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**HOUSE BILL NO. 2222**

Offered January 12, 2011

Prefiled January 12, 2011

*A BILL to amend and reenact §§ 15.2-4838.1 and 15.2-4840 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 48.2 of Title 15.2 a section numbered 15.2-4841 and by adding in Title 33.1 a chapter numbered 10.3, consisting of sections numbered 33.1-391.16 and 33.1-391.17, a chapter numbered 10.4, consisting of sections numbered 33.1-391.18 and 33.1-391.19, a chapter numbered 10.5, consisting of sections numbered 33.1-391.20 and 33.1-391.21, and a chapter numbered 10.6, consisting of sections numbered 33.1-391.22 and 33.1-391.23; and to repeal §§ 58.1-1724.2 and 58.1-1724.4 of the Code of Virginia and the thirteenth and eighteenth enactments of Chapter 896 of the Acts of Assembly of 2007, relating to transportation funding and administration in the Northern Virginia and Hampton Roads areas and in the Richmond Highway Construction District, the Staunton Highway Construction District, and the Salem Highway Construction District.*

Patron—Oder

Referred to Committee on Appropriations

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

**1. That §§ 15.2-4838.1 and 15.2-4840 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 48.2 of Title 15.2 a section numbered 15.2-4841 and by adding in Title 33.1 a chapter numbered 10.3, consisting of sections numbered 33.1-391.16 and 33.1-391.17, a chapter numbered 10.4, consisting of sections numbered 33.1-391.18 and 33.1-391.19, a chapter numbered 10.5, consisting of sections numbered 33.1-391.20 and 33.1-391.21, and a chapter numbered 10.6, consisting of sections numbered 33.1-391.22 and 33.1-391.23, as follows:**

**§ 15.2-4838.1. Use of certain revenues by the Authority.**

**A.** All moneys received by the Authority and the proceeds of bonds issued pursuant to § 15.2-4839 shall be used by the Authority solely for transportation purposes benefiting those counties and cities that are embraced by the Authority.

**B.** Forty percent of the revenues shall be distributed on a pro rata basis, with each locality's share being the total of such fees and taxes assessed or imposed by the Authority and received by the Authority that are generated or attributable to the locality divided by the total of such fees and taxes assessed or imposed by the Authority and received by the Authority. Of the revenues distributed pursuant to this subsection (i) in the Cities of Alexandria, Fairfax, and Falls Church and the County of Arlington the first 50% shall be used solely for urban or secondary road construction and improvements and for public transportation purposes; and (ii) in the remaining localities, the first 50% shall be used solely for urban or secondary road construction and improvements. The remainder, as determined solely by the applicable locality, shall be used either for additional urban or secondary road construction; for other transportation capital improvements which have been approved by the most recent long range transportation plan adopted by the Authority; or for public transportation purposes. Solely for purposes of calculating the 40% of revenues to be distributed pursuant to this subsection, the revenue generated pursuant to § 58.1-3221.3 and Article 8 (§ 15.2-2317 et seq.) of Chapter 22 of this title by the counties and cities embraced by the Authority shall be considered revenue of the Authority. None of the revenue distributed by this subsection may be used to repay debt issued before July 1, 2007. Each locality shall provide annually to the Northern Virginia Transportation Authority sufficient documentation as required by the Authority showing that the funds distributed under this subsection were used as required by this subsection.

**C.** The remaining 60% of the revenues from such sources moneys received by the Authority shall be used by the Authority solely for transportation projects and purposes that benefit the counties and cities embraced by the Authority in consultation with members of the General Assembly and as may be required by any other law.

**1. The Notwithstanding any other provision of this chapter, revenues under this subsection shall be used first to pay any debt service owing on any bonds issued pursuant to § 15.2-4839, and then as follows:**

**a.** The next \$50 million each fiscal year shall be distributed to the Washington Metropolitan Area Transit Authority (WMATA) and shall be used for capital improvements benefiting the area embraced by the Authority for WMATA's transit service (Metro). The Authority shall first make use of that

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portion of such annual distribution as may be necessary under the requirements of federal law for the payment of federal funds to WMATA, but only if the matching federal funds are exclusive of and in addition to the amount of other federal funds appropriated for such purposes and are in an amount not less than the amount of such funds appropriated in the federal fiscal year ending September 30, 2007 2010;

For each year after 2018 any portion of the amount distributed pursuant to this subsection may be used for mass transit improvements in Prince William County;

b. The next \$25 million each fiscal year shall be distributed to the Virginia Railway Express for operating and capital improvements, including but not limited to track lease payments, construction of parking, dedicated rail on the Fredericksburg line, rolling stock, expanded service in Prince William County, and service as may be needed as a result of the Base Realignment and Closure Commission's action regarding Fort Belvoir.

2. All transportation projects undertaken by the Northern Virginia Transportation Authority shall be completed by private contractors accompanied by performance measurement standards, and all contracts shall contain a provision granting the Authority the option to terminate the contract if contractors do not meet such standards. Notwithstanding the foregoing, any locality may provide engineering services or right-of-way acquisition for any project with its own forces. The Authority shall avail itself of the strategies permitted under the Public-Private Transportation Act (§ 56-556 et seq.) whenever feasible and advantageous. The Authority is independent of any state or local entity, including the Virginia Department of Transportation (VDOT) and the Commonwealth Transportation Board (CTB), but the Authority, VDOT and CTB shall consult with one another to avoid duplication of efforts and, at the option of the Authority, may combine efforts to complete specific projects. Notwithstanding the foregoing, at the request of the Authority, VDOT may provide the Authority with engineering services or right-of-way acquisition for the project with its own forces. When determining what projects to construct under this subsection, the Authority shall base its decisions *on what project most efficiently reduces congestion and then* on the combination that (i) equitably distributes the funds throughout the localities; and (ii) constructs projects that move the most people or commercial traffic in the most cost-effective manner, and on such other factors as approved by the Authority. *Of the projects selected, a preference shall be given to fund projects that leverage other public or private funding sources, including but not limited to funds from private sources pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 et seq.), funds from tolls, or funds provided by the Northern Virginia Transportation Authority.*

3. All revenues deposited to the credit of the Authority shall be used for projects benefiting the localities embraced by the Authority, with each locality's total long-term benefits being approximately equal to the total of the fees and taxes received by the Authority that are generated by or attributable to the locality divided by the total of such fees and taxes received by the Authority.

DC. For road construction and improvements pursuant to subsection B, the Department of Transportation may, on a reimbursement basis, provide the locality with planning, engineering, right-of-way, and construction services for projects funded in whole by the revenues provided to the locality by the Authority.

§ 15.2-4840. Other duties and responsibilities of Authority.

In addition to other powers herein granted, the Authority shall have the following duties and responsibilities:

1. General oversight of regional programs involving mass transit or congestion mitigation, including, but not necessarily limited to, carpooling, vanpooling, and ridesharing;

2. Long-range regional planning, both financially constrained and unconstrained;

3. Recommending to state, regional, and federal agencies regional transportation priorities, including public-private transportation projects, and funding allocations;

4. Developing, in coordination with affected counties and cities, regional priorities and policies to improve air quality;

5. Allocating to priority regional transportation projects any funds made available to the Authority and, at the discretion of the Authority, directly overseeing such projects;

6. Recommending to the Commonwealth Transportation Board priority regional transportation projects for receipt of federal and state funds;

7. Imposing, collecting, and setting the amount of tolls for use of facilities in the area embraced by the Authority, when the facility is either newly constructed or reconstructed solely with revenues of the Authority or solely with revenues under the control of the Authority in such a way as to increase the facility's traffic capacity, with the amount of any tolls variable by time of day, day of the week, vehicle size or type, number of axles, or other factors as the Authority may deem proper, and with all such tolls to be used for programs and projects that are reasonably related to or benefit the users of the applicable facility, including, but not limited to, for the debt service and other costs of bonds whose proceeds are used for such construction or reconstruction;

8. General oversight of regional transportation issues of a multijurisdictional nature, including but not limited to intelligent transportation systems, signalization, and preparation for and response to emergencies;

9. Serving as an advocate for the transportation needs of Northern Virginia before the state and federal governments;

10. Applying to and negotiating with the government of the United States, the Commonwealth of Virginia, or any agency, instrumentality, or political subdivision thereof, for grants and any other funds available to carry out the purposes of this chapter and receiving, holding, accepting, and administering from any source gifts, bequests, grants, aid, or contributions of money, property, labor, or other things of value to be held, used and applied to carry out the purposes of this chapter subject, however, to any conditions upon which gifts, bequests, grants, aid, or contributions are made. Unless otherwise restricted by the terms of the gift, bequest, or grant, the Authority may sell, exchange, or otherwise dispose of such money, securities, or other property given or bequeathed to it in furtherance of its purposes; and

11. Acting as a "responsible public entity" for the purpose of the acquisition, construction, improvement, maintenance and/or operation of a "qualifying transportation facility" under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.); and

12. To decide and vote to impose certain fees and taxes authorized under law for imposition or assessment by the Authority, provided that any such fee or tax assessed or imposed is assessed or imposed in all counties and cities embraced by the Authority. The revenues from such certain fees and taxes shall be kept in a separate account and shall be used only for the purposes provided in this chapter.

§ 15.2-4841. Revenues attributable to economic growth in Northern Virginia.

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

"Base state tax revenues" means the state tax revenues in the Commonwealth's fiscal year beginning July 1, 2010.

"Net revenues" means tax revenues less the applicable portion of any refunds.

"State tax revenues" means the net revenues collected from the (i) state sales and use tax pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, plus (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 for the Commonwealth's fiscal year, beginning July 1, 2010.

B. There is hereby appropriated to the Northern Virginia Transportation Authority ("Authority") 30 percent of the growth in state tax revenues as defined in subsection A, attributable to the counties, cities, and towns embraced by the Northern Virginia Transportation Authority. The amount appropriated in each year shall be determined as follows:

1. For calculating the 30 percent growth in individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, the 30 percent growth share shall be based on the individual income tax liability for individuals residing in the counties, cities, and towns embraced by the Northern Virginia Transportation Authority. Annually, the Department shall establish the total amount of individual income tax liability for such residents using data from the most recent calendar year for which tax liability has been calculated and from that amount subtract the individual income tax liability for such residents from the next previous calendar year. If such calculations show an increase in tax liability, the resulting amount shall be multiplied by 0.30 and the resulting sum shall be paid to the Northern Virginia Transportation Authority no later than January 1 of each year.

2. For calculating the 30 percent growth in corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, the 30 percent growth shall be based on the corporate income tax liability for corporations located in the counties, cities, and towns embraced by the Northern Virginia Transportation Authority. Annually, the Department shall establish the total amount of income tax liability for such corporations using data from the most recent previous calendar year. If such calculations show an increase in tax liability, the resulting amount shall be multiplied by 0.30 and the resulting sum shall be paid to the Northern Virginia Transportation Authority no later than January 1 of each year.

3. For calculating the 30 percent growth in insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1, the 30 percent growth shall be based on the amount of revenue generated from the localities embraced by the Northern Virginia Transportation Authority in the most recently completed fiscal year less the revenue generated from the localities embraced by such Authority in the next previous fiscal year. The resulting amount, if positive, shall be multiplied by 0.30, and the resulting sum shall be paid to the Northern Virginia Transportation Authority no later than January 1 of each year.

4. For calculating the 30 percent growth in state sales and use tax pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, the 30 percent growth shall be based on the amount of revenue

generated from the localities embraced by the Northern Virginia Transportation Authority in the most recently completed fiscal year less the revenue generated from the localities embraced by such Authority in the next previous year. The resulting amount, if positive, shall be multiplied by 0.30, and the resulting sum shall be paid to the Northern Virginia Transportation Authority no later than January 1 of each year.

C. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine the amount to be transferred to the Authority in each fiscal year in accordance with the provisions of this section. The Secretary of Finance shall provide a written certification of the same to the Comptroller by August 31 each year. The Comptroller shall then transfer such amount to the Authority by making four equal deposits on the fifteenth of September, December, March, and June.

D. Notwithstanding any other provision of this section, the amount transferred to the Authority pursuant to this section shall not exceed \$600 million in any fiscal year.

#### CHAPTER 10.3.

##### HAMPTON ROADS TRANSPORTATION FUNDING.

§ 33.1-391.16. Hampton Roads Transportation Revenue Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Hampton Roads Transportation Revenue Fund, hereafter referred to as "the Fund." 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, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for new transportation construction projects in the Counties of Isle of Wight, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, as required by law; and then as determined by the Hampton Roads Metropolitan Planning Organization.

§ 33.1-391.17. Revenues attributable to economic growth from cargo marine terminals deposited into the Hampton Roads Transportation Revenue Fund.

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

"Base number of cargo containers" means the cargo containers in the Commonwealth's fiscal year beginning July 1, 2010.

"Cargo container" means the number of cargo containers loaded onto, or unloaded from, ships in the ports for commerce in a fiscal year, measured in 20-foot-equivalent units.

"Net revenues" means the gross revenues less the applicable portion of any refunds.

"Ports" means the public and private general cargo marine terminals located in Hampton Roads.

"State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, plus (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 for the Commonwealth's fiscal year beginning July 1, 2010.

B. There shall be deposited into the Hampton Roads Transportation Revenue Fund established under § 33.1-391.16 a portion of the growth in state taxes attributable to economic activity generated or facilitated by the Ports of Hampton Roads. The amount deposited into the Fund in each fiscal year shall be determined using the following revenue ratio: state tax revenues attributable to economic activity generated or facilitated by the ports/Base number of cargo containers.

The General Assembly intends for the revenue ratio to be a measure of the state revenues attributable to economic activity of the ports on a per-cargo-container basis.

Deposits to the Fund shall begin in the Commonwealth's fiscal year starting on July 1, 2011. For such fiscal year, the amount deposited to the Fund shall be computed by:

1. First multiplying the revenue ratio by the increase in cargo containers for the most recently ended fiscal year over the base number of cargo containers, and

2. Second multiplying such product by 30 percent.

As a result, the amount deposited into the Fund for the Commonwealth's fiscal year starting on July 1, 2011, shall be computed using the following formula: revenue ratio X (increase in cargo containers in fiscal year 2010-2011 over the base number of cargo containers) X 0.30.

For the fiscal year starting on July 1, 2013, and for each fiscal year thereafter, the amount deposited into the Fund shall be computed using such formula except that the cargo containers in the most recently ended fiscal year shall be used for determining the increase over the base number of cargo containers.

C. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine the revenue ratio. In determining the numerator of the revenue ratio or the state tax revenues attributable to economic activity generated or facilitated by the ports, the Secretary shall include state tax revenues from (i) port operations, including but not limited to revenues from pilots, longshoremen, truck and rail transportation, insurance, warehousing, storage, and ship servicing; (ii) the production in

Virginia of goods exported through the ports; (iii) imports sold to citizens of the Commonwealth or used as inputs by businesses located in the Commonwealth or by Virginia state and local governmental entities; and (iv) employee compensation, fuel costs, business and professional services, power, and communications relating to the factors set forth in clauses (i) through (iii). The Secretary shall determine the revenue ratio no later than January 1, 2012, and shall promptly report the same to the chairmen of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance.

D. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine the amount to be deposited into the Fund in each fiscal year in accordance with the provisions of this section. The Secretary of Finance shall provide a written certification of the same to the Comptroller by August 31 each year. The Comptroller shall then deposit such amount into the Fund by making four equal deposits into the Fund on the fifteenth of September, December, March, and June.

E. Notwithstanding any other provision of this section, the amount deposited into the Fund pursuant to this section shall not exceed \$300 million in any fiscal year.

#### CHAPTER 10.4.

#### STAUNTON HIGHWAY CONSTRUCTION DISTRICT TRANSPORTATION FUNDING.

§ 33.1-391.18. Staunton Highway Construction District Transportation Revenue Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Staunton Highway Construction District Transportation Revenue Fund, hereafter referred to as "the Fund." 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, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for new transportation construction projects in the Staunton Highway Construction District as determined by the Commonwealth Transportation Board.

§ 33.1-391.19. Revenues attributable to economic growth from cargo commerce deposited into the Staunton Highway Construction District Transportation Revenue Fund.

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

"Base number of cargo containers" means the cargo containers in the Commonwealth's fiscal year beginning July 1, 2010.

"Cargo container" means the number of cargo containers loaded onto, or unloaded at the port for commerce in a fiscal year, measured in 20-foot-equivalent units.

"Net revenues" means the gross revenues less the applicable portion of any refunds.

"Port" means the Inland Port at Front Royal.

"State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, plus (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 for the Commonwealth's fiscal year beginning July 1, 2010.

B. There shall be deposited into the Staunton Highway Construction District Transportation Revenue Fund established under § 33.1-391.18 a portion of the growth in state taxes attributable to economic activity generated or facilitated by the Port. The amount deposited into the Fund in each fiscal year shall be determined using the following revenue ratio: state tax revenues attributable to economic activity generated or facilitated by the port/Base number of cargo containers.

The General Assembly intends for the revenue ratio to be a measure of the state revenues attributable to economic activity of the port on a per-cargo-container basis.

Deposits to the Fund shall begin in the Commonwealth's fiscal year starting on July 1, 2012. For such fiscal year, the amount deposited to the Fund shall be computed by:

1. First multiplying the revenue ratio by the increase in cargo containers for the most recently ended fiscal year over the base number of cargo containers, and

2. Second multiplying such product by 30 percent (0.30).

As a result, the amount deposited into the Fund for the Commonwealth's fiscal year starting on July 1, 2012, shall be computed using the following formula: revenue ratio X (increase in cargo containers in fiscal year 2010-2012 over the base number of cargo containers) X 0.30.

For the fiscal year starting on July 1, 2013, and for each fiscal year thereafter, the amount deposited into the Fund shall be computed using such formula except that the cargo containers in the most recently ended fiscal year shall be used for determining the increase over the base number of cargo containers.

C. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine the revenue ratio. In determining the numerator of the revenue ratio or the state tax revenues attributable to economic activity generated or facilitated by the port, the Secretary shall include state tax revenues from (i) port operations, including but not limited to revenues from truck and rail

305 transportation, insurance, warehousing, and storage; (ii) the production in Virginia of goods carried  
306 from the port for export; (iii) imports sold to citizens of the Commonwealth or used as inputs by  
307 businesses located in the Commonwealth or by Virginia state and local governmental entities; and (iv)  
308 employee compensation, fuel costs, business and professional services, power, and communications  
309 relating to the factors set forth in clauses (i) through (iii). The Secretary shall determine the revenue  
310 ratio no later than January 1, 2012, and shall promptly report the same to the chairmen of the House  
311 Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance.

312 D. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine  
313 the amount to be deposited into the Fund in each fiscal year in accordance with the provisions of this  
314 section. The Secretary of Finance shall provide a written certification of the same to the Comptroller by  
315 August 31 each year. The Comptroller shall then deposit such amount into the Fund by making four  
316 equal deposits into the Fund on the fifteenth of September, December, March, and June.

317 E. Notwithstanding any other provision of this section, the amount deposited into the Fund pursuant  
318 to this section shall not exceed \$50 million in any fiscal year.

#### 319 CHAPTER 10.5.

#### 320 RICHMOND HIGHWAY CONSTRUCTION DISTRICT TRANSPORTATION FUNDING.

321 § 33.1-391.20. Richmond Highway Construction District Transportation Revenue Fund established.

322 There is hereby created in the state treasury a special nonreverting fund to be known as the  
323 Richmond Highway Construction District Transportation Revenue Fund, hereafter referred to as "the  
324 Fund." The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the  
325 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including  
326 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in  
327 the Fund. Moneys in the Fund shall be used solely for new transportation construction projects in the  
328 Richmond Highway Construction District as determined by the Commonwealth Transportation Board.

329 § 33.1-391.21. Revenues attributable to economic growth from cargo marine terminals deposited into  
330 the Richmond Highway Construction District.

331 A. As used in this section, unless the context clearly shows otherwise:

332 "Base number of cargo containers" means the cargo containers in the Commonwealth's fiscal year  
333 beginning July 1, 2010.

334 "Cargo container" means the number of cargo containers loaded onto, or unloaded from, ships in  
335 the port for commerce in a fiscal year, measured in 20-foot-equivalent units.

336 "Net revenues" means the gross revenues less the applicable portion of any refunds.

337 "Port" means the Port of Richmond.

338 "State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter  
339 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.)  
340 of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, plus  
341 (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 for the  
342 Commonwealth's fiscal year beginning July 1, 2010.

343 B. There shall be deposited into the Richmond Highway Construction District Transportation  
344 Revenue Fund established under § 33.1-391.20 a portion of the growth in state taxes attributable to  
345 economic activity generated or facilitated by the Port. The amount deposited into the Fund in each  
346 fiscal year shall be determined using the following revenue ratio: state tax revenues attributable to  
347 economic activity generated or facilitated by the port/Base number of cargo containers.

348 The General Assembly intends for the revenue ratio to be a measure of the state revenues  
349 attributable to economic activity of the port on a per-cargo-container basis.

350 Deposits to the Fund shall begin in the Commonwealth's fiscal year starting on July 1, 2011. For  
351 such fiscal year, the amount deposited to the Fund shall be computed by:

352 1. First multiplying the revenue ratio by the increase in cargo containers for the most recently ended  
353 fiscal year over the base number of cargo containers, and

354 2. Second multiplying such product by 30 percent (0.30).

355 As a result, the amount deposited into the Fund for the Commonwealth's fiscal year starting on July  
356 1, 2011, shall be computed using the following formula: revenue ratio X (increase in cargo containers  
357 in fiscal year 2010-2011 over the base number of cargo containers) X 0.30.

358 For the fiscal year starting on July 1, 2013, and for each fiscal year thereafter, the amount  
359 deposited into the Fund shall be computed using such formula except that the cargo containers in the  
360 most recently ended fiscal year shall be used for determining the increase over the base number of  
361 cargo containers.

362 C. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine  
363 the revenue ratio. In determining the numerator of the revenue ratio or the state tax revenues  
364 attributable to economic activity generated or facilitated by the port, the Secretary shall include state  
365 tax revenues from (i) port operations, including but not limited to revenues from pilots, longshoremen,  
366 truck and rail transportation, insurance, warehousing, storage, and ship servicing; (ii) the production in

Virginia of goods exported through the port; (iii) imports sold to citizens of the Commonwealth or used as inputs by businesses located in the Commonwealth or by Virginia state and local governmental entities; and (iv) employee compensation, fuel costs, business and professional services, power, and communications relating to the factors set forth in clauses (i) through (iii). The Secretary shall determine the revenue ratio no later than January 1, 2012, and shall promptly report the same to the chairmen of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance.

D. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine the amount to be deposited into the Fund in each fiscal year in accordance with the provisions of this section. The Secretary of Finance shall provide a written certification of the same to the Comptroller by August 31 each year. The Comptroller shall then deposit such amount into the Fund by making four equal deposits into the Fund on the fifteenth of September, December, March, and June.

E. Notwithstanding any other provision of this section, the amount deposited into the Fund pursuant to this section shall not exceed \$50 million in any fiscal year.

#### CHAPTER 10.6.

#### SALEM HIGHWAY CONSTRUCTION DISTRICT TRANSPORTATION FUNDING.

§ 33.1-391.22. Salem Highway Construction District Transportation Revenue Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Salem Highway Construction District Transportation Revenue Fund, hereafter referred to as "the Fund." 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, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for construction of the Elliston Intermodal Facility.

B. Moneys in the Fund shall be allocated as follows:

1. Fifty percent for construction and maintenance of Interstate Route 73 in the Salem Highway Construction District.

2. Twenty-five percent for construction and maintenance of Interstate Route 81 in the Salem Highway Construction District and twenty-five percent for construction and maintenance of Interstate Route 81 in the Bristol Construction District.

§ 33.1-391.23. Revenues attributable to economic growth deposited into the Salem Highway Construction District Transportation Revenue Fund.

A. As used in this section, unless the context clearly shows otherwise:

"Facility" means the Elliston Intermodal Facility.

"Net revenues" means the gross revenues less the applicable portion of any refunds.

"State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, plus (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 for the Commonwealth's fiscal year beginning July 1, 2010.

B. There shall be deposited into the Salem Highway Construction District Transportation Revenue Fund established under § 33.1-391.22 a portion of the growth in state taxes expected to be generated by economic activity or facilitated by the Facility, in such amount as specified in the Appropriations Act.

Deposits to the Fund shall begin in the Commonwealth's fiscal year starting on July 1, 2012, and continue for each fiscal year thereafter.

2. That the revenues generated by the provisions of this act shall not be used to calculate or reduce the share of local, federal, and state revenues otherwise available to any locality. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

3. That each county or city that receives revenue from or receives benefits from revenue appropriated pursuant to the provisions of this act shall for each fiscal year in which it receives such revenue or benefits expend or disburse for transportation purposes an amount (computed without regard to any revenues generated in the fiscal year from such taxes) that is at least equal to the total amount expended or disbursed for transportation purposes by the county or city in its fiscal year that began in calendar year 2010.

4. That §§ 58.1-1724.2 and 58.1-1724.4 of the Code of Virginia and the thirteenth and eighteenth enactments of Chapter 896 of the Acts of Assembly of 2007 are repealed.

5. That should any portion of this act be held unconstitutional by a court of competent jurisdiction, the remaining portions of this act shall remain in effect.