

# 2001 SESSION

INTRODUCED

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## SENATE BILL NO. 1109

Offered January 10, 2001

Prefiled January 10, 2001

*A BILL 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.*

Patrons—Stosch, Colgan and Rerras; Delegates: McEachin and Parrish

Referred to Committee on Finance

### 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 U.S. 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

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60	\$4 billion	by December 31,	January 1,	\$38,400,000
61		2005	2010, through	
62			December 31, 2014	

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65 C. Any qualified manufacturer who makes (i) a cumulative investment of at least \$1 billion, but less  
 66 than \$2.5 billion, shall be entitled to receive an annual grant payment of up to \$3,720,000, but the  
 67 cumulative total of such grants shall not exceed \$18.6 million; (ii) a cumulative investment of at least  
 68 \$2.5 billion, but less than \$4 billion, shall be entitled to receive an annual grant payment of up to  
 69 \$6,080,000, but the cumulative total of such grants shall not exceed \$30.4 million; or (iii) a cumulative  
 70 investment of \$4 billion or more shall be entitled to receive an annual grant payment of up to  
 71 \$7,680,000, but the cumulative total of such grants shall not exceed \$38.4 million. If any qualified  
 72 manufacturer, after having made the initial \$1 billion cumulative investment, achieves a higher  
 73 cumulative investment level as shown in the schedule in subsection B earlier than the dates specified in  
 74 that subsection, that qualified manufacturer shall immediately become eligible to receive the increased  
 75 performance grant amount, if the initial five-year period from the beginning of manufacture of wafers  
 76 has expired. In addition, after having made any higher investment level above the initial \$1 billion, the  
 77 qualified manufacturer shall have through the last date shown in the eligible grant period to earn the full  
 78 amount of the corresponding cumulative value of the performance grant. Under no circumstances shall  
 79 any qualified manufacturer be eligible to receive more than \$38.4 million in grants during the duration  
 80 of the program established by this section.

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

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

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

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

112 § 59.1-284.14:1. *New capital investment by qualified semiconductor manufacturer in new product or*  
 113 *new technology.*

114 A. *As used in this section:*

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

116 "New capital investment" means a capital investment made on or after May 1, 2000, in an eligible  
 117 city, which denotes investment in buildings and equipment by a qualified semiconductor manufacturer,  
 118 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 product" means a semiconductor-related product that has not previously been produced in conjunction with the performance grant program established in § 59.1-284.14.

"New technology" means a production method, process or application that was not employed in conjunction with the performance grant program established in § 59.1-284.14.

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

"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. Upon new capital investment of at least \$700 million that results in the creation of 600 new full-time jobs in an eligible city by January 1, 2003, an annual grant payment of five million dollars beginning five years after the commencement of the production of a new product and use of a new technology. A qualified semiconductor manufacturer shall only receive 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. Upon new capital investment of an additional two billion dollars that results in the creation of an additional 1,350 new full-time jobs in an eligible city by January 1, 2007, two annual grant payments of five million dollars beginning two years after the completion of facilities represented by that new capital investment for the manufacture of a new product and use of a new technology. A qualified semiconductor manufacturer shall only receive a grant under this subdivision if such new capital investment is in addition to the new capital investment 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 in accordance with a signed Memorandum of Agreement. A qualified semiconductor manufacturer shall only receive 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.

All terms and conditions of eligibility and grant disbursement shall be included in a Memorandum of Agreement between the qualified semiconductor manufacturer and the Commonwealth.

C. 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 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 following the calendar year in which the capital investment and employment levels were 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.

D. Within ninety days after the filing deadline in subsection C, 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 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.

E. 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.

F. The grants that may be paid under this section shall be paid from the Semiconductor Memory or

180 *Logic Wafer Manufacturing Performance Grant Fund established under § 59.1-284.14, subject to*  
181 *appropriations to such fund by the General Assembly.*

182 § 59.1-284.15. Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program II.

183 A. As used in this section:

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

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

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

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

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

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

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

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

217 Year of Sale or Use Amount

218 2003 \$3 million

219 2004 \$6 million, less the aggregate amount of grants to which all qualified manufacturers were  
220 entitled for wafers sold or used during the calendar year 2003

221 2005 \$9 million, less the aggregate amount of grants to which all qualified manufacturers were  
222 entitled for wafers sold or used during the calendar years 2003 and 2004

223 2006 \$12 million, less the aggregate amount of grants to which all qualified manufacturers were  
224 entitled for wafers sold or used during the calendar years 2003 through 2005

225 2007 \$15 million, less the aggregate amount of grants to which all qualified manufacturers were  
226 entitled for wafers sold or used during the calendar years 2003 through 2006

227 2008 \$15 million, less the aggregate amount of grants to which all qualified manufacturers were  
228 entitled for wafers sold or used during the calendar years 2003 through 2007

229 2009 \$15 million, less the aggregate amount of grants to which all qualified manufacturers were  
230 entitled for wafers sold or used during the calendar years 2003 through 2008

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

239 E. Within ninety days after the filing deadline in subsection D, the Secretary shall certify to (i) the  
240 Comptroller and (ii) each applicant the amount of the grant to which such applicant is entitled under this  
241 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. Additional employment and investment; new product.*

*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 product" means a semiconductor-related product that has not previously been produced in conjunction with the performance grant program established in § 59.1-284.15.*

*"New technology" means a production method, process or application that was not employed in conjunction with the performance grant program established in § 59.1-284.15.*

*"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. Upon new capital investment of an additional \$1.1 billion that results in the creation of a new manufacturing module for the manufacture of a new product and use of a new technology in an eligible county 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 that new capital investment;*

*2. Upon creation of 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 only receive 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. Upon creation of 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 only receive a grant under this subdivision if (i) 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.*

*All terms and conditions of eligibility and grant disbursement shall be included in a Memorandum of Agreement between the qualified semiconductor manufacturer and the Commonwealth.*

*C. Any qualified manufacturer entitled to apply for a grant under this section shall provide evidence, satisfactory to the Secretary, of capital investment and employment levels achieved in an eligible county 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 it is eligible for grants following the calendar year in which the capital investment and employment levels were 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.*

*D. Within ninety days after the filing deadline in subsection C, 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 during the immediately preceding calendar year. Payment of such grant shall be made by*

303 *check issued by the Treasurer of Virginia on warrant of the Comptroller within sixty days of such*  
304 *certification.*

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

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