SENATE BILL NO. __________ HOUSE BILL NO. __________

1 A BILL to amend and reenact §§ 2.2-229, 15.2-2223.1, 15.2-2316.2, 15.2-2320, and 33.1-23.03 of the
2 Code of Virginia, relating to designated growth areas.

3 **Be it enacted by the General Assembly of Virginia:**
4 **1. That §§ 2.2-229, 15.2-2223.1, 15.2-2316.2, 15.2-2320, and 33.1-23.03 of the Code of Virginia are**
5 **amended and reenacted as follows:**
6 § 2.2-229. Office of Intermodal Planning and Investment of the Secretary of Transportation.
7 There is hereby established the Office of Intermodal Planning and Investment of the Secretary of
8 Transportation, consisting of a director, appointed by the Secretary of Transportation, and such
9 additional transportation professionals as the Secretary of Transportation shall determine. The goals of
10 the Office are to provide solutions that link existing systems; promote the coordination of transportation
11 investments and land use planning; reduce congestion; improve safety, mobility, and accessibility; and
12 provide for greater travel options. It shall be the duty of the director of the office to advise the Secretary,
13 the Virginia Aviation Board, the Virginia Port Authority Board, and the Commonwealth Transportation
14 Board on intermodal issues, generally.
15 The responsibilities of the Office shall be:
16 1. To identify transportation solutions to promote economic development and all transportation
17 modes, intermodal connectivity, environmental quality, accessibility for people and freight, and
18 transportation safety;
19 2. To assist the Commonwealth Transportation Board in the development of the Statewide
20 Transportation Plan pursuant to § 33.1-23.03;
21 3. To coordinate and oversee studies of potential highway, transit, rail, and other improvements
22 or strategies, to help address mobility and accessibility within corridors of statewide significance and
23 regional networks, and promote commuter choice inclusion in the six-year improvement program;

24 4. To work with and coordinate action of the Virginia Department of Transportation, the Virginia
25 Department of Rail and Public Transportation, the Virginia Port Authority, and the Virginia Department
26 of Aviation to promote intermodal and multimodal solutions in each agency's strategic and long-range
27 plans;

28 5. To work with and review plans of regional transportation agencies and authorities to promote
29 intermodal and multimodal solutions;

30 6. To work with and coordinate actions of the agencies of the transportation Secretariat to assess
31 freight movements and promote intermodal and multimodal solutions to address freight needs, including
32 assessment of intermodal facilities;

33 7. To assess and coordinate transportation safety needs related to passenger and freight
34 movements by all transportation modes;

35 8. To coordinate the adequate accommodation of pedestrian, bicycle, and other forms of
36 nonmotorized transportation in the six-year improvement program and other state and regional
37 transportation plans;

38 9. To work with and coordinate actions of the agencies of the transportation Secretariat to
39 implement a comprehensive, multimodal transportation policy;

40 10. To develop quantifiable and achievable goals pursuant to § 33.1-23.03 and transportation and
41 land use performance measures and prepare an annual performance report on state and regional efforts.
42 The Office of Intermodal Planning and Investment shall work with applicable regional organizations to
43 develop such goals;

44 11. To identify and facilitate public and private partnerships to achieve the goals of state and
45 regional plans;

46 12. To provide technical assistance to local governments and regional entities to establish and
47 promote ~~urban development~~ designated growth areas pursuant to § 15.2-2223.1; and

48 13. To establish standards for the coordination of transportation investments and land use
49 planning to promote commuter choice and transportation system efficiency.

50 § 15.2-2223.1. Designated growth areas.

51 ~~A. Every county, city, or town that has adopted zoning pursuant to Article 7 (§ 15.2-2280 et seq.)~~
52 ~~of Chapter 22 of Title 15.2 and that (i) has a population of at least 20,000 and population growth of at~~
53 ~~least 5% or (ii) has population growth of 15% or more, shall, and any county, city or town may, amend~~
54 ~~its comprehensive plan to incorporate one or more urban development areas. For purposes of this~~
55 ~~section, population growth shall be the difference in population from the next-to-latest to the latest~~
56 ~~decennial census year, based on population reported by the United States Bureau of the Census. For~~
57 ~~purposes of this section, an urban development area is an area designated by a locality that is appropriate~~
58 ~~for higher density development due to proximity to transportation facilities, the availability of a public~~
59 ~~or community water and sewer system, or proximity to a city, town, or other developed area. The~~
60 ~~comprehensive plan shall provide for commercial and residential densities within urban development~~
61 ~~areas that are appropriate for reasonably compact development at a density of at least four residential~~
62 ~~units per gross acre and a minimum floor area ratio of 0.4 per gross acre for commercial development.~~
63 ~~The urban development areas may provide for a mix of residential housing types, including affordable~~
64 ~~housing, to meet the projected family income distributions of future residential growth. The~~
65 ~~comprehensive plan shall designate one or more urban development areas sufficient to meet projected~~
66 ~~residential and commercial growth in the locality for an ensuing period of at least 10 but not more than~~
67 ~~20 years, which may include phasing of development within the urban development areas. Future~~
68 ~~growth shall be based on official estimates and projections of the Weldon Cooper Center for Public~~
69 ~~Service of the University of Virginia or other official government sources. The boundaries and size of~~
70 ~~each urban development area shall be reexamined and, if necessary, revised every five years in~~
71 ~~conjunction with the update of the comprehensive plan and in accordance with the most recent available~~
72 ~~population growth estimates and projections. Such districts may be areas designated for redevelopment~~
73 ~~or infill development.~~
74 ~~B. The comprehensive plan shall further incorporate principles of new urbanism and traditional~~
75 ~~neighborhood development, which may include but need not be limited to (i) pedestrian-friendly road~~
76 ~~design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of~~
77 ~~road and pedestrian networks, (iv) preservation of natural areas, (v) satisfaction of requirements for~~

~~stormwater management, (vi) mixed-use neighborhoods, including mixed housing types, (vii) reduction of front and side yard building setbacks, and (viii) reduction of subdivision street widths and turning radii at subdivision street intersections.~~

~~C. The comprehensive plan shall describe any financial and other incentives for development in the urban development areas.~~

~~D. No county, city, or town that has amended its comprehensive plan in accordance with this section shall limit or prohibit development pursuant to existing zoning or shall refuse to consider any application for rezoning based solely on the fact that the property is located outside the urban development area.~~

~~E. Any county, city, or town that would be required to amend its plan pursuant to this section that determines that its plan accommodates growth in a manner consistent with this section, upon adoption of a resolution certifying such compliance, shall not be required to further amend its plan.~~

~~F. Any county that amends its comprehensive plan pursuant to this section may designate one or more urban development areas in any incorporated town within such county, if the governing body of the town has also amended its comprehensive plan to designate the same areas as urban development areas with at least the same density designated by the county.~~

~~G. To the extent possible, state and local transportation, housing, and economic development funding shall be directed to the urban development area.~~

A. Every locality that has adopted zoning pursuant to Article 7 (§ 15.2-2280 et seq.) of this chapter and that (i) has a population of at least 20,000 and population growth of at least 5% or (ii) has population growth of 15% or more since the last decennial census, shall, and any other locality may, establish one or more designated growth areas. "Designated Growth Area" is defined as that area or areas of the locality in which the locality will focus the bulk of its foreseeable growth in order to reduce the negative impacts of sprawling development on the environment, infrastructure, community facilities and state and local public investments. Localities may refer to designated growth areas in any manner and with any terminology as long as the purposes set forth in this section are achieved.

104 B. Designated growth areas shall be located so as to maximize the opportunities afforded by
105 existing transportation, utility and other public infrastructure and minimize the need to develop
106 infrastructure in locations distant from the designated growth areas. Designated growth areas shall
107 exclude from development all special flood hazard areas as shown on the community Flood Insurance
108 Rate Maps published by the National Flood Insurance Program of the Federal Emergency Management
109 Agency.

110 C. Towns and counties shall cooperate in the establishment of designated growth areas; cities
111 shall cooperate with the adjacent counties in establishing designated growth areas.

112 D. Designated growth areas shall be identified in local Comprehensive Plans and shall be shown
113 on future land use maps contained in such Comprehensive Plans.

114 E. The designated growth area(s) shall be designed to accommodate at least 20 years of growth
115 in the locality based on population growth estimated by federal, state and/or local agencies and as
116 verified and validated by the local planning district commission; likewise, the designated growth area
117 shall also be planned to accommodate at least 20 years of commercial, retail and office growth within
118 the locality.

119 F. Designated growth areas shall be designated as receiving areas for any transfer of
120 development rights program in the locality. Towns and cities may by agreement accept development
121 rights from adjoining counties; such agreements may contain provisions for sharing revenues and
122 infrastructure and other fiscal and physical considerations between the parties.

123 G. Designated growth areas shall be complimented by policies, zoning provisions and other
124 mechanisms and ordinances that serve to protect open space, farmland and sensitive environmental
125 habitat among other features and uses. Growth shall be directed away from public water supply
126 watersheds, core and connected wildlife habitat areas, scenic vistas, historic and cultural resources of
127 local state and national significance, agricultural areas and such other areas and features as may be
128 deemed worthy and appropriate of protection from development by a locality.

129 H. The following characteristics shall be considered in designing and designating growth areas:

130 1. Mixed-use neighborhoods, including mixed housing types and values potentially
131 accommodating all income levels of residents and workers in the community;
132 2. Integration of residential, retail, office and commercial development with recreation facilities,
133 public spaces, parks and open spaces;
134 3. A built environment that encourages and accommodates people living, shopping, visiting,
135 enjoying or spending time in the core area;
136 4. Public infrastructure including utilities, services, schools, parks and similar facilities;
137 5. Bicycle and pedestrian-friendly road design;
138 6. Interconnection of new local streets with existing local streets and roads;
139 7. Design features that accommodate and prepare for an aging population within the community;
140 8. Accommodation of alternative transportation options reducing the dependency on
141 automobiles, and ultimately reducing vehicle trips and/or vehicle miles traveled per day;
142 9. Interconnectivity of neighborhoods with safe road and pedestrian networks;
143 10. Preservation of environmentally sensitive areas;
144 11. Satisfaction of requirements for stormwater management, especially through the use of
145 innovative and low impact techniques such as bioretention areas, rain gardens, gravel wetlands, and
146 pervious pavements;
147 12. Use of high performance building design that incorporates sustainable energy sources such as
148 solar, wind, or thermal energy;
149 13. Buildings, spaces and infrastructure of human scale;
150 14. Encourage opportunities to redevelop existing unused and underutilized development;
151 15. Vehicular parking accommodated without dominating the streetscape or landscape;
152 16. Reduced front and side yard building setbacks; and
153 17. Reduced subdivision street widths and turning radii at subdivision street intersections.
154 I. Each designated growth areas shall contain compact centers supported by sufficient density
155 allowed as a matter of right within approximately one-half mile to permit each center generally to be
156 walkable in its entirety by residents and employees when considering topography and other constraints.

157 J. Each locality establishing a designated growth area shall establish community level of service
158 standards for the provision of public services within the designated growth area and may also choose to
159 set standards for one or more areas outside of the designated growth area. The levels of service that may
160 be considered within designated growth areas include percentage of school children who can safely walk
161 to school, public safety and law enforcement response times, proximity of library facilities to residents,
162 percentage of residents and employees who can safely walk to an active recreation facility, walking
163 proximity of commercial enterprises and medical and professional services to residents and employees,
164 and similar spatial and temporal standards related to the community characteristics noted in paragraph H
165 above. The established level of service standards shall be reflected in the locality comprehensive plan.

166 K. The Commonwealth Transportation Board shall give priority to the funding of new and
167 expanded transportation and transit infrastructure from state and federal programs to projects and needs
168 within the locality-designated growth areas.

169 L. The extent and boundary of the designated growth areas shall be reviewed at least once every
170 5 years and adjusted as needed to ensure that at least a 20-year planning horizon is maintained;
171 establishing an additional designated growth area in lieu of expanding an existing growth area may be
172 considered if community conditions warrant.

173 M. Localities that use proffers, impact fees or other development exactions may tailor their
174 systems such that development within designated growth areas is strongly favored over development
175 outside of designated growth areas through such mechanisms as differential rates and preferred public
176 investment in these areas.

177 § 15.2-2316.2. Localities may provide for transfer of development rights.

178 A. Pursuant to the provisions of this article, the governing body of any locality by ordinance
179 may, in order to conserve and promote the public health, safety, and general welfare, establish
180 procedures, methods, and standards for the transfer of development rights within its jurisdiction. Any
181 locality adopting or amending any such transfer of development rights ordinance shall give notice and
182 hold a public hearing in accordance with § 15.2-2204 prior to approval by the governing body.

183 B. In order to implement the provisions of this act, a locality shall adopt an ordinance that shall
184 provide for:

185 1. The issuance and recordation of the instruments necessary to sever development rights from
186 the sending property, to convey development rights to one or more parties, or to affix development
187 rights to one or more receiving properties. These instruments shall be executed by the property owners
188 of the development rights being transferred, and any lien holders of such property owners. The
189 instruments shall identify the development rights being severed, and the sending properties or the
190 receiving properties, as applicable;

191 2. Assurance that the prohibitions against the use and development of the sending property shall
192 bind the landowner and every successor in interest to the landowner;

193 3. The severance of transferable development rights from the sending property;

194 4. The purchase, sale, exchange, or other conveyance of transferable development rights, after
195 severance, and prior to the rights being affixed to a receiving property;

196 5. A system for monitoring the severance, ownership, assignment, and transfer of transferable
197 development rights;

198 6. A map or other description of areas designated as sending and receiving areas for the transfer
199 of development rights between properties;

200 7. The identification of parcels, if any, within a receiving area that are inappropriate as receiving
201 properties;

202 8. The permitted uses and the maximum increases in density in the receiving area;

203 9. The minimum acreage of a sending property and the minimum reduction in density of the
204 sending property that may be conveyed in severance or transfer of development rights;

205 10. The development rights severed from the sending areas to be equal to the development rights
206 permitted to be attached in the receiving areas;

207 11. An assessment of the infrastructure in the receiving area that identifies the ability of the area
208 to accept increases in density and its plans to provide necessary utility services within any designated
209 receiving area; and

210 12. The application to be deemed approved upon the determination of compliance with the
211 ordinance by the agent of the planning commission, or other agent designated by the locality.

212 C. In order to implement the provisions of this act, a locality may provide in its ordinance for:

213 1. The purchase of all or part of such development rights, which shall retire the development
214 rights so purchased;

215 2. The severance of development rights from existing zoned or subdivided properties as
216 otherwise provided in subsection E;

217 3. The owner of such development rights to make application to the locality for a real estate tax
218 abatement for a period up to 25 years, to compensate the owner of such development rights for the fair
219 market value of all or part of the development rights, which shall retire the number of development
220 rights equal to the amount of the tax abatement, and such abatement is transferable with the property;

221 4. The owner of a property to request designation by the locality of the owner's property as a
222 "sending property" or a "receiving property";

223 5. The allowance for residential density to be converted to bonus density on the receiving
224 property by (i) an increase in the residential density on the receiving property or (ii) an increase in the
225 square feet of commercial, industrial, or other uses on the receiving property, which upon conversion
226 shall retire the development rights so converted;

227 6. The receiving areas to include such ~~urban development~~ designated growth areas in the locality
228 established pursuant to § 15.2-2223.1;

229 7. The sending properties, subsequent to severance of development rights, to generate one or
230 more forms of renewable energy, as defined in § 56-576, subject to the provisions of the local zoning
231 ordinance;

232 8. The sending properties, subsequent to severance of development rights, to produce agricultural
233 products or forestal products, as defined in § 15.2-4302;

234 9. The review of an application by the planning commission to determine whether the application
235 complies with the provisions of the ordinance;

236 10. Such other provisions as the locality deems necessary to aid in the implementation of the
237 provisions of this act; and
238 11. Approval of an application upon the determination of compliance with the ordinance by the
239 agent of the planning commission.
240 D. The locality may, by ordinance, designate receiving areas or receiving properties, or add to,
241 supplement, or amend its designations of receiving areas or receiving properties, so long as the
242 development rights permitted to be attached in the receiving areas are equal to the development rights
243 permitted to be severed in the sending areas.
244 E. Any proposed severance or transfer of development rights shall only be initiated upon
245 application by the property owners of the sending properties, development rights, or receiving properties
246 as otherwise provided herein.
247 F. A locality may not require property owners to sever or transfer development rights as a
248 condition of the development of any property.
249 G. The owner of a property may sever development rights from the sending property, pursuant to
250 the provisions of this act. An application to transfer development rights to one or more receiving
251 properties, for the purpose of affixing such rights thereto, shall only be initiated upon application by the
252 owner of such development rights and the owners of the receiving properties.
253 H. Development rights severed pursuant to this article shall be interests in real property and shall
254 be considered as such for purposes of conveyance and taxation. Once a deed for transferable
255 development rights, created pursuant to this act, has been recorded in the land records of the office of the
256 circuit court clerk for the locality to reflect the transferable development rights sold, conveyed, or
257 otherwise transferred by the owner of the sending property, the development rights shall vest in the
258 grantee and may be transferred by such grantee to a successor in interest. Nothing herein shall be
259 construed to prevent the owner of the sending property from recording a deed covenant against the
260 sending property severing the development rights on said property, with the owner of the sending
261 property retaining ownership of the severed development rights. Any transfer of the development rights

262 to a property in a receiving area shall be in accordance with the provisions of the ordinance adopted
263 pursuant to this article.

264 I. For the purposes of ad valorem real property taxation, the value of a transferable development
265 right shall be deemed appurtenant to the sending property until the transferable development right is
266 severed from and recorded as a distinct interest in real property, or the transferable development right is
267 used at a receiving property and becomes appurtenant thereto. Once a transferable development right is
268 severed from the sending property, the assessment of the fee interest in the sending property shall reflect
269 any change in the fair market value that results from the inability of the owner of the fee interest to use
270 such property for such uses terminated by the severance of the transferable development right. Upon
271 severance from the sending property and recordation as a distinct interest in real property, the
272 transferable development right shall be assessed at its fair market value on a separate real estate tax bill
273 sent to the owner of said development right as taxable real estate in accordance with Article 1 (§ 58.1-
274 3200 et seq.) of Chapter 32 of Title 58.1. The development right shall be taxed as taxable real estate by
275 the local jurisdiction where the sending property is located, until such time as the development right
276 becomes attached to a receiving property, at which time it shall be taxed as taxable real estate by the
277 local jurisdiction where the receiving property is located.

278 J. The owner of a sending property from which development rights are severed shall provide a
279 copy of the instrument, showing the deed book and page number, or instrument or GPIN, to the real
280 estate tax assessor for the locality.

281 K. Localities, from time to time as the locality designates sending and receiving areas, shall
282 incorporate the map identified in subdivision B 6 into the comprehensive plan.

283 L. No amendment to the zoning map, nor any amendments to the text of the zoning ordinance
284 with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or
285 materially restrict, reduce, or downzone the uses, or the density of uses permitted in the zoning district
286 applicable to any property to which development rights have been transferred, shall be effective with
287 respect to such property unless there has been mistake, fraud, or a material change in circumstances
288 substantially affecting the public health, safety, or welfare.

289 M. A county adopting an ordinance pursuant to this article may designate eligible receiving areas
290 in any incorporated town within such county, if the governing body of the town has also amended its
291 zoning ordinance to designate the same areas as eligible to receive density being transferred from
292 sending areas in the county. The development right shall be taxed as taxable real estate by the local
293 jurisdiction where the sending property is located, until such time as the development right becomes
294 attached to a receiving property, at which time it shall be taxed as taxable real estate by the local
295 jurisdiction where the receiving property is located.

296 N. Any county and an adjacent city may enter voluntarily into an agreement to permit the county
297 to designate eligible receiving areas in the city if the governing body of the city has also amended its
298 zoning ordinance to designate the same areas as eligible to receive density being transferred from
299 sending areas in the county. The city council shall designate areas it deems suitable as receiving areas
300 and shall designate the maximum increases in density in each such receiving area. However, if any such
301 agreement contains any provision addressing any issue provided for in Chapter 32 (§ 15.2-3200 et seq.),
302 33 (§ 15.2-3300 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), 39 (§ 15.2-3900 et seq.), or
303 41 (§ 15.2-4100 et seq.), the agreement shall be subject to the review and implementation process
304 established by Chapter 34 (§ 15.2-3400 et seq.). The development right shall be taxed as taxable real
305 estate by the local jurisdiction where the sending property is located, until such time as the development
306 right becomes attached to a receiving property, at which time it shall be taxed as taxable real estate by
307 the local jurisdiction where the receiving property is located.

308 1. The terms and conditions of the density transfer agreement as provided in this subsection shall
309 be determined by the affected localities and shall be approved by the governing body of each locality
310 participating in the agreement, provided the governing body of each such locality first holds a public
311 hearing, which shall be advertised once a week for two successive weeks in a newspaper of general
312 circulation in the locality.

313 2. The governing bodies shall petition a circuit court having jurisdiction in one or more of the
314 localities for an order affirming the proposed agreement. The circuit court shall be limited in its decision
315 to either affirming or denying the agreement and shall have no authority, without the express approval of

each local governing body, to amend or change the terms or conditions of the agreement, but shall have the authority to validate the agreement and give it full force and effect. The circuit court shall affirm the agreement unless the court finds either that the agreement is contrary to the best interests of the Commonwealth or that it is not in the best interests of each of the parties thereto.

3. The agreement shall not become binding on the localities until affirmed by the court under this subsection. Once approved by the circuit court, the agreement shall also bind future local governing bodies of the localities.

§ 15.2-2320. Impact fee service areas to be established.

The locality shall delineate one or more impact fee service areas within its comprehensive plan. Impact fees collected from new development within an impact fee service area shall be expended for road improvements benefiting that impact fee service area. An impact fee service area may encompass more than one road improvement project. A locality may exclude ~~urban development~~ designated growth areas designated pursuant to § 15.2-2223.1 from impact fee service areas.

§ 33.1-23.03. Board to develop and update Statewide Transportation Plan.

A. The Commonwealth Transportation Board shall, with the assistance of the Office of Intermodal Planning and Investment, conduct a comprehensive review of statewide transportation needs in a Statewide Transportation Plan setting forth assessment of capacity needs for all corridors of statewide significance, regional networks, and improvements to promote ~~urban development~~ designated growth areas established pursuant to § 15.2-2223.1. The assessment shall consider all modes of transportation. Such corridors shall be planned to include multimodal transportation improvements, and the plan shall consider corridor location in planning for any major transportation infrastructure, including environmental impacts and the comprehensive land use plan of the locality in which the corridor is planned. In the designation of such corridors, the Commonwealth Transportation Board shall not be constrained by local, district, regional, or modal plans.

This Statewide Transportation Plan shall be updated as needed, but no less than once every five years. The plan shall promote economic development and all transportation modes, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety.

343 B. The Statewide Transportation Plan shall establish goals, objectives, and priorities that cover at
344 least a 20-year planning horizon, in accordance with federal transportation planning requirements. The
345 plan shall include quantifiable measures and achievable goals relating to, but not limited to, congestion
346 reduction and safety, transit and high-occupancy vehicle facility use, job-to-housing ratios, job and
347 housing access to transit and pedestrian facilities, air quality, movement of freight by rail, and per capita
348 vehicle miles traveled. The Board shall consider such goals in evaluating and selecting transportation
349 improvement projects for inclusion in the Six-Year Improvement Program pursuant to § 33.1-12.
350 C. The plan shall incorporate the approved long-range plans' measures and goals developed by
351 the applicable regional organizations. Each such plan shall be summarized in a public document and
352 made available to the general public upon presentation to the Governor and General Assembly.
353 D. It is the intent of the General Assembly that this plan assess transportation needs and assign
354 priorities to projects on a statewide basis, avoiding the production of a plan which is an aggregation of
355 local, district, regional, or modal plans.
356 #