shall  
135 require matching funds at least equal to half the amount of the grant, ~~provided, however, that the Board~~  
136 ~~shall have the authority to reduce the match requirement to no less than half of the grant upon a finding~~  
137 ~~by the Board of fiscal distress or an exceptional economic opportunity in a region.~~ Such matching funds  
138 may be from local, regional, federal, or private funds. Matching funds may also be from grants awarded  
139 to a locality by the Tobacco Region Revitalization Commission but shall not include any other state  
140 general or nongeneral funds, from whatever source.

141 K. (Effective July 1, 2025) Any grant awarded from the Fund to a regional council shall require  
142 matching funds at least equal to half the amount of the grant, ~~provided, however, that the Board shall have~~  
143 ~~the authority to reduce the match requirement to no less than half of the grant upon a finding by the Board~~  
144 ~~of fiscal distress or an exceptional economic opportunity in a region.~~ Such matching funds may be from  
145 local, regional, federal, or private funds, but shall not include any state general or nongeneral funds, from  
146 whatever source.

147 L. Decisions of the Board shall be final and not subject to review or appeal.

148 **§ 2.2-5101. Virginia Investment Performance Grants.**

149 A. For purposes of this section:

150 "Aggregate amount of Grants payable" means the total amount of Grant money payable to all  
151 Grant recipients in any fiscal year pursuant to this section, including Grants awarded prior to July 1, 2024,  
152 and Grants awarded on or after July 1, 2024.

153 "Grant" means a Virginia Investment Performance Grant awarded pursuant to this section and paid  
154 from the Investment Performance Grant subfund to the Fund.

155 B. Subject to the appropriation by the General Assembly of sufficient moneys to the Investment  
156 Performance Grant subfund, any eligible manufacturer or research and development service that is not  
157 eligible for a major eligible employer grant under § 2.2-5102 shall be eligible to apply ~~for an investment~~  
158 ~~performance grant as provided in this section~~ a Grant.

159 ~~B.~~C. The Partnership shall establish an application process by which eligible manufacturers and  
160 research and development services may apply for a ~~grant under this section~~ Grant. An application for a

161 ~~grant~~ Grant under this section shall not be approved until the Partnership has verified that the required  
162 capital investment has been completed.

163 ~~C. D.~~ The amount of the ~~investment performance grant~~ Grant that an eligible manufacturer or  
164 research and development service shall be eligible to receive ~~under this section~~ shall be determined by the  
165 Secretary, based on the recommendation of the Partnership, and contingent upon approval by the  
166 Governor. The determination of the appropriate amount of ~~an investment performance grant~~ a Grant shall  
167 be based on ~~the application of~~ guidelines that establish criteria for correlating the amount of a ~~grant~~ Grant  
168 to the relative value to the Commonwealth of the eligible investment.

169 ~~D. E.~~ The Partnership shall assist the Secretary in developing objective guidelines ~~that shall be~~  
170 ~~used in awarding investment performance grants~~ to be used in awarding Grants. No ~~grant~~ Grant shall be  
171 awarded until the Secretary has provided copies of such guidelines for review to the Chairmen of the  
172 House Committee on Appropriations and the Senate Committee on Finance and Appropriations. The  
173 preparation of the guidelines shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of  
174 the Administrative Process Act. The guidelines shall require determinations regarding the amount of  
175 ~~investment performance grants~~ Grants to address:

- 176 1. The number of new jobs created by the capital investment;
- 177 2. The wages paid for the new jobs and the amount by which wages exceed the average  
178 manufacturing wage for the locality or region;
- 179 3. The extent to which the capital investment produces (i) measurable increases in capacity,  
180 productivity, or both; (ii) measurable decreases in the production of flawed product; or (iii) measurable  
181 advances in knowledge, research, or the application of research findings for the creation of new or  
182 significantly improved products or processes that support manufacturing;
- 183 4. The amount of the capital investment;
- 184 5. The net present value of benefits to Virginia;
- 185 6. The amount of other incentives offered by the Commonwealth and the locality; and
- 186 7. The importance of the manufacturing or research and development facility to the economy of  
187 the locality or region.

188           The guidelines shall also address the eligibility of manufacturers or research and development  
189 services that make a capital investment in phases over a period of years, and limits on eligibility for  
190 multiple ~~grants~~ Grants by the same manufacturer or research and development service within stated  
191 periods of time.

192           ~~E. The amount of an investment performance grant to any eligible manufacturer under this section~~  
193 ~~shall not exceed \$3 million or 10 percent of the amount appropriated by the General Assembly to the~~  
194 ~~Investment Performance Grant subfund in the year that the terms of a grant are determined. For all eligible~~  
195 ~~projects awarded grants on or after July 1, 2005, and before July 1, 2009, the amount of an investment~~  
196 ~~performance grant to any recipient under this section shall not exceed \$1.5 million. For eligible projects~~  
197 ~~awarded grants on or after July 1, 2009, the amount of an investment performance grant to any recipient~~  
198 ~~under this section shall not exceed \$3 million, except for eligible projects that demonstrate extraordinary~~  
199 ~~characteristics described in guidelines implementing this chapter the amount of an investment~~  
200 ~~performance grant to any such recipient under this section shall not exceed \$5 million.~~

201           ~~F. For all eligible projects awarded grants before July 1, 2005, the aggregate amount of investment~~  
202 ~~performance grants approved under this section in any year shall not exceed \$6 million, and the aggregate~~  
203 ~~amount of grants outstanding to all eligible manufacturers under this section for all years shall at no time~~  
204 ~~exceed \$30 million. For all such grants awarded prior to that date, the annual obligations of the~~  
205 ~~Commonwealth to make grant payments to individual eligible manufacturers under this section shall not~~  
206 ~~exceed \$600,000. For all eligible projects awarded grants on or after July 1, 2005, and before July 1, 2009,~~  
207 ~~the aggregate amount of investment performance grants approved under this section in any year shall not~~  
208 ~~exceed \$3 million, and the aggregate amount of such grants awarded after that date and outstanding at any~~  
209 ~~time shall not exceed \$15 million. For all such grants awarded on or after that date, the annual obligations~~  
210 ~~of the Commonwealth to make grant payments to individual recipients under this section shall not exceed~~  
211 ~~\$300,000. For all eligible projects awarded grants on or after July 1, 2009, and before July 1, 2015, the~~  
212 ~~aggregate amount of investment performance grants approved under this section in any year shall not~~  
213 ~~exceed \$6 million, and the aggregate amount of such grants awarded on or after July 1, 2009, and before~~  
214 ~~July 1, 2015, and outstanding at any time shall not exceed \$30 million. For all such grants awarded on or~~



215 ~~after July 1, 2009, and before July 1, 2015, the annual obligations of the Commonwealth to make grant~~  
216 ~~payments to individual recipients under this section shall not exceed \$1 million. For all eligible projects~~  
217 ~~awarded grants on or after July 1, 2015, but before July 1, 2019, the aggregate amount of investment~~  
218 ~~performance grants approved under this section in any year shall not exceed \$6 million, and the aggregate~~  
219 ~~amount of such grants awarded on or after July 1, 2015, but before July 1, 2019, and outstanding at any~~  
220 ~~time shall not exceed \$20 million. For all such grants awarded on or after July 1, 2015, but before July 1,~~  
221 ~~2019, the annual obligations of the Commonwealth to make grant payments to individual recipients under~~  
222 ~~this section shall not exceed \$1 million. For all eligible projects awarded grants on or after July 1, 2019,~~  
223 ~~the aggregate amount of investment performance grants approved under this section in any year shall not~~  
224 ~~exceed \$4 million, and the aggregate amount of such grants awarded on or after July 1, 2019, and~~  
225 ~~outstanding at any time shall not exceed \$20 million. For all such grants awarded on or after July 1, 2019,~~  
226 ~~the annual obligations of the Commonwealth to make grant payments to individual recipients under this~~  
227 ~~section shall not exceed \$1 million. At no time shall the aggregate amount of Grants payable to all Grant~~  
228 ~~recipients in any fiscal year exceed \$6 million.~~

229 G. Any eligible manufacturer or research and development service shall be eligible to receive a  
230 ~~grant from the Fund Grant~~ in five equal, annual installments beginning in the ~~third~~ first year after the  
231 completion and verification of the capital investment is and any pledged job creation requirements are  
232 ~~completed and the Partnership has verified that the requirements applicable to such grant have been~~  
233 ~~satisfied. Any eligible manufacturer or research and development service located in a fiscally distressed~~  
234 ~~area of the State, as defined in the guidelines implementing this chapter, shall be eligible to begin receiving~~  
235 ~~grants in the second year after the capital investment is completed and verified. No Grant awarded~~  
236 ~~pursuant to this section to an eligible manufacturer or research and development service shall exceed \$5~~  
237 ~~million in total across all fiscal years, and no annual payment to any eligible manufacturer or research and~~  
238 ~~development service shall exceed \$1 million.~~

239 **2. That the provisions of this act shall not impact the obligations of the Commonwealth under any**  
240 **existing agreements for the payment of grants under § 2.2-5101 of the Code of Virginia that were**  
241 **entered into prior to the effective date of this act. However, such obligations under existing**

242 agreements entered into prior to the effective date of this act shall be included in calculating the  
243 aggregate amount of Grants that may be payable in any fiscal year pursuant to subsection F of §  
244 2.2-5101 of the Code of Virginia, as amended by this act.

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