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**HOUSE BILL NO. 999**

Offered January 8, 2014

Prefiled January 8, 2014

A *BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.9, consisting of sections numbered 59.1-284.28 and 59.1-284.29, relating to incentive grants to major employers for performing research and development in Virginia.*

Patron—Comstock

Referred to Committee on Appropriations

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

**1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.9, consisting of sections numbered 59.1-284.28 and 59.1-284.29, as follows:**

**CHAPTER 22.9.****VIRGINIA MAJOR EMPLOYER RESEARCH PERFORMANCE GRANT PROGRAM.****§ 59.1-284.28. Virginia Major Employer Research Performance Grant Program.**

A. As used in this chapter, unless the context requires a different meaning:

"Full-time position" means employment in the Commonwealth (i) of an indefinite duration for which the average annual wage is at least equal to the prevailing average annual wage in the locality where the position is located, (ii) for which the standard fringe benefits are paid by the employer, and (iii) that requires a minimum of either 1,680 hours per year or 35 hours of any employee's time per week for the entire normal year of such employer. For the purposes of this definition, a "normal year" consists of a minimum of 48 weeks. Positions that are seasonal or temporary shall not qualify as full-time positions under this section. Other positions, including those of indefinite duration, and supplemental employees of affiliates, subsidiaries, or joint ventures may be considered full-time positions if so designated in the memorandum of understanding.

"Major employer" means any entity that during a calendar year (i) incurred at least \$3.5 million in Virginia qualified research and development expenditures, (ii) employed at least 1,000 full-time positions, and (iii) realized at least \$500 million in gross receipts or gross revenues related to business activity performed in the Commonwealth.

"Memorandum of understanding" means a performance agreement entered into by an eligible entity and the Commonwealth setting forth the requirements for Virginia qualified research and development expenditures, full-time positions of the entity, the amount of the performance grant payment, and the amount of any performance grant required to be repaid to the Commonwealth.

"Performance grant" means a research and development incentive grant awarded pursuant to this section.

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

"Virginia qualified research and development expenditures" means qualified research, as defined in § 41(d) of the Internal Revenue Code, as amended, that is conducted in the Commonwealth.

B. Performance grants shall be awarded pursuant to this section to major employers. The amount of the performance grant shall equal 10 percent of the first \$15 million in Virginia qualified research and development expenditures incurred by the entity during the calendar year in which it is a major employer. Performance grants shall be awarded in the calendar year immediately following the year in which the entity is a major employer.

The amount of the performance grant that a major employer is otherwise eligible to receive shall be reduced to the extent that a tax credit is allowed for the same expenditures under § 58.1-439.12:08.

C. As a condition for the payment of a performance grant, any major employer receiving a performance grant under subsection B shall be required to incur Virginia qualified research and development expenditures during the calendar year immediately following the year for which the performance grant was awarded in an amount at least equal to 200 percent of the performance grant amount. If the major employer fails to incur such amount of expenditures as required, it shall be liable to the Commonwealth for repayment of a portion of the performance grant equal to the difference between the grant and 50 percent of the Virginia qualified research and development expenditures incurred during the calendar year immediately following the year for which the performance grant was awarded.

D. Any major employer applying for a performance grant under this section shall provide evidence, satisfactory to the Secretary, of the amount of Virginia qualified research and development expenditures incurred by the major employer during the year. The application and evidence shall be filed with the

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HB999

59 Secretary in person or by mail no later than March 31 (or such later date determined by the Secretary  
60 in his sole discretion) each year following the calendar year in which the expenditures were incurred.  
61 Failure to meet the filing deadline shall render the applicant ineligible to receive a performance grant  
62 for expenditures incurred in the prior calendar year. For filings by mail, the postmark cancellation shall  
63 govern the date of the filing determination.

64 E. Within 90 days after the filing deadline in subsection D, the Secretary shall certify to (i) the  
65 Comptroller and (ii) each applicant the amount of the performance grant to which such applicant is  
66 entitled under this section for Virginia qualified research and development expenses incurred in the  
67 immediately preceding calendar year. Payment of the performance grant shall be made by check issued  
68 by the State Treasurer on warrant of the Comptroller within 60 days of such certification.

69 F. As a condition for the payment of a performance grant, a major employer shall make available to  
70 the Secretary for inspection upon his request all relevant and applicable documents to determine  
71 whether the entity's Virginia qualified research and development expenditures meet the requirements for  
72 the payment of a performance grant as set forth in this section and subject to the memorandum of  
73 understanding. The Comptroller shall not draw any warrants to issue checks for this performance grant  
74 program without a specific legislative appropriation as specified in conditions and restrictions on  
75 expenditures in the general appropriation act. All such documents appropriately identified by the major  
76 employer shall be considered confidential and proprietary.

77 G. The performance grants that may be paid under this section shall be paid from the Virginia  
78 Major Employer Research Performance Grant Program Fund established under § 59.1-284.29.

79 H. No grant shall be allowed under this section for Virginia qualified research and development  
80 expenditures incurred subsequent to December 31, 2018.

81 **§ 59.1-284.29. Virginia Major Employer Research Performance Grant Program Fund established.**

82 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia  
83 Major Employer Research Performance Grant Program Fund, hereafter referred to as "the Fund." The  
84 Fund shall be established on the books of the Comptroller. The Fund shall consist of such moneys as  
85 may be appropriated to it by the General Assembly. Moneys in the Fund shall be used solely for the  
86 purposes of providing performance grants to major employers as specified in § 59.1-284.28.  
87 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued  
88 by the Comptroller upon written request signed by the Secretary.