

# DEPARTMENT OF TAXATION

## 2012 Fiscal Impact Statement

1. **Patron** Mark R. Herring

2. **Bill Number** SB 579

3. **Committee** Senate General Laws & Technology

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Commonwealth Innovation Investment Fund

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would create the Commonwealth Innovation Investment Fund (the "Fund"), a special non-reverting permanent fund. The purpose of the Fund would be for 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. The Fund would be administered by the Innovation and Entrepreneurship Investment Authority ("Authority"), and the Fund's account would be established on the books of the Comptroller.

The Fund would consist of a portion of the income tax withholding of science and innovation companies, any other funds appropriated by the General Assembly, and any gifts, grants, or donations from public or private sources. The percentage would be determined by multiplying the all Virginia withholding tax from science and innovation companies by the total Virginia withholding for the current year minus the total Virginia withholding for the base year.

Under this bill, the Tax Commissioner would be required to provide written certification, at least semiannually, to the Comptroller of the amount of General Fund revenues that should be transferred to the Fund. The Comptroller would be required to transfer to the Fund an amount from the General Fund that is equal to the amount certified by the Tax Commissioner, no later than 15 days after the receipt of the certification. This bill would provide that any interest earned would be credited back to the Fund, and that moneys remaining in the Fund at the end of each fiscal year, including interest, would not revert to the General Fund but remain in the Fund.

The provision allocating withholding tax revenues to the Commonwealth Innovation Trust Fund would be effective for taxable years beginning on or after July 1, 2014.

### 6. **Budget amendment necessary:** Yes.

Page 1, Revenue Estimates

New item for the Commonwealth Innovation Investment Fund

**7. Fiscal Impact Estimates are:** Tentative. (See Line 8.)

**7b. Revenue Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2011-12	\$0	GF
2011-12	\$0	GF
2012-13	\$0	GF
2012-13	\$0	NGF
2013-14	\$0	GF
2013-14	\$0	NGF
2014-15	(\$10.13 million)	GF
2014-15	\$10.13 million	NGF
2015-16	(\$16.89 million)	GF
2015-16	\$16.89 million	NGF
2016-17	(\$24.53 million)	GF
2016-17	\$24.53 million	NGF
2017-18	(\$32.57 million)	GF
2017-18	\$32.57 million	NGF

**8. Fiscal implications:**

Department of Taxation Administrative Costs

The Department considers implementation of this bill as routine, and does not require additional funding.

Center for Innovative Technology Costs

Depending on how the Authority promulgates the guidelines, the revenue generated from this legislation would offset General Fund requirements for the Commonwealth Research Commercialization Fund and the Center for Innovative Technology base operations.

Revenue Impact

At a minimum, this bill would transfer General Fund revenue to the Commonwealth Innovation Investment Fund in the amount of \$10.13 million in FY 2015, \$16.89 million in FY 2016, \$24.53 million in FY 2017, and \$32.57 million in FY 2018. This estimate is based, in part, on NAICS codes and should be considered tentative.

This bill would require the Department to determine which companies qualify as a “science and innovation company” in order to redirect withholding tax revenues to the Commonwealth Innovation Investment Fund. The only data readily available for this purpose are the NAICS codes reported by taxpayers on their income tax returns. These codes are not always reliable. For example, a corporation may have a subsidiary or division that engages in a separate type of work, but the corporation can only provide one NAICS code to describe the entire business. For this reason, it is unlikely that the Department can accurately identify each science and innovation company.

The transfers required by this bill would not reduce General Fund revenue, but would have a significant negative impact on the amount of future revenue growth of the General Fund available for appropriations.

**9. Specific agency or political subdivisions affected:**

Department of Taxation  
Innovation and Entrepreneurship Investment Authority

**10. Technical amendment necessary:** Yes.

The Department of Taxation's role is limited to identifying the portion of withholding revenue attributable to science and innovation companies. This requires finding appropriate data sources to generate estimates. Therefore, the regulatory requirement is unnecessary.

Page 2, Line 85, at the beginning of the line  
Strike: all of Lines 85 through 87

**11. Other comments:**

Current Law

In 2009, the General Assembly passed legislation that merged the Innovative Technology Authority, and the Virginia Research and Technology Advisory Commission into a single entity, named the Innovation and Entrepreneurship Investment Authority (the "Authority"). The Authority consists of 10 members that include: three presidents of state institutions of higher education; the Secretary of Technology; and six non-legislative citizen members representing the entrepreneurial, investment, and science and technology communities.

The Authority currently administers the Commonwealth Research Commercialization Fund (CRCF). This fund was created to leverage federal and private investment in research at Virginia's public universities, and increase the role of science and technology-based research, development, and commercialization in the Commonwealth. Funding from the CRCF is awarded for research programs or technologies substantially focused in the following fields: energy, conservation, environment, microelectronics, robotics and unmanned vehicle systems, advanced shipbuilding, or lifespan biology and medicine. Prior to 2009, CRCF was named the Commonwealth Technology Research Fund.

Proposal

*Establishment of the Commonwealth Innovation Investment Fund*

This bill would create the Commonwealth Innovation Investment Fund (the "Fund"), a special non-reverting permanent fund. The Fund would consist of a portion of the income tax withholding of science and innovation companies, any other funds appropriated by the General Assembly, and any gifts, grants, or donations from public or private sources. The Fund would be administered by the Innovation and Entrepreneurship Investment Authority ("Authority"). The Fund's account would be established on the books of the Comptroller.

The purpose of the Fund would be for 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.

This bill would provide that any interest earned would be credited back to the Fund, and that moneys remaining in the Fund at the end of each fiscal year, including interest, would not revert to the General Fund but remain in the Fund. Any expenditures and disbursements from the Fund, such as grants or loans, would be made by the State Treasurer on warrants issued by the Comptroller at the written request of the chairman or vice-chairman of the Authority.

This bill would specify that any funding that is awarded would be based on scientific merit and economic development potential for the Commonwealth. This bill would allow the Authority to assemble an advisory review committee, with expertise in areas of science, technology, and innovation, to assist with the review of applications for funding.

This bill would also allow the Authority to 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.

Under this bill, the Authority would be required to promulgate guidelines by December 1, 2011, to establish procedures for applying for funding and standards for determining when funding should be awarded. These guidelines would also be required to include the requirements for providing matching funds and repayment of funding if the recipient does not meet certain requirements. In order to develop these guidelines, this bill would allow the Authority to solicit the input of interested stakeholders in the Commonwealth, including, but not limited to, representatives from institutions of higher education; science and innovation companies; associations representing relevant industries; regional technology councils; and economic development authorities. The Authority would also be required to submit the guidelines to the Governor and the General Assembly for review.

Finally, the president of the Authority would be required to provide the Governor and the General Assembly with an annual report that includes the following information: a detailed list of funding that was awarded; the amount of funding for each approved application; a description of each approved proposal; the amount of federal or private matching funds that are anticipated; 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.

#### *Allocation of Withholding Tax Revenues*

This bill would require that a portion of the growth in withholding tax revenue attributable to income taxes withheld by a science and innovation company be deposited into the Fund. Each year's transfer would be determined as follows: (i) the percentage of the current year's withholding tax revenue that is attributable to science and innovation companies would be multiplied by either 100%, 75% or 50%, depending on the year; and (ii) the resulting percentage, defined as the "applicable percentage" in the bill, would be

multiplied by the difference between current year withholding tax revenue and withholding tax revenue for the year ending December 31, 2012.

Depending on the year for which the transfer is being made, the following percentages would apply:

- 100% for the years 2014 - 2018;
- 75% for the years 2019 - 2023; and
- 50% for the year 2024 and all subsequent years.

"Applicable percentage" would mean the percentage of state income tax withheld by science and innovation companies that will be credited and transferred to the Commonwealth Innovation Investment Fund, determined as follows: for the years 2014 - 2018, the applicable percentage shall be 100 percent; for the years 2019 - 2023, the applicable percentage shall be 75 percent; for the year 2024 and all subsequent years, the applicable percentage shall be 50 percent.

"Virginia base year withholding taxes" would mean the total amount of withholding taxes for the calendar year ending December 31, 2011.

"Science and innovation company" would mean a company primarily engaged in, or primarily organized to engage in, the fields of advanced computing, advanced manufacturing, advanced materials, agricultural technologies, biotechnology, electronic device technology, energy, environmental technology, information technology, medical device technology, nanotechnology, or any similar technology-related field determined by regulation by the Department of Taxation to be a "qualified business" pursuant to the Qualified Equity and Subordinated Debt Investments Tax Credit, that employs persons in the Commonwealth.

This bill would require the Tax Commissioner to provide written certification, at least semiannually, to the Comptroller of the amount of General Fund revenues that should be transferred to the Fund. The Comptroller would be required to transfer to the Fund an amount from the General Fund that is equal to the amount certified by the Tax Commissioner, no later than 15 days after the receipt of the certification.

Finally, the Department would be required to promulgate regulations to assist in identifying science and innovation companies, and implementing the provisions of this act as it relates to withholding taxes. A technical amendment is suggested to delete the regulatory requirement.

The provision allocating withholding tax revenues to the Commonwealth Innovation Trust Fund would be effective for taxable years beginning on or after July 1, 2014.

cc : Secretary of Finance

Date: 1/28/2012 tlg  
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