Department of Planning and Budget
2016 Fiscal Impact Statement

1. **Bill Number:** SB753

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

2. **Patron:** Edwards

3. **Committee:** Finance

4. **Title:** Tobacco Region Revitalization Commission; repeal; transfer of funds to Medicaid.

5. **Summary:** This bill repeals the enabling legislation of the Tobacco Region Revitalization Commission (the Commission) and directs that all funds in the (i) Tobacco Indemnification and Community Revitalization Fund (the Fund), (ii) the Tobacco Indemnification and Community Revitalization Endowment, and (iii) the Virginia Tobacco Region Revolving Fund be transferred to the Commonwealth's Medicaid program. The bill also authorizes the Department of Medical Assistance Services (DMAS) to seek to recover any payments from the Fund that it determines were made incorrectly or erroneously by the Commission and directs the Auditor of Public Accounts to audit the accounts of the Commission.

6. **Budget Amendment Necessary**: Yes. See item 8, below. A budget amendment to Item 306 of SB30 is needed to adjust appropriations in DMAS and an amendment to Item 474 of SB30 is required to remove appropriation authority from the Commission.

7. **Fiscal Impact Estimates:** Preliminary. See item 8, below.

8. **Fiscal Implications:** The fiscal implications of this bill are indeterminate at this time. This bill repeals and dissolves the Tobacco Region Revitalization Commission. In doing so, the bill also requires that all funds in the (i) Tobacco Indemnification and Community Revitalization Fund, (ii) the Tobacco Indemnification and Community Revitalization Endowment, and (ii) the Virginia Tobacco Region Revolving Fund be disbursed to the accounts of the Commonwealth's program of medical assistance (Medicaid) effective July 1, 2016. The bill also provides that any moneys left in the Technology Initiative in Tobacco-Dependent Localities Fund after all eligible tax credits have been claimed shall revert to the general fund, rather than the Tobacco Indemnification and Community Revitalization Fund. According to the Department of Taxation, the Technology Initiative in Tobacco-Dependent Localities Fund was never funded and the related tax credits expired in 2010. Thus, there is no balance to revert to the general fund.

   The Commission's cash and investment balances in both the Tobacco Indemnification and Community Revitalization Fund and the Tobacco Indemnification and Community Revitalization Endowment currently total $502.1 million. The Virginia Tobacco Region Revolving Fund, administered by the Virginia Resources Authority (VRA), has not been capitalized. The Commission and VRA Memorandum of Agreement relating to the establishment within VRA of this fund was approved by the Commission on January 12, 2016. VRA has neither received nor billed the Commission for any services rendered by VRA in connection with the fund that, as of this date, does not exist. As such, no funds are available for transfer to DMAS from this source.

At this time, the amount to be transferred to DMAS from the $502.1 million available is unknown. The Commission securitized half of its allocation of future Master Settlement Agreement (MSA) payments in May 2005 by issuing tax-exempt bonds, restricting the use of proceeds to capital expenditures. It securitized the remaining half of its allocation and restructured its original bonds in May 2007 by issuing taxable bonds, the proceeds of which are not restricted. Of the $502.1 million in balances, $152.6 million of taxable bonds is obligated for 483 grants awarded but not yet fully disbursed. At this time, it is unknown how the transfer of the funds to DMAS will affect these grant agreements. If the agreements remain intact and payments are required, the Commission anticipates that the obligations will not be paid off in full until FY 2021. Currently, DMAS does not have the expertise or staff resources to handle the administration of these grants. At this time, it is uncertain how the implementation of this bill will affect these grant agreements and satisfy bond guidelines. Further, any potential expenditure impact to DMAS cannot be determined.

The tax-exempt bond portion of the balance is $156.7 million and is restricted to capital expenditures under the bond indenture that governs its use. According to the Department of the Treasury, the tax-exempt bonds, if transferred to DMAS for Medicaid as provided in this bill, will carry IRS restrictions and would need to be spent for purposes deemed eligible under tax-exempt guidelines. While these tax-exempt bonds are restricted to capital expenses under the Commission, the Department of the Treasury has stated that these bonds may be eligible for other uses, as long as the use does not negatively impact the tax-exempt status of the bonds. At this time, potential uses of these tax-exempt bonds by DMAS are unknown and further investigation by the Department of the Treasury and DMAS is necessary.

For FY 2016, the administrative budget for the Commission totals $2.3 million and 13 positions. To dissolve the Commission effective July 1, 2016, approximately $475,000 will need to be paid for costs related to severance pay based on years of state service, health insurance, and life insurance agency payouts. This amount will need to deducted from the amount transferred to DMAS.

The amount transferred from the aforementioned sources to DMAS could be used to supplant general fund Medicaid spending in FY 2017. The total amount to be transferred and the resulting general fund savings cannot be determined. This one-time transfer would be non-recurring revenue for Medicaid. According to the Commission, annual MSA payments would not return to the Commonwealth until the bonds are fully paid (stated maturity date 2047). The implications of this bill on the bonds and outstanding grant agreements is unknown. Further investigation is required to understand what can be done to satisfy the bonds and remain compliant with IRS guidelines.

Under the provisions of the bill, the Auditor of Public Accounts will continue to audit the Commission's accounts; however, as of July 1, 2016, those accounts would dissolve. Currently, the Auditor of Public Accounts, as well as the State Inspector General, conduct audits of the Commission. At this time, it is anticipated that DMAS will not require any additional staff to review Commission payments. It is not anticipated that the agency will recover any significant amount of incorrect or erroneous payments.

9. **Specific Agency or Political Subdivisions Affected:** Tobacco Region Revitalization Commission; Department of Medical Assistance Services; Department of Treasury; Department of Taxation; Auditor of Public Accounts; State Inspector General; Virginia Resources Authority.

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** None.