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HOUSE BILL NO. 2918**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Finance
on February 2, 2005)

(Patron Prior to Substitute—Delegate Hogan)

A *BILL to amend and reenact § 32.1-366 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 18 of Title 3.1 an article numbered 5.1, consisting of sections numbered 3.1-336.2:1 and 3.1-336.2:2, relating to assignments of escrow payments under the Master Settlement Agreement.*

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-366 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 18 of Title 3.1 an article numbered 5.1, consisting of sections numbered 3.1-336.2:1 and 3.1-336.2:2, as follows:

*Article 5.1.**Escrow Funds Contributed to the Commonwealth.*

§ 3.1-336.2:1. *Assignment to the Commonwealth of rights to tobacco manufacturer escrow funds; contribution to the Commonwealth.*

Notwithstanding the provisions of subsection B of § 3.1-336.2, a tobacco product manufacturer who elects to place funds into escrow pursuant to subdivision A 2 of § 3.1-336.2 may make an irrevocable assignment of its interest in the funds to the benefit of the Commonwealth. Such assignment shall be permanent and shall apply to all funds in the subject escrow account at the time of assignment or that may subsequently come into such account, including those deposited into the escrow account prior to the assignment being executed, those deposited into the escrow account after the assignment is executed, and interest or other appreciation on such funds. The tobacco product manufacturer, the Attorney General, and the financial institution where the escrow account is maintained shall make such amendments to the qualified escrow account agreement, title to the account, and the account itself as may be necessary to effectuate an irrevocable assignment of rights executed pursuant to this section or a withdrawal of funds from the escrow account pursuant to § 3.1-336.2:2. An assignment of rights executed pursuant to this section shall be in writing, signed by a duly authorized representative of the tobacco product manufacturer making the assignment, and shall become effective upon delivery of the assignment to the Attorney General and the financial institution where the escrow account is maintained.

§ 3.1-336.2:2. *Withdrawal of escrow funds assigned and contributed to the Commonwealth.*

Notwithstanding the provisions of subsection B of § 3.1-336.2, any escrow funds assigned and contributed to the Commonwealth pursuant to § 3.1-336.2:1 may be withdrawn by the Commonwealth upon request of the State Treasurer and approval of the Attorney General. Any funds withdrawn pursuant to this section shall be deposited into the Virginia Health Care Fund established under § 32.1-366. Nothing in this article shall be construed to relieve a tobacco product manufacturer from any past, current, or future obligations it may have pursuant to Article 5 (§ 3.1-336.1 et seq.) or Article 6 (§ 3.1-336.3 et seq.) of this chapter.

§ 32.1-366. *Virginia Health Care Fund established.*

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Health Care Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller and any moneys remaining in the Fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. For purposes of the Comptroller's preliminary and final annual reports required by § 2.2-813, however, all deposits to and disbursements from the Fund shall be accounted for as part of the general fund of the state treasury.

B. All revenue received by the Commonwealth pursuant to the provisions of (i) §§ 58.1-1001 and 58.1-1018 ~~and~~, (ii) Article 2.1 (§ 58.1-1021.01 et seq.) of Chapter 10 of Title 58.1, and (iii) § 3.1-336.2:2 shall be paid into the state treasury and deposited to the Fund. The Comptroller shall also deposit 40 percent of the Commonwealth's allocation pursuant to the Master Settlement Agreement with tobacco product manufacturers, as defined in § 3.1-1106, to the Fund. The Fund shall also consist of all recoveries received during a fiscal year resulting from expenditures incurred in the Medicaid program during a prior fiscal year or years to the extent that such amounts represent recoveries of state funds that would otherwise be deposited to the general fund of the state treasury.