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SENATE BILL NO. 1440

Offered January 21, 2011

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 22 of Title 2.2 a section numbered 2.2-2233.3 and by adding in Chapter 3 of Title 58.1 an article numbered 23, consisting of sections numbered 58.1-550 and 58.1-551, relating to research and technology funding; Commonwealth Innovation Investment Fund.*

Patrons—Herring, Barker, Colgan, Deeds, Edwards, Howell, Locke, Lucas, Marsden, Marsh, McEachin, Miller, J.C., Northam, Puckett, Puller, Saslaw, Ticer and Whipple

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 22 of Title 2.2 a section numbered 2.2-2233.3 and by adding in Chapter 3 of Title 58.1 an article numbered 23, consisting of sections numbered 58.1-550 and 58.1-551, as follows:

§ 2.2-2233.3. Commonwealth Innovation Investment Fund.

A. There is hereby created in the state treasury a special nonreverting, permanent fund, to be known as the Commonwealth Innovation Investment Fund, to be administered by the Authority. The Fund shall consist of moneys designated for the Fund pursuant to § 58.1-550, any other funds appropriated by the General Assembly, and any gifts, grants, or donations from public or private sources. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the chairman or the vice-chairman of the Authority, or, if so authorized by the Authority, bearing his facsimile signature, and the official seal of the Authority.

B. Moneys in the Fund shall be used for the purpose of creating, attracting, retaining, expanding, and enhancing existing and new science and technology research, commercialization, and innovation in the Commonwealth through the award of grants, loans, or other funding mechanisms identified by the Authority that are in accordance with Article X, Section 10 of the Constitution of Virginia to state institutions of higher education or private entities. Awards shall be based on scientific merit and economic development potential for the Commonwealth. The Authority may also designate a percentage of the moneys in the Fund, not to exceed 25 percent of the balance of the Fund in any given year, to own and possess patents, copyrights, trademarks, and proprietary technology.

C. The Authority shall develop and publish guidelines that set forth provisions concerning eligibility for awards from the Fund, the procedures for applying for an award, the criteria that will be used to review applications, and conditions precedent for receipt of an award, which shall include but are not limited to requirements for providing matching funds and provisions related to the repayment of awards if conditions are not met by the award recipient.

D. In reviewing applications for awards, the Authority may assemble advisory review committees with expertise in areas of science, technology, and innovation relevant to the applications.

E. The chairman of the Authority shall provide the Governor and the General Assembly with an annual report to include a detailed list of awards committed, the amount of each approved award, a description of each approved proposal, the amount of federal or private matching funds anticipated where applicable, and an assessment of the effectiveness of the Fund in attracting public and private research funding and increasing technology-related economic development in the Commonwealth.

Article 23.

Allocation of Certain Revenues Attributable to Growth in Withholding.

§ 58.1-550. Definitions.

As used in this article, unless the context requires a different meaning:

"Applicable percentage" means the percentage of state income tax withheld by science and innovation companies that will be credited and transferred to the Commonwealth Innovation Investment Fund, established pursuant to § 2.2-2233.3, determined as follows: for the years 2013 - 2017, the applicable percentage shall be 100 percent; for the years 2018 - 2022, the applicable percentage shall be 75 percent; for the year 2023 and all subsequent years, the applicable percentage shall be 50 percent.

"Base year" means the year ending December 31, 2012.

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58 *"Science and innovation company" means a company primarily engaged in, or primarily organized to*
59 *engage in, the fields of advanced computing, advanced manufacturing, advanced materials, agricultural*
60 *technologies, biotechnology, electronic device technology, energy, environmental technology, information*
61 *technology, medical device technology, nanotechnology, or any similar technology-related field*
62 *determined by regulation by the Department of Taxation to be a "qualified business" pursuant to*
63 *§ 58.1-339.4, that employs persons in the Commonwealth.*

64 *§ 58.1-551. Allocation of certain income tax to the Commonwealth Innovation Investment Fund.*

65 *A. Beginning January 1, 2013, and each year thereafter, there shall be deposited into the*
66 *Commonwealth Innovation Investment Fund an amount equal to a percentage of all income taxes*
67 *withheld by a science and innovation company pursuant to this article for any period during such*
68 *funding year. Such percentage shall equal the product of the applicable percentage for the current year*
69 *multiplied by an amount equal to the difference of all withholding taxes for the prior year, minus the*
70 *base year taxation.*

71 *B. For purposes of making the deposit required by this subsection A, the Tax Commissioner shall*
72 *make, at least semiannually, a written certification to the Comptroller of the amount of revenues that*
73 *should be transferred to the Commonwealth Innovation Investment Fund. No later than 15 days after the*
74 *receipt of the certification, the Comptroller shall transfer to the Commonwealth Innovation Investment*
75 *Fund an amount from the general fund equal to the amount certified by the Tax Commissioner.*

76 **2. That the Innovation and Entrepreneurship Investment Authority shall develop detailed**
77 **guidelines in accordance with the provisions of this act no later than December 1, 2011. In**
78 **developing the guidelines, the Authority shall solicit the input of interested stakeholders in the**
79 **Commonwealth, including but not limited to representatives from institutions of higher education;**
80 **science and innovation companies, as defined in § 58.1-550 of the Code of Virginia; associations**
81 **representing relevant industries; regional technology councils; and economic development**
82 **authorities. The Authority shall submit the guidelines to the Governor and the General Assembly**
83 **for review.**

84 **3. That the Department of Taxation shall develop regulations to assist in identifying science and**
85 **innovation companies, as defined in § 58.1-550 of the Code of Virginia, and implementing the**
86 **provisions of this act as it relates to withholding taxes.**