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**HOUSE BILL NO. 434**

Offered January 17, 2000

A *BILL to amend the Code of Virginia by adding in Chapter 14 of Title 2.1 an article numbered 2.2, consisting of sections numbered 2.1-191.5 through 2.1-191.11, relating to the Capital Expenditure Special Fund.*

Patrons—Callahan and Dickinson

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 Chapter 14 of Title 2.1 an article numbered 2.2, consisting of sections numbered 2.1-191.5 through 2.1-191.11, as follows:**

*Article 2.2.**Capital Expenditure Special Fund.**§ 2.1-191.5. Definitions.*

*As used in this article:*

*"Allocable nonwithholding revenue amount" means the product obtained by multiplying (i) the amount of nonwithholding revenue by (ii) the amount by which the rate of nonwithholding revenue growth exceeds the rate of general fund revenue growth.*

*"December general fund revenue estimate" means the estimate of general fund revenue for the then-current fiscal year as submitted to the members of the General Assembly by December 15 of each year pursuant to § 2.1-393.*

*"Fund" means the Capital Expenditure Special Fund established by this article.*

*"Nonrecurring expenditures" means payments to (i) finance the construction or acquisition of capital projects or (ii) reduce the Commonwealth's bonded indebtedness incurred to construct or acquire capital projects.*

*"Nonwithholding revenue" means the amount of individual income tax revenue collected from sources other than withholdings from employees' wages pursuant to Article 16 (§ 58.1-460 et seq.) of Chapter 3 of Title 58.1.*

*"Rate of general fund revenue growth" means the quotient, expressed as a percentage, obtained by dividing (i) the amount by which general fund revenue for the current fiscal year exceeds general fund revenue for the preceding fiscal year by (ii) general fund revenue for the current fiscal year.*

*"Rate of nonwithholding revenue growth" means the quotient, expressed as a percentage, obtained by dividing (i) the amount by which nonwithholding revenue for the current fiscal year exceeds nonwithholding revenue for the preceding fiscal year by (ii) nonwithholding revenue for the current fiscal year.*

*"Year-end general fund revenue amount" means the general fund revenue for the preceding fiscal year reported in the preliminary annual report submitted by the Comptroller to the Governor on or before August 15 of each year pursuant to § 2.1-207.*

*§ 2.1-191.6. Creation of Capital Expenditure Special Fund.*

*There is hereby established a special nonreverting fund in the state treasury to be known as the Capital Expenditure Special Fund. The Fund shall be used only to finance nonrecurring expenses as provided in the general appropriation act.*

*§ 2.1-191.7. Report of estimated nonwithholding revenue; calculation of allocable nonwithholding revenue amount.*

*A. With the presentation of the December general fund revenue estimate, the Governor shall report to the members of the General Assembly (i) the estimated nonwithholding revenue for the current fiscal year, (ii) the rate of general fund revenue growth based on the December general fund revenue estimate, and (iii) the estimated rate of nonwithholding revenue growth.*

*B. Based on the information reported as provided in subsection A, the Governor shall calculate the allocable nonwithholding revenue amount. The allocable nonwithholding revenue amount shall be zero if (i) the rate of general fund revenue growth is negative, (ii) the rate of nonwithholding revenue growth is negative, or (iii) the rate of general fund revenue growth exceeds the rate of nonwithholding revenue growth.*

*§ 2.1-191.8. Deposits to Fund.*

*A. The allocable nonwithholding revenue amount, calculated based on the information reported to the General Assembly pursuant to § 2.1-191.7, shall constitute nongeneral fund revenue. The Governor shall designate such revenue amount for deposit to the Fund in the budget bill or amendments to the*

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60 *general appropriation act, as applicable, submitted pursuant to § 2.1-399.*

61 *B. The general appropriation act shall provide for the deposit of the allocable nonwithholding*  
62 *revenue amount to the Fund. The State Comptroller shall draw such warrants as appropriated and the*  
63 *Treasurer of Virginia shall deposit such warrants into the Fund.*

64 *C. Amounts deposited to the Fund shall be appropriated only for nonrecurring expenditures as*  
65 *provided in the general appropriation act.*

66 *§ 2.1-191.9. Adjustments based on year-end revenue amounts.*

67 *A. At such time as the Governor receives the year-end general fund revenue amount, the Governor*  
68 *shall be provided with the actual amount of nonwithholding revenue for the preceding fiscal year. Based*  
69 *on such information, the Governor shall recalculate (i) the rate of general fund revenue growth and (ii)*  
70 *the actual rate of nonwithholding revenue growth.*

71 *B. If (i) the actual general fund revenue collections for the preceding fiscal year equal or exceed the*  
72 *December general fund revenue estimate and (ii) the allocable nonwithholding revenue amount, based*  
73 *on revenues actually received, exceeds the allocable nonwithholding revenue amount deposited to the*  
74 *Fund during the preceding General Assembly session, then the Governor shall segregate the amount of*  
75 *such excess nonwithholding revenue for deposit to the Fund during the following session of the General*  
76 *Assembly.*

77 *C. If (i) the actual general fund revenue collections for the preceding fiscal year equal or exceed the*  
78 *December general fund revenue estimate and (ii) the allocable nonwithholding revenue amount, based*  
79 *on revenues actually received, is less than the allocable nonwithholding revenue amount deposited to the*  
80 *Fund during the preceding General Assembly session, then the Governor shall allocate to the Fund,*  
81 *from the unreserved general fund balance, such sum as shall be necessary to finance the nonrecurring*  
82 *expenditures for which amounts in the Fund have been appropriated. If the unreserved general fund*  
83 *balance is not sufficient to finance such nonrecurring expenditures, the Governor may allocate funds*  
84 *sufficient to cover the balance of the deficiency or take such other action as he deems appropriate as*  
85 *authorized by the general provisions of the general appropriation act.*

86 *§ 2.1-191.10. Deposits to Fund subordinate to deposits to Revenue Stabilization Fund.*

87 *The requirement to make deposits to the Fund pursuant to this article shall be subordinate to the*  
88 *requirement to make any deposit to the Revenue Stabilization Fund required pursuant to Article X,*  
89 *Section 8 of the Constitution of Virginia and § 2.1-191.2. Deposits to the Fund shall be made if and to*  
90 *the extent that funds are available for such purpose after the required deposits to the Revenue*  
91 *Stabilization Fund are funded.*

92 *§ 2.1-191.11. Disbursements from Fund.*

93 *No amounts shall be disbursed from the Fund except in pursuance of appropriations made by the*  
94 *General Assembly in accordance with subsection C of § 2.1-191.8. Any amounts in the Fund in excess of*  
95 *amounts appropriated for nonrecurring expenditures shall remain in the Fund and be available for*  
96 *future appropriation by the General Assembly for nonrecurring expenditures.*