Department of Planning and Budget
2015 Fiscal Impact Statement

1. **Bill Number:** HB2330

   House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

   Second House ☐ In Committee ☒ Substitute ☒ Enrolled

2. **Patron:** Kilgore

3. **Committee:** Passed Both Houses.

4. **Title:** Tobacco Indemnification and Community Revitalization Comm.; financial viability and feasibility.

5. **Summary:** This bill requires the Tobacco Indemnification and Community Revitalization Commission (the Commission) to enter into a management agreement with a manager with respect to certain Commission loans, grants, and other distributions of money. The bill requires the manager to provide a written report on the financial viability and feasibility of any such distribution and prohibits the Commission from making the distribution until the manager provides the Commission with a recommendation. The bill reduces the membership composition of the Commission from 31 to 28 and makes alterations on the qualifications of such members. The bill specifies that 13 of the 28 Commission members to have experience in particular fields. The bill requires the Commission to adopt policies governing the Tobacco Region Opportunity Fund; to require a dollar-for-dollar match from entities receiving grants; to require each project to have an accountability matrix, provide a set of quantified outcome expectations and other figures, and demonstrate how it will address low employment levels or other indicators; to develop a strategic plan every two years; to establish a public database of awards; and to make no distribution to a tobacco-dependent farmer or producer solely based on the historical production of tobacco. The bill also establishes the Virginia Tobacco Region Revolving Fund (the Fund), the assets of which are to be used to make loans to local governments for the financing of any project that has an identifiable revenue stream from which the loan may be repaid. The bill empowers the Virginia Resources Authority (the Authority) to administer the Fund, pledge assets of the Fund as security solely for bonds issued to finance projects located in the tobacco-dependent communities in the Southside and Southwest regions of Virginia, sell or collect on loans made from the Fund, and, in accordance with a memorandum of agreement with the Commission, establish the rates and terms of loans. The bill directs the Commission, in conjunction with the Authority, to make an annual report to the General Assembly and the Governor on all loans made from the Fund.

6. **Budget Amendment Necessary**: See item 8, below.

7. **Fiscal Impact Estimates:** Final. See item 8.

8. **Fiscal Implications:** The bill establishes a new fund, the Virginia Tobacco Region Revolving Fund. The Fund is to be administered and managed by the Virginia Resources

Authority in conjunction with the Commission and the Department of Treasury. The bill identifies mechanisms for capitalizing the newly established Virginia Tobacco Region Revolving Fund, but it doesn't identify or direct a specific transfer to the fund. It is anticipated that a budget amendment is not necessary for the transfer of funding from the Tobacco Indemnification and Community Revitalization Endowment to the Virginia Tobacco Region Revolving Fund. However, a budget amendment will be required for the General Assembly to appropriate any additional sums to the Fund.

The proposed legislation states that the Fund shall be a permanent and perpetual fund with a sum of up to $50.0 million made available from the (i) the corpus of the taxable portion of the Endowment, (ii) sums, if any, appropriated to the Fund by the General Assembly, (iii) all receipts by the Fund from loans made by it to local governments, (iv) all income from the investment of moneys held in the Fund, and (v) any other sums designated for deposit to the Fund from any source public or private, including, any federal grants, awards, or other forms of assistance received by the Commonwealth that are eligible for deposit under federal law. At this time, it is uncertain which of these sources will be utilized to capitalize the Fund.

The provisions of the Fund provide that the Virginia Resources Authority may disburse from the Fund the reasonable expenses it incurs for administration of the Fund and that the Authority may charge a fee to the Commission for its management services. The Authority currently serves as a financial manager for several revolving loan funds administered by other state entities. The fees charged to the state entities are based on direct hours allocated to the administration of the program. The bill specifies that, in order to carry out the administration and management of the Fund, the Authority, in consultation with the Commission, is granted the power to employ officers, employees, agents, advisers, and consultants, including, attorneys, financial advisers, engineers and other technical advisers, and public accountants. As the amount to be deposited to capitalize the Fund has not been identified and the scope of the program is unknown, the amount of the fee to be charged to the Commission cannot be determined at this time. However, the Commission assumes that the fee charged can be absorbed within its current resources. The bill also states that the Authority may require localities receiving a loan to obtain an audit review and additional audit reviews upon request during the term of the loan. The Auditor of Public Accounts does not audit localities, but it does establish the audit specifications for auditors of localities. According to the Auditor of Public Accounts, obtaining additional reviews may increase the fees charged to localities.

An annual report to the General Assembly and the Governor is required as part of this bill. Currently, the Commission provides an annual report on its grant programs, and it is assumed that this new requirement will be absorbed within its current duties.

This bill also alters the Commission's membership. Specifically, the bill reduces the number of members of the Commission from 31 to 28. The three eliminated members may serve the remainder of their unexpired terms as a provision of this legislation. Accordingly, the Commission anticipates some administrative savings. Currently, the costs associated with members totals $1,700 per year. Based on the remaining term limits of these three members, the Commission estimates savings of $5,100 in FY 2016 and beyond.

The bill makes adjustments to the requirements of the Tobacco Region Opportunity Fund, requiring a dollar-for-dollar match from the entity receiving an award. This change will likely impact localities. However, the bill allows for a match of less than 50 percent by a two-thirds majority vote of the Commission. In addition, the bill specifies that the Commission shall enter into a contractual agreement with a financial viability manager to oversee and advise on the distribution of funds from the Tobacco Region Opportunity Fund. The Commission estimates that this management contract will cost approximately $200,000 annually. This figure is based on a $115,000 salary plus $35,000 in fringe benefits, and $50,000 in other administrative costs such as travel and office support. It is anticipated that any costs associated with this management contract can be absorbed within existing appropriations.

The bill makes adjustments to the percentages of disbursement of the corpus of the Tobacco Indemnification and Community Revitalization Endowment to the Tobacco Indemnification and Community Revitalization Fund. This bill specifies that up to six percent of the corpus shall be paid to the Revitalization Fund upon majority vote of the Commission, and up to 10 percent shall be paid upon two-thirds vote. Lastly, the bill adds an additional percentage disbursement of up to 15 percent to the Fund upon three-forths vote. Currently, up to ten percent of the corpus shall be paid to the Fund upon request of the Commission and up to 15 percent shall be paid to the Fund upon two-thirds vote of the Commission. The Commission does not anticipate that this change will affect operations as the corpus has been invaded at a level of 10 percent or less for the last several years.

Included in the bill is a requirement that the Commission, at least biennially, develop a strategic plan regarding the Tobacco Region Opportunity Fund in coordination with local and regional developers, the Virginia Economic Development Partnership, the Virginia Department of Agriculture and Consumer Services, the Virginia Department of Housing and Community Development, the Virginia Tourism Authority, the Virginia Resources Authority, and the Center for Rural Virginia. It is anticipated that costs associated with this requirement will be minimal to all affected parties and can be absorbed within current resources.

The Commission is also required to develop a publicly available online database to list all of the Commission's grant awards. Currently, the Commission is in the process of changing its website vendor. It is anticipated that the new vendor will be able to accommodate greater functionality with regard to this database requirement. At this time, the cost associated with the development of the database is unknown, but the Commission believes that it will minimal and will be tied into the current expenses it incurs for hosting its website.

The bill also specifies that each project receiving a grant award from the Commission have an accountability matrix, with specifications dependent on the type of award. The bill provides requirements of each applicant and requires that as a condition of receiving any grant or award, each project demonstrate consistency with the Strategic Plan and receive a written recommendation of financial viability and feasibility from the financial manager. It is not anticipated that these requirements will have a fiscal impact on the Commission.

9. **Specific Agency or Political Subdivisions Affected:** Tobacco Indemnification and Revitalization Commission; Virginia Resources Authority; Department of Treasury; Virginia Economic Development Partnership; Virginia Department of Agriculture and Consumer Services; Virginia Department of Housing and Community Development; Virginia Tourism Authority; Center for Rural Virginia; Auditor of Public Accounts; localities.

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

11. **Other Comments:** This bill is the companion to SB1440.