Department of Planning and Budget
2011 Fiscal Impact Statement

1. **Bill Number:** HB2222

House of Origin	☒	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. **Patron:** Oder

3. **Committee:** Appropriations

4. **Title:** Transportation funding and administration.

5. **Summary:** The proposed legislation would provide funds for transportation improvements in specified areas of the Commonwealth by diverting 30 percent of the annual growth in certain state tax revenues attributable to economic activity generated or facilitated by the state's ports and inland ports. The facilities specified in the bill are the Port of Virginia in the Hampton Roads Construction District, the Virginia Inland Port in the Staunton Construction District, the Port of Richmond in the Richmond Construction District and the proposed Elliston Intermodal Facility in Montgomery County in the Salem Construction District. Special funds are to be created for each construction district and used solely for construction projects within the district. The bill provides a maximum amount for each facility that may be transferred in any fiscal year.

   The bill directs that the funding provided for the Hampton Roads Construction District be used first for new transportation construction projects in the localities which comprise the district as required by law, and then for projects as determined by the Hampton Roads Metropolitan Planning Organization. Funds provided for the Richmond Construction District and the Staunton Construction District are to be used for new construction projects as determined by the Commonwealth Transportation Board. Funds provided for the Salem Construction District are to be evenly split between construction and maintenance of Interstate 73 and Interstate 81.

   For Northern Virginia, the proposed legislation would divert 30 percent of the growth in individual income tax revenue, corporate income tax revenue, and insurance license tax revenue generated by the counties, cities and towns within the Northern Virginia Transportation Authority. Funds generated in Northern Virginia are to be transferred to the Northern Virginia Transportation Authority and used solely for transportation projects within the cities and counties that comprise the Authority.

   The bill also repeals the Hampton Roads Transportation Authority (HRTA) and repeals certain fees and taxes authorized pursuant to House Bill 3202 (Chapter 896 of the Acts of Assembly of 2007). The bill would continue the authority of the counties and cities embraced by the HRTA to impose an additional real property tax on commercial and industrial property and create special regional transportation tax districts.

6. **Budget Amendment Necessary**: None.

7. **Fiscal Impact Estimates:** Unavailable. See Item 8.

8. **Fiscal Implications:**

State revenues generated by ports and inland ports

The proposed legislation would require the Secretary of Finance and Secretary of Transportation to determine the amount of state taxes attributable to economic activity generated or facilitated by the ports and inland ports during FY 2012. The state taxes specified are individual and corporate income taxes, the state retail sales and use tax, and the insurance license tax. "Economic activity generated or facilitated" by the ports and inland ports is to include state tax revenues from facility operations, production of goods in Virginia exported through the facilities, imports coming in through the facilities sold in Virginia, and employee compensation, fuel costs, business and professional services, power, and communications.

Using this base amount and the number of cargo containers in FY 2012, the growth in state tax revenue derived from facility activities would be based on the annual growth in the number of cargo containers. The bill would require an annual deposit to the appropriate fund from the general fund equal to 30 percent of the growth in such facility-related revenue in the most recently completed fiscal year over that revenue generated in the base year of FY 2012. (The proposed legislation is not clear as to whether the amount of state taxes attributable to economic activity generated or facilitated by the facilities would have to be updated annually or if the "revenue ratio" calculated with the FY 2012 data would serve as the base to be used in subsequent years.)

For Northern Virginia, the Secretary of Finance is to determine the growth in revenue from the specified taxes. If the growth is positive, 30 percent is to be transferred to the Northern Virginia Transportation Authority in equal quarterly payments. According to the Department of Taxation, information regarding the Retail Sales and Use Tax is available by locality; however, the department does not have information on Corporate Income Tax and Insurance License tax receipts by locality. If the bill were amended to require an approximation of the Corporate Income Tax and the Insurance License tax receipts, the Department of Taxation anticipates it could comply with the bill with currently available information.

The total amount transferred in any fiscal year is capped at $600 million for Northern Virginia, $300 million for Hampton Roads, and $50 million each for the Richmond, Salem and Staunton Districts. The bill would result in an unknown loss to the general fund and an unknown gain to nongeneral funds. A study has been conducted for the Port of Virginia, though, that gives an idea of the level of tax revenue generated by the facilities.

The Virginia Port Authority contracted the Mason School of Business of the College of William and Mary to complete a study of the economic impact of the Port of Virginia using FY 2006 data, comparable to the analysis that would be required by the proposed legislation. The study cost $86,900. The study identified approximately $41.1 billion in business revenue and $720.4 million in state tax revenue either directly or indirectly generated by Port of Virginia. The study did not estimate the growth in port revenues. However, a study conducted in 1999 by the consulting firm Martin Associates, utilizing a different methodology than the William and Mary study, identified only $762.5 million in business revenue generated by the Port of Virginia.

Similar studies have not been conducted to determine the economic activity of the Virginia Inland Port and the Port of Richmond, as well as the inland port in Montgomery County, which has not yet begun operations. Fiscal year 2012 updates would also need to be conducted for the study for the Port of Virginia. As illustrated by the two studies conducted for the Port of Virginia, the assumptions utilized in the studies will have significant impact on the amount of funding potentially transferred to the nongeneral funds for transportation improvements.

Because the projected revenue growth related to port and inland port activities, as well as the economic growth in Northern Virginia, has been included in the state's six-year revenue projections, the bill's provisions requiring that 30 percent of those revenues be dedicated to transportation projects would be a decrease in general fund revenue for the state's budget. As a result, the proposed legislation could impact agencies and programs that rely on general fund support.

The calculation resulting from the proposed legislation would include all state tax revenues generated by Northern Virginia and the port facilities. It should be noted that one percent of the state sales tax is returned to localities for education expenses. The provisions of the proposed legislation would result in 30 percent of the growth in the revenue from this one percent be diverted for transportation funding, resulting in a decrease in the total amount returned to localities.

In addition, one-half percent of the state sales tax is dedicated to the Transportation Trust Fund (TTF). The provisions of the proposed legislation would, consequently, also result in a decrease in the total amount of the sales tax revenue going to the TTF.

Hampton Roads Transportation Authority

The proposed legislation would repeal the HRTA and the taxes and fees it was authorized to collect. Those taxes and fees were never imposed. House Bill 3202 also authorized the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg and the Counties of Isle of Wright, James City, and York to impose an additional real property tax of $0.10 per $100 of assessed value on real property used for or zoned to permit commercial or industrial uses and in special regional transportation tax districts. This bill continues the authority of these localities to impose the additional real property tax and to create the special regional transportation tax districts. Currently, none of the localities have adopted an ordinance to impose this tax.

Elliston Intermodal Facility in Montgomery County

In 2008, the Virginia Department of Rail and Public Transportation authorized Norfolk Southern Railway to initiate construction of the Roanoke Region Intermodal Facility at the Ellison site in Montgomery County. Construction on the project has not yet begun and a suit against the project is pending with the Virginia Supreme Court.

The bill directs the deposit into the Salem Highway Construction District Transportation Revenue Fund an amount equal to the growth in state taxes expected to be generated by the facility, as specified in the Appropriation Act. Such deposits are to begin July 1, 2012. It is not known if the proposed inland port will be constructed and operational at that time.

9. **Specific Agency or Political Subdivisions Affected:** Department of Transportation, Northern Virginia Transportation Authority, Department of Taxation, cities and counties in Northern Virginia, Hampton Roads and the Richmond, Salem and Staunton Construction Districts.

10. **Technical Amendment Necessary:** None.

11. **Other Comments:** Similar to HB 1926.

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