

# VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

## CHAPTER 863

*An Act to amend and reenact §§ 59.1-284.14 and 59.1-284.15 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 59.1-284.14:1 and by adding in Chapter 22.3 of Title 59.1 a section numbered 59.1-284.15:1, relating to the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Programs.*

[S 1109]

Approved April 21, 2001

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

**1. That §§ 59.1-284.14 and 59.1-284.15 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 59.1-284.14:1 and by adding in Chapter 22.3 of Title 59.1 a section numbered 59.1-284.15:1 as follows:**

§ 59.1-284.14. Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program; eligible cities.

A. As used in this section:

"Cumulative investment" means the total investment in buildings and equipment made by a qualified manufacturer in an eligible city since the beginning of construction of a wafer manufacturing facility.

"Eligible city" means any Virginia city having a population of no less than 27,500 and no more than 28,500 as determined by the 1990 United States Census.

"Manufactures wafers" means manufacturing wafers in an eligible city, which may include on-site processing that increases the value of wafers by transforming raw wafers into semiconductor memory or logic wafers, and may include further processing of such wafers.

"Qualified manufacturer" means any manufacturer of semiconductor products who (i) has made a cumulative investment of at least one billion dollars located in an eligible city and (ii) manufactures wafers in that eligible city.

"Secretary" means the Secretary of Commerce and Trade or his designee.

"Wafer" means a semiconductor memory or logic wafer. A wafer containing mixed memory and logic circuits shall be considered a logic wafer.

B. Beginning five years after the commencement of the manufacture of wafers in an eligible city, any qualified manufacturer shall be entitled to receive an annual semiconductor memory or logic wafer manufacturing performance grant in the amount of \$100 per memory wafer and \$250 per logic wafer based upon its manufacture of wafers in that city and sale of those wafers. A qualified manufacturer shall be entitled to receive annual grants under this section for a period of five years following the date its initial application for a grant is filed under subsection E, except as provided in subsection C. The grants under this section (i) shall be paid, as provided in subsections F and G, from a fund entitled the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Fund subject to appropriations by the General Assembly and (ii) shall not exceed \$38,400,000 in the aggregate; however, the cumulative value of grants to which qualified manufacturers shall be entitled shall be based upon the cumulative investment made by qualified manufacturers by the dates specified below:

Cumulative Investment	Eligible Investment Period	Eligible Grant Period	Cumulative Value of Grants
\$1 billion	by December 31, 1998	January 1, 2003, through December 31, 2007	\$18,600,000
\$2.5 billion	by December 31, 2002	January 1, 2007, through December 31, 2011	\$30,400,000
\$4 billion	by December 31, 2005	January 1, 2010, through December 31, 2014	\$38,400,000

C. Any qualified manufacturer who makes (i) a cumulative investment of at least \$1 billion, but less than \$2.5 billion, shall be entitled to receive an annual grant payment of up to \$3,720,000, but the cumulative total of such grants shall not exceed \$18.6 million; (ii) a cumulative investment of at least \$2.5 billion, but less than \$4 billion, shall be entitled to receive an annual grant payment of up to \$6,080,000, but the cumulative total of such grants shall not exceed \$30.4 million; or (iii) a cumulative investment of \$4 billion or more shall be entitled to receive an annual grant payment of up to \$7,680,000, but the cumulative total of such grants shall not exceed \$38.4 million. If any qualified manufacturer, after having made the initial \$1 billion cumulative investment, achieves a higher cumulative investment level as shown in the schedule in subsection B earlier than the dates specified in that subsection, that qualified manufacturer shall immediately become eligible to receive the increased performance grant amount, if the initial five-year period from the beginning of manufacture of wafers has expired. In addition, after having made any higher investment level above the initial \$1 billion, the qualified manufacturer shall have through the last date shown in the eligible grant period to earn the full amount of the corresponding cumulative value of the performance grant. Under no circumstances shall any qualified manufacturer be eligible to receive more than \$38.4 million in grants during the duration of the program established by this section.

D. If the value of applications for grants under this section for wafers manufactured and sold exceeds one-fifth of the cumulative value in the schedule listed in subsection B for the calendar year for which grants are sought corresponding to the cumulative investments made by the applicants, each qualified manufacturer's grant for that year shall equal the amount of the grant to which the qualified manufacturer would be entitled for such year absent the provisions of this subsection times a fraction. The numerator of that fraction shall equal one-fifth of the cumulative value in the schedule listed in subsection B for the calendar year for which grants are sought corresponding to the cumulative investments made by the applicants, and the denominator shall equal the aggregate dollar amount of grants to which all qualified manufacturers would be entitled absent this subsection.

E. Any qualified manufacturer entitled to receive a grant under this section shall apply for the grant and provide evidence, satisfactory to the Secretary, of the number of wafers manufactured by it in an eligible city, the number of wafers which were sold during such calendar year, and the amount of cumulative investment made by the qualified manufacturer. The application and the evidence shall be filed with the Secretary in person or by mail no later than March 31, or such later date determined by the Secretary in his sole discretion, each year of the program following the year in which the wafers were sold. Failure to meet the application filing deadline shall render the qualified manufacturer ineligible to receive a grant for the wafers it manufactured and sold. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

F. Within ninety days after the filing deadline established in subsection E, the Secretary shall certify to (i) the Comptroller and (ii) each qualified manufacturer the amount of the grant to which each qualified manufacturer is entitled under this section. Payment of such grant to any qualified manufacturer shall be made by check issued by the Treasurer of the Commonwealth of Virginia on warrant of the Comptroller within sixty days after the Secretary's certification.

G. As a condition of receipt of a grant, all qualified manufacturers shall make available to the Secretary for inspection upon his request all relevant and applicable documents to determine whether the manufacture and sale of the wafers meets the requirements for the receipt of grants as set forth in this section and subject to a memorandum of understanding between a qualified manufacturer and the Commonwealth. The Comptroller shall not draw any warrants to issue checks for this program without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act. All such documents appropriately identified by the qualified manufacturer shall be considered confidential and proprietary.

*§ 59.1-284.14:1. Grants for capital investments made and jobs created by qualified semiconductor manufacturers.*

*A. As used in this section:*

*"Eligible city" means the same as that term is defined in § 59.1-284.14.*

*"New capital investment" means a capital investment made on or after May 1, 2000, in an eligible city, which denotes investment in buildings and equipment by a qualified semiconductor manufacturer, its related companies, or other entities with which it has a contractual, licensing, leasing or other agreement. Such new capital investment shall not include any capital investment made before May 1, 2000, and shall not include any investment in buildings and equipment that also qualifies or has qualified as cumulative investment for purposes of the grant program established under § 59.1-284.14.*

*"New full-time job" means employment of an indefinite duration in an eligible city, created as the direct result of new capital investment, for which the standard fringe benefits are paid by the qualified semiconductor manufacturer, requiring a minimum of either (i) thirty-five hours of an employee's time per week for the entire normal year of such manufacturer's operations, which "normal year" must consist of at least forty-eight weeks or (ii) 1,680 hours per year. Seasonal or temporary positions, and positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as new full-time jobs under this section. Other positions including contractors, suppliers, and*

multiplier or spin-off jobs may be considered new full-time jobs, if so designated in the Memorandum of Understanding between such manufacturer and the Commonwealth.

"Qualified semiconductor manufacturer" means a qualified manufacturer, as defined in § 59.1-284.14, and its related companies that manufacture semiconductor-related products in an eligible city, either directly or through contractual, licensing, leasing, or other agreements with other entities.

"Secretary" means the Secretary of Commerce and Trade or his designee.

B. Any qualified semiconductor manufacturer shall be eligible for annual grant payments under this section if the following conditions are met:

1. If such manufacturer (i) makes new capital investments of at least \$700 million in an eligible city, and (ii) such investment results in the creation of 600 new full-time jobs in such city by January 1, 2003, such manufacturer shall be eligible for annual grant payments of five million dollars beginning after such \$700 million in new capital investments have been made or five years after the commencement of the production of a semiconductor-related product using such new capital investments, whichever is later. The manufacturer shall be eligible for a grant under this subdivision if the number of persons employed by such manufacturer in an eligible city, by January 1, 2003, is equal to at least the number of persons employed by such manufacturer immediately prior to May 1, 2000, plus an additional 600 full-time employees. The grants under this subdivision shall not exceed twenty-five million dollars to all such qualified semiconductor manufacturers.

2. If such manufacturer (i) makes new capital investments of an additional two billion dollars in an eligible city, and (ii) such investment results in the creation of an additional 1,350 new full-time jobs in such city by January 1, 2007, such manufacturer shall be eligible for two annual grant payments of five million dollars beginning two years after such two billion dollars in new capital investments have been made. A qualified semiconductor manufacturer shall be eligible for a grant under this subdivision if such new capital investments are in addition to the new capital investments made under subdivision 1.

3. The qualified semiconductor manufacturer shall also be eligible to receive four annual grant payments of \$8,750,000 beginning in the second year after a certification by the Secretary that such additional 1,350 new full-time jobs have been created by the qualified semiconductor manufacturer. A qualified semiconductor manufacturer shall be eligible for a grant under this subdivision if the number of persons employed by such manufacturer in an eligible city, by January 1, 2007, is equal to at least the number of persons employed by such manufacturer immediately prior to May 1, 2000, plus an additional 1,950 full-time employees.

4. The total amount of grants to all such qualified semiconductor manufacturers under subdivisions 1 through 3 shall not exceed seventy million dollars. In addition, no grant shall be paid to a qualified semiconductor manufacturer until the Senate Committee on Finance and the House Committees on Appropriations and Finance review the unsigned written Memorandum of Understanding between such manufacturer and the Commonwealth, with such Memorandum of Understanding specifying the conditions of grant eligibility.

C. Any semiconductor-related products that are produced or manufactured as a result of such new capital investments shall not be eligible for grants as provided under § 59.1-284.14.

D. Any qualified semiconductor manufacturer entitled to apply for a grant under this section shall provide evidence, satisfactory to the Secretary, of new capital investment and employment levels achieved in an eligible city during a particular calendar year. The application and evidence shall be filed by such manufacturer with the Secretary in person or by mail no later than March 31 (or such later date determined by the Secretary in his sole discretion) each year it is eligible for grants in the calendar year or years following the calendar year in which the conditions of subsection B have been met. Failure to meet the filing deadline shall render the applicant ineligible to receive a grant for such calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

E. Within ninety days after the filing deadline in subsection D, the Secretary shall certify to (i) the Comptroller and (ii) each applicant the amount of the grant to which such applicant is entitled under this section for the calendar year. Payment of such grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within sixty days of such certification.

F. As a condition of receipt of a grant, a qualified semiconductor manufacturer shall make available to the Secretary for inspection, upon his request, all relevant and applicable documents to determine whether the qualified semiconductor manufacturer meets the requirements for the receipt of grants as set forth in this section and subject to a Memorandum of Agreement between a qualified semiconductor manufacturer and the Commonwealth. All such documents appropriately identified by the qualified semiconductor manufacturer shall be considered confidential and proprietary. The Comptroller shall not draw any warrants to issue checks for this program without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act.

G. The grants that may be paid under this section shall be paid from the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Fund established under § 59.1-284.14, subject to appropriations to such fund by the General Assembly.

§ 59.1-284.15. Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program II.

A. As used in this section:

"Eligible county" means any county in Virginia with a population of at least 217,500 but not more than 220,000 *as determined by the 1990 United States Census*.

"Manufactures wafers" means manufacturing wafers in an eligible county, and includes on-site processing that increases the value of wafers by transforming raw wafers into semiconductor memory or logic wafers.

"Qualified manufacturer" means any manufacturer of semiconductor products which has made a capital investment of at least \$1 billion in buildings and equipment located in an eligible county for the manufacture of wafers in such eligible county. In the case of a qualified manufacturer which is a partnership, qualified manufacturer means the partnership or its individual partners.

"Secretary" means the Secretary of Commerce and Trade or his designee.

"Wafer" means a semiconductor memory or logic wafer. A wafer containing mixed memory and logic circuits shall be considered a logic wafer.

"Wafer used" or "uses wafers" means (i) the consigning or transferring of processed wafers to any manufacturing or processing facility of the qualified manufacturer for probe, assembly, or test or (ii) the consigning or transferring of wafers to a manufacturing or processing facility of a subsidiary or other affiliated corporation, a joint venture, a partner, or an independent contractor of the qualified manufacturer.

B. Beginning five years after the commencement of manufacture of wafers, any qualified manufacturer who, from January 1, 2003, through December 31, 2009, sells or uses wafers that it manufactured in an eligible county shall be entitled to receive an annual semiconductor manufacturing performance grant in the amount of \$100 per memory wafer and \$250 per logic wafer sold or used. The grants under this section (i) shall be paid from a fund to be entitled the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Fund II subject to appropriations by the General Assembly, (ii) shall not exceed \$15 million in the aggregate, and (iii) shall be paid, as provided in subsections E and F, to the qualified manufacturer during the calendar year immediately following the calendar year in which a particular wafer was sold or used.

C. If applications for grants under this section for wafers sold or used during a particular calendar year exceed the aggregate amount listed below for that year, each eligible applicant's grant for the year shall equal the amount of the grant to which the applicant would be entitled, absent this subsection C, times a fraction. The numerator of that fraction shall equal the amount listed or described below for the year, and the denominator shall equal the aggregate dollar amount of grants to which all applicants would be entitled for such calendar year absent this subsection C. The aggregate amount of the grants under this section for a particular year shall not exceed the following:

Year of Sale or Use	Amount
2003	\$3 million
2004	\$6 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar year 2003
2005	\$9 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2003 and 2004
2006	\$12 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2003 through 2005

2007	\$15 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2003 through 2006
2008	\$15 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2003 through 2007
2009	\$15 million, less the aggregate amount of grants to which all qualified manufacturers were entitled for wafers sold or used during the calendar years 2003 through 2008

D. Any qualified manufacturer entitled to apply for a grant under this section shall provide evidence, satisfactory to the Secretary, of the number of wafers it manufactured in an eligible county that were sold or used during a particular calendar year. The application and evidence shall be filed with the Secretary in person or by mail no later than March 31 (or such later date determined by the Secretary in his sole discretion) each year following the calendar year in which the wafers were sold or used. Failure to meet the filing deadline shall render the applicant ineligible to receive a grant for the wafers sold or used during such calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

E. Within ninety days after the filing deadline in subsection D, the Secretary shall certify to (i) the Comptroller and (ii) each applicant the amount of the grant to which such applicant is entitled under this section for wafers sold or used by it during the immediately preceding calendar year. Payment of such grant shall be made by check issued by the Treasurer of Virginia on warrant of the Comptroller within sixty days of such certification; provided that no payments shall be made to a partnership, but shall instead be made to its partners in accordance with their written instructions delivered to the Secretary prior to the filing deadline or, in the absence of such written instructions, in equal shares to each partner.

F. As a condition of receipt of a grant, a qualified manufacturer shall make available to the Secretary or his designee for inspection upon his request all relevant and applicable documents to determine whether the manufacture and sale or use of the wafers meets the requirements for the receipt of grants as set forth in this section and subject to a memorandum of understanding between a qualified manufacturer and the Commonwealth. The Comptroller shall not draw any warrants to issue checks for this program without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act. All such documents appropriately identified by the qualified manufacturer shall be considered confidential and proprietary.

*§ 59.1-284.15:1. Grants for additional employment and new capital investment.*

*A. As used in this section:*

*"Eligible county" means the same as that term is defined in § 59.1-284.15.*

*"New capital investment" means capital investment made on or after July 1, 2000, that denotes investment in buildings and equipment by a qualified manufacturer. Such new capital investment shall not include any capital investment made before July 1, 2000, and shall not include any investment in buildings and equipment that makes or has made such manufacturer a qualified manufacturer as defined under § 59.1-284.15.*

*"New full-time job" means employment of an indefinite duration in an eligible county, created as the direct result of new capital investment, for which the standard fringe benefits are paid by the qualified manufacturer, requiring a minimum of either (i) thirty-five hours of an employee's time per week for the entire normal year of such manufacturer's operations, which "normal year" must consist of at least forty-eight weeks or (ii) 1,680 hours per year. Seasonal or temporary positions, and positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as new full-time jobs under this section. Other positions including contractors, suppliers, and multiplier or spin-off jobs may be considered new full-time jobs, if so designated in the Memorandum of Understanding between such manufacturer and the Commonwealth.*

*"Qualified manufacturer" means a qualified manufacturer as defined in § 59.1-284.15, its related companies, or contractual partners.*

*"Secretary" means the Secretary of Commerce and Trade or his designee.*

*B. Any qualified manufacturer shall be eligible for annual grant payments under this section if the following conditions are met:*

*1. If such manufacturer makes a new capital investment of at least \$1.1 billion in an eligible county that results in the creation of a new manufacturing module by January 1, 2004, the qualified manufacturer shall be eligible for one grant payment of fifteen million dollars two years after the completion of facilities represented by such new capital investment.*

*2. If such manufacturer creates 300 new full-time administrative jobs by January 1, 2004, the qualified manufacturer shall be eligible to receive an additional grant payment of five million dollars two years after certification by the Secretary that the jobs have been created. A qualified manufacturer shall be eligible for a grant under this subdivision if the number of persons employed by such manufacturer in an eligible county, by January 1, 2004, is equal to at least the number of persons employed by such manufacturer immediately prior to July 1, 2000, plus an additional 300 full-time employees.*

*3. If such manufacturer creates an additional 1,100 new full-time jobs by January 1, 2005, the qualified manufacturer shall be eligible to receive four additional annual grant payments of \$8,750,000 beginning two years after certification by the Secretary that the jobs have been created. A qualified manufacturer shall be eligible for a grant under this subdivision if the number of persons employed by such manufacturer in an eligible county, by January 1, 2005, is equal to at least the number of persons employed by such manufacturer immediately prior to July 1, 2000, plus an additional 1,400 full-time employees.*

*4. The total amount of grants to all such qualified manufacturers under subdivisions 1 through 3 shall not exceed fifty-five million dollars. In addition, no grant shall be paid to a qualified manufacturer until the Senate Committee on Finance and the House Committees on Appropriations and Finance review the unsigned written Memorandum of Understanding between such manufacturer and the Commonwealth, with such Memorandum of Understanding specifying the conditions of grant eligibility.*

*C. Any semiconductor-related products that are produced or manufactured as a result of such new capital investments shall not be eligible for grants as provided under § 59.1-284.15.*

*D. Any qualified manufacturer entitled to apply for a grant under this section shall provide evidence, satisfactory to the Secretary, of new capital investment and employment levels achieved in an eligible county during a particular calendar year. The application and evidence shall be filed by such manufacturer with the Secretary in person or by mail no later than March 31 (or such later date determined by the Secretary in his sole discretion) each year it is eligible for grants in the calendar year or years following the calendar year in which the conditions of subsection B have been met. Failure to meet the filing deadline shall render the applicant ineligible to receive a grant for such calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.*

*E. Within ninety days after the filing deadline in subsection D, the Secretary shall certify to (i) the Comptroller and (ii) each applicant the amount of the grant to which such applicant is entitled under this section for the calendar year. Payment of such grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within sixty days of such certification.*

*F. As a condition of receipt of a grant, a qualified manufacturer shall make available to the Secretary for inspection, upon his request, all relevant and applicable documents to determine whether the qualified manufacturer meets the requirements for the receipt of grants as set forth in this section and subject to a Memorandum of Agreement between a qualified manufacturer and the Commonwealth. All such documents appropriately identified by the qualified manufacturer shall be considered confidential and proprietary. The Comptroller shall not draw any warrants to issue checks for this program without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act.*

*G. The grants that may be paid under this section shall be paid from the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Fund II established under § 59.1-284.15, subject to appropriations to such fund by the General Assembly.*