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SENATE BILL NO. 505

Offered January 8, 2014

Prefiled January 8, 2014

A BILL to amend and reenact §§ 2.2-1176, 2.2-3705.6, 2.2-3711, 3.2-5603, 13.1-620, 23-300 through 23-303, 33.1-23.1, 33.1-46.2, 33.1-49, 33.1-251, 46.2-600, 46.2-694, as it is currently effective and as it may become effective, 46.2-694.1, as it is currently effective and as it may become effective, 46.2-749.3, 46.2-1130, 56-1, 56-1.2, 56-232.2, 56-265.1, 58.1-400.2, 58.1-609.10, 58.1-2259, 58.1-2402, as it is currently effective and as it may become effective, 58.1-2403, 58.1-2627.1, 58.1-2905, 58.1-2906, 58.1-2907, and 58.1-3713.4 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 3.2-5603.1, 5.1-1.8, 33.1-251.1, 46.2-602.4, and 46.2-1129.2, by adding in Title 46.2 a chapter numbered 30, consisting of sections numbered 46.2-3000 through 46.2-3004, and by adding sections numbered 56-1.2:2 and 56-235.11; and to repeal § 2.2-1176.1 and Article 16 (§§ 33.1-223.3 through 33.1-223.9) of Chapter 1 of Title 33.1 of the Code of Virginia, relating to incentives to use natural gas for transportation purposes; grant programs; vehicle registration requirements; taxes and fees; special fund established; standards for dispensing natural gas motor fuels; replacement program for state-owned vehicles; loan program for home fueling appliances; regulation of natural gas fueling services; Virginia Universities Clean Energy Development and Economic Stimulus Foundation; study of liquefied natural gas storage and refueling facilities.

Patron—Wagner

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1176, 2.2-3705.6, 2.2-3711, 3.2-5603, 13.1-620, 23-300 through 23-303, 33.1-23.1, 33.1-46.2, 33.1-49, 33.1-251, 46.2-600, 46.2-694, as it is currently effective and as it may become effective, 46.2-694.1, as it is currently effective and as it may become effective, 46.2-749.3, 46.2-1130, 56-1, 56-1.2, 56-232.2, 56-265.1, 58.1-400.2, 58.1-609.10, 58.1-2259, 58.1-2402, as it is currently effective and as it may become effective, 58.1-2403, 58.1-2627.1, 58.1-2905, 58.1-2906, 58.1-2907, and 58.1-3713.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 3.2-5603.1, 5.1-1.8, 33.1-251.1, 46.2-602.4, and 46.2-1129.2, by adding in Title 46.2 a chapter numbered 30, consisting of sections numbered 46.2-3000 through 46.2-3004, and by adding sections numbered 56-1.2:2 and 56-235.11 as follows:

§ 2.2-1176. Approval of purchase, lease, or contract rental of motor vehicle.

A. No motor vehicle shall be purchased, leased, or subject to a contract rental with public funds by the Commonwealth or by any officer or employee on behalf of the Commonwealth without the prior written approval of the Director. No lease or contract rental shall be approved by the Director except upon demonstration that the cost of such lease or contract rental plus operating costs of the vehicle shall be less than comparable costs for a vehicle owned by the Commonwealth.

Notwithstanding the provisions of this subsection, the Virginia Department of Transportation shall be exempted from the approval of purchase, lease, or contract rental of motor vehicles used directly in carrying out its maintenance, operations, and construction programs.

B. Notwithstanding other provisions of law, on or before January 1, 2012, the Director, in conjunction with the Secretary of Administration and the Secretary of Natural Resources, shall establish a plan providing for the replacement of state-owned or operated vehicles with vehicles that operate using natural gas, electricity, or other alternative fuels, to the greatest extent practicable, considering available infrastructure, the location and use of vehicles, capital and operating costs, and potential for fuel savings*; however, the plan shall require the purchase of natural gas-fueled vehicles rather than other vehicles that operate using electricity or other alternative fuels whenever the life-cycle cost for such natural gas-fueled vehicles is not more than 10 percent greater than for conventional vehicles*. The plan shall be submitted to the Governor for his review and approval. Once the plan is approved by the Governor, the Director shall implement the plan for the centralized fleet. All state agencies and institutions shall cooperate with the Director in developing and implementing the plan.

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade and tourism development or retention; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where, if such records are made public, the financial interest of the public body would be adversely affected.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or the Public Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), where (i) if such records were made public prior to or after the execution of an interim or a comprehensive agreement, § 56-573.1:1 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Records provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002, to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity, where, if the records were made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the records specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. To protect other records

submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the records afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 56-573.1:1 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities and Infrastructure Act of 2002.

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected, and, after June 30, 1997, where such information was provided pursuant to a promise of confidentiality.

13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary records that are not generally available to the public through regulatory disclosure or otherwise, provided by a (a) bidder or applicant for a franchise or (b) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the records relate to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Documents and other information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

15. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Records submitted as a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

18. Confidential proprietary records and trade secrets developed and held by a local public body (i)

providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2, to the extent that disclosure of such records would be harmful to the competitive position of the locality. In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the records or portions thereof for which protection is sought, and (c) state the reasons why protection is necessary.

19. Confidential proprietary records and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that records required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial records of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for (i) certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.) or (ii) a claim made by a disadvantaged business or an economically disadvantaged individual against the Capital Access Fund for Disadvantaged Businesses created pursuant to § 2.2-2311. In order for such trade secrets or financial records to be excluded from the provisions of this chapter, the business shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reasons why protection is necessary.

21. Documents and other information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Records submitted as a grant application, or accompanying a grant application, to the Virginia Tobacco Indemnification and Community Revitalization Commission to the extent such records contain (i) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (ii) financial records of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (iii) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other records prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data, records or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial records or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Records of the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if public disclosure would adversely affect the financial interest or bargaining position of the Authority or a private entity providing records to the Authority; or

b. Records provided by a private entity to the Commercial Space Flight Authority, to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity, where, if the records were made public, the financial interest or bargaining position of the Authority or private entity would be adversely affected.

In order for the records specified in clauses (i), (ii), and (iii) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. To protect other records submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Documents and other information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Documents and other information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if the records were made public, the financial interest of the public-use airport would be adversely affected.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

28. Records, documents, and other information of a proprietary nature submitted as a grant application, or accompanying a grant application, to the Department of Motor Vehicles to the extent such records contain (i) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (ii) financial records of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (iii) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other records prepared by the Department or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Department pursuant to its administration of the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any Virginia public institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.

10. Discussion or consideration of honorary degrees or special awards.

11. Discussion or consideration of tests, examinations, or other records excluded from this chapter pursuant to subdivision 4 of § 2.2-3705.1.

12. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting

agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

15. Discussion or consideration of medical and mental health records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.5.

16. Deliberations of the State Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of State Lottery Department matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23-38.80, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3.

22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. In the case of the Virginia Commonwealth University Health System Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; operational plans that could affect the value of such property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies where disclosure of such strategies would adversely affect the competitive position of the Authority;

members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluations of other employees.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23 is discussed.

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected local jurisdiction, as those terms are defined in § 56-557, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of records excluded from this chapter pursuant to subdivision 9 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6.

34. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

35. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of records or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23-38.80, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23-38.79:1 of records excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.6.

41. Discussion or consideration by the Board of Education of records relating to the denial,

suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of records excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.2.

43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of records excluded from this chapter pursuant to subdivision 29 of § 2.2-3705.7.

44. Discussion or consideration by the Virginia Tobacco Indemnification and Community Revitalization Commission of records excluded from this chapter pursuant to subdivision 23 of § 2.2-3705.6.

45. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of records excluded from this chapter pursuant to subdivision 24 of § 2.2-3705.6.

46. Discussion or consideration by the Department of Motor Vehicles of records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.6.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 3.2-5603. Two systems of weights and measures recognized; definitions and tables of National Institute of Standards and Technology to govern.

Both the system of weights and measures in customary use in the United States and the metric system of weights and measures are recognized, and one or the other, or both, of these systems shall be used for all commercial purposes in the Commonwealth. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, as published by the National Institute of Standards and Technology, are recognized and shall govern weighing and measuring equipment and transactions in the Commonwealth, *except as otherwise provided in § 3.2-5603.1*.

§ 3.2-5603.1. Standards for dispensing compressed natural gas and liquefied natural gas for use as motor fuel.

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

"Diesel gallon equivalent" or "DGE" means the amount of compressed natural gas or liquefied natural gas containing the same energy content as one gallon of diesel.

"Gasoline gallon equivalent" or "GGE" means the amount of compressed natural gas or liquefied natural gas containing the same energy content as one gallon of gasoline.

B. Compressed natural gas and liquefied natural gas sold at retail for use as a motor fuel shall be dispensed in units as follows:

1. Compressed natural gas shall be dispensed either in GGE units or DGE units. A GGE of compressed natural gas shall initially be set at 5.66 pounds and shall remain at that level unless changed pursuant to regulation adopted as provided in subsection D. A DGE of compressed natural gas shall initially be set at 6.38 pounds and shall remain at that level unless changed pursuant to regulation adopted by the Commissioner pursuant to subsection D; and

2. Liquefied natural gas shall be dispensed in DGE units. A DGE of liquefied natural gas shall initially be set at 6.06 pounds and shall remain at this level unless changed pursuant to regulation adopted by the Commissioner pursuant to subsection D.

C. On and after January 1, 2015, any dispenser used for the sale of compressed natural gas or liquefied natural gas at retail for use as motor fuel shall display the GGE or the DGE unit as the primary display information provided. Such dispenser shall indicate (i) the number of GGEs or DGEs, and fractions thereof, sold; (ii) the total sales price of the compressed natural gas or liquefied natural gas dispensed; and (iii) the sales price per GGE or DGE of the compressed natural gas or liquefied natural gas sold. Information concerning the sale of compressed natural gas or liquefied natural gas by GGE or DGE may be provided at the point of sale in literature, signs, or other advertisements.

D. The Commissioner shall adopt regulations necessary to implement the provisions of this section and to adopt the values set out in subdivisions B 1 and B 2. If it subsequently becomes necessary to revise such standards due to changes in the energy content of motor fuels, the Commissioner shall take into consideration whether the National Conference on Weights and Measures has adopted similar standards for dispensing compressed natural gas and liquefied natural gas and whether those standards use different values for GGE and DGE units. If the National Conference on Weights and Measures has adopted different GGE and DGE units, it shall be presumed that such standards should also be adopted for the Commonwealth unless good cause is shown otherwise.

E. The values set out in subdivisions B 1 and B 2 shall be applied to any sale of compressed natural gas or liquefied natural gas sold at retail for use as a motor fuel on or after January 1, 2015.

§ 5.1-1.8. Preference to natural gas in taxicab queue at airports.

To the extent such requirement is not in conflict with federal law or the Washington Metropolitan Area Transit Regulation Compact of 1958 (§ 56-529 et seq.), any public airports regulated under this title shall allow taxicabs or other motor vehicles for hire that are fueled by natural gas, including bi-fueled vehicles and vehicles fueled by propane, to move to the front of a queue outside of the airport in order to pick up passengers for transport.

§ 13.1-620. Special kinds of business.

A. If any corporation is to conduct the business of a bank or trust company, that shall be stated in the articles of incorporation and the corporation shall not have power to conduct other business except as may be related to or incidental to the banking or trust company business.

B. If any corporation is to conduct the business of an insurance company, that shall be stated in the articles of incorporation and the articles shall further set forth the class or classes of insurance the corporation proposes to undertake and the corporation shall not have power to conduct other business except as may be related to or incidental to the insurance business.

C. If any corporation is to conduct the business of a savings and loan association or savings bank, that shall be stated in the articles of incorporation and the corporation shall not have power to conduct other business except as may be related to or incidental to the stated business.

D. If any corporation is to conduct the business of a railroad or other public service company, that shall be stated in the articles of incorporation and a brief description of the business shall be included. Otherwise the corporation shall not have the power to conduct a public service business or to exercise any of the privileges of a public service company. No corporation shall be organized under this chapter for the purpose of conducting in this Commonwealth more than one kind of public service business except that the telephone and telegraph businesses or the water and sewer businesses may be combined, but this provision shall not limit the powers of domestic corporations existing on January 1, 1986. No corporation organized under this chapter to conduct the business of a public service company shall have general business powers in this Commonwealth. Corporations organized under this chapter to conduct the business of a public service company may, however, conduct in this Commonwealth other public service business or nonpublic service business so far as may be related to or incidental to its stated business as a public service company and in any other state such business as may be authorized or permitted by the laws thereof. Nothing in this subsection shall limit the powers of such corporation in respect of the securities of other corporations or of limited liability companies.

E. If one or more of the purposes set forth in the articles of incorporation is to own, manage or control any plant or equipment or any part of a plant or equipment within the Commonwealth for the conveyance of telephone messages or for the production, transmission, delivery or furnishing of heat, light, power or water, including heated or chilled water, or sewerage facilities, either directly or indirectly, to or for the public, the Commission shall not issue a certificate of incorporation unless the articles of incorporation expressly state that the corporation is to conduct business as a public service company.

F. Whether or not classified elsewhere in the Code as public service companies the following are not required to incorporate as public service companies: a person authorized by the Federal Communications Commission to provide commercial mobile service, household goods carriers, petroleum tank truck carriers, bottled gas companies, taxicab companies, community television companies, charter party carriers, restricted parcel carriers, sight-seeing carriers, companies excluded from the definition of "public utility" by § 56-265.1(b)(4) or by § 56-1.2 ~~and~~, compressed natural gas ~~filling~~ *fueling service* stations*, and liquefied natural gas fueling service stations.*

G. A water or sewer company that proposes to serve more than fifty customers shall incorporate as a public service company. A water or sewer company shall not serve more than fifty customers unless its articles of incorporation state that the corporation is to conduct business as a public service company. The two preceding sentences shall not apply to a water or sewer company incorporated before and operating a water or sewer system on January 1, 1970; however, as to any water or sewer system serving more than fifty customers, upon application to the Commission by a majority of the customers or by the company, a hearing may be held after thirty days' notice to the company and the system's customers or a majority thereof, and the Commission may order such, if any, improvements or rate changes or both as are just and reasonable. Upon ordering into effect any rate changes or improvements found to be just and reasonable, the water or sewer system shall remain subject to the Commission's regulatory authority in the same manner as a public utility for such reasonable period as the Commission may direct. Nothing in this subsection shall apply to persons described in § 56-1.2.

§ 23-300. Virginia Universities Clean Energy Development and Economic Stimulus Foundation created; purpose; structure.

A. There is hereby created the Virginia Universities Clean Energy Development and Economic Stimulus Foundation (Foundation) established as a body corporate and political subdivision of the Commonwealth which, with the cooperation and assistance of the universities, shall identify, obtain, disburse, and administer funding for the following purposes: (i) research and development of alternative fuels, clean energy production, and related technologies; (ii) support of economic development projects in economically disadvantaged areas; ~~and~~ (iii) *advancing the goal of increasing the number of natural gas-fueled vehicles operating within the Commonwealth; and (iv)* provision of assistance in the commercialization of alternative fuels and clean energy technologies developed with funds administered by the Foundation.

B. The Foundation shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Foundation shall have only those powers and duties as enumerated in this chapter.

C. The Foundation shall operate as a not-for-profit corporate entity and all funding made available to the Foundation shall be used solely for the purposes set forth in this chapter and shall be provided from such sources as specified in this chapter. No public funds shall be used for the work of the Foundation, which shall not be construed as an agency of the Commonwealth.

D. The Foundation shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

E. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.

F. The Foundation shall be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Foundation and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Foundation under the provisions of this chapter.

§ 23-301. Membership of the Board; terms; vacancies; officers; meetings, etc.

A. The Foundation shall be governed by a Board of Directors composed of ~~eight~~ *nine* members as follows: the president of the University of Virginia or his designee; the president of Virginia Polytechnic Institute and State University or his designee; the president of one of the other institutions included in the Virginia Coastal Energy Research Consortium, pursuant to § 67-600 of the Code of Virginia, or his designee; one nonlegislative citizen member who shall represent public service companies providing energy to consumers, to be appointed by the Governor; *one nonlegislative citizen member who shall represent an association advocating growth in North America of the use and acceptance of vehicles powered by natural gas, to be appointed by the Governor;* three nonlegislative citizen members to be appointed by the Speaker of the House of Delegates; and one nonlegislative citizen member to be appointed by the Senate Committee on Rules.

Nonlegislative citizen members appointed by the Speaker of the House of Delegates and the Senate Committee on Rules shall have specialized background and expertise on one or more of the following subjects: environmental or conservation issues; financing and commercialization of newly developed technologies or products; energy production issues; *natural gas vehicles and associated infrastructure;* or scientific research methodologies and protocols.

B. There shall be no limitation on the terms of Board members and they shall serve at the pleasure of the appointing authority, except for the president of the other institutions included in the Virginia Coastal Energy Research Consortium, which shall rotate among the member institutions on an annual basis.

C. The Board shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Board. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. The meetings of the Board shall be held on

the call of the chairman or whenever the majority of the members so request. The Board shall meet not less than twice annually. A majority of members of the Board serving at any one time shall constitute a quorum for the transaction of business. Notwithstanding any other provision of law, the Board may meet, conduct business, and vote by means of electronic communication.

§ 23-302. Powers and duties of the Board.

A. The Board shall have the power to:

1. Adopt, use, and alter at will an official seal;

2. Make bylaws for the management and regulation of its affairs;

3. Sue and be sued;

4. Maintain an office at such place or places within the Commonwealth as it may designate;

5. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Foundation, absolutely or in trust, for the purposes for which the Foundation is created;

6. Determine how moneys provided to the Foundation are to be distributed and to authorize grants, loans, or other distributions of such moneys for the purposes set forth in this chapter;

7. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

8. Invest its funds as provided in this chapter or permitted by applicable law;

9. Expend from such funds as are available to it a reasonable amount for personnel, operations, and administration of the Foundation;

10. *Provide assistance to the Department of Motor Vehicles in its awarding of competitive grants and other incentives relating to natural gas vehicle fueling facilities and related infrastructure, conversions of conventionally fueled vehicles to natural gas-fueled vehicles, and purchases of original equipment manufacturer (OEM) natural gas-fueled vehicles;* and

11. Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied, including use of whatever lawful means may be necessary and appropriate to recover any payments wrongfully made from the funds available to the Foundation.

B. The Board shall employ on a full-time, part-time, or contract basis such personnel as may be necessary to ensure that the purposes of this chapter are achieved, including, but not limited to, a chief executive officer, legal counsel, and chief research policy officer.

C. The Board and such staff as may be employed shall have the following duties:

1. Establish procedures by which persons seeking funds from the Foundation may make application for an award of such fund;

2. Actively seek out and encourage appropriate projects; and

3. Actively seek out and expend all reasonable efforts to obtain funds from all available sources.

D. Any proposed projects funded by the Foundation shall be consistent with the purposes set forth in this chapter.

E. The Board shall report its activities annually by December 1 to the Governor, the Speaker of the House, and the Senate Committee on Rules.

§ 23-303. Evaluation of proposals; due diligence; participation by universities.

A. All requests seeking funds from the Foundation shall be thoroughly evaluated utilizing the criteria set forth in subsection B ~~of this section~~. The Board and such staff as may be employed shall participate in the evaluation and may utilize such additional assistance as they determine necessary. The universities shall provide expertise for the evaluation process as requested by the Board.

B. Each funding request shall be evaluated according to the extent to which it meets a substantial portion of the following criteria as appropriate to the project or technology proposed:

1. Whether, and to what extent, the proposed project will identify, develop, and facilitate production and marketing of alternative fuels, clean energy sources, reduced dependence on foreign energy supplies, more affordable energy, discovery and development of raw materials necessary for energy production, or other similar improvements in energy creation, production, distribution, and affordability;

2. Whether, and to what extent, the proposed project will aid in economic revitalization of economically disadvantaged areas;

3. The scientific and technological value and viability of the proposed project;

4. The likelihood that the proposed project will fully realize its stated objectives;

5. The cost of the proposed project in relation to its reasonably foreseeable economic impact;

6. Whether, and to what extent, the proposed project will likely result in a commercially viable outcome;

7. The effort and time necessary to commercialize outcomes of the proposed project;

8. Whether, and to what extent, the requesting entity has utilized other available funding sources;

9. *Whether, and to what extent, the proposed project will advance the goal of increasing the number of natural gas-fueled vehicles operating within the Commonwealth;* and

10. Such other criteria as the Board may determine.

C. The Board shall determine whether a funding request sufficiently meets the criteria established and the purposes of this chapter, and if so, the appropriate amount of funding to be provided. Funding shall be awarded only to those proposed projects that best meet the established criteria and purposes of this chapter.

D. Any member of the Board who has a personal interest in any transaction before the Board shall be disqualified from participating in that transaction~~,~~ and shall forthwith make disclosure of the existence of his interest, including the full name and address of the business involved, and his disclosure shall also be reflected in the public records of the Board for five years in the office of the administrative head of the Board or, if the Board has a clerk, in the clerk's office.

§ 33.1-23.1. Allocation of funds among highway systems.

A. The Commonwealth Transportation Board shall allocate each year from all funds made available for highway purposes such amount as it deems reasonable and necessary for the maintenance of roads within the interstate system of highways, the primary system of state highways, the secondary system of state highways and for city and town street maintenance payments made pursuant to § 33.1-41.1 and payments made to counties which have withdrawn or elect to withdraw from the secondary system of state highways pursuant to § 33.1-23.5:1.

B. After funds are set aside for administrative and general expenses and pursuant to other provisions in this title that provide for the disposition of funds prior to allocation for highway purposes, and after allocation is made pursuant to subsection A, the Commonwealth Transportation Board shall allocate an amount determined by the Board, not to exceed $500 million in any given year, as follows: 25 percent to bridge reconstruction and rehabilitation; 25 percent to advancing high priority projects statewide; 25 percent to reconstructing deteriorated interstate and primary system pavements determined to have a Combined Condition Index of less than 60; 15 percent to projects undertaken pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 et seq.); five percent to paving unpaved roads carrying more than 200 vehicles per day; and five percent to ~~smart roadway technology~~ *the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001*, provided that, at the discretion of the Commonwealth Transportation Board, such percentages of funds may be adjusted in any given year to meet project cash flow needs or when funds cannot be expended due to legal, environmental, or other project management considerations and provided that such allocations shall cease beginning July 1, 2020. After such allocations are made, the Board may allocate each year up to 10 percent of the funds remaining for highway purposes for the undertaking and financing of rail projects that, in the Board's determination, will result in mitigation of highway congestion. After the foregoing allocations have been made, the Board shall allocate the remaining funds available for highway purposes, exclusive of federal funds for the interstate system, among the several highway systems for construction first pursuant to §§ 33.1-23.1:1 and 33.1-23.1:2 and then as follows:

1. Forty percent of the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to the primary system of state highways, including the arterial network, and in addition, an amount shall be allocated to the primary system as interstate matching funds as provided in subsection B of § 33.1-23.2.

2. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to urban highways for state aid pursuant to § 33.1-44.

3. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to the secondary system of state highways.

C. In addition, the Commonwealth Transportation Board, from funds appropriated for such purpose in the general appropriation act, shall allocate additional funds to the Cities of Newport News, Norfolk, and Portsmouth and the County of Warren in such manner and apportion such funds among such localities as the Board may determine, unless otherwise provided in the general appropriation act. The localities shall use such funds to address highway maintenance and repair needs created by or associated with port operations in those localities.

D. Notwithstanding the foregoing provisions of this section, the General Assembly may, through the general appropriations act, permit the Governor to increase the amounts to be allocated to highway maintenance, highway construction, either or both.

E. As used in this section:

"Bridge reconstruction and rehabilitation" means reconstruction and rehabilitation of those bridges identified by the Department of Transportation as being functionally obsolete or structurally deficient.

"High priority projects" means those projects of regional or statewide significance identified by the Board that reduce congestion, increase safety, create jobs, or increase economic development.

"Smart roadway technology" means those projects or programs identified by the Board that reduce congestion, improve mobility, improve safety, provide up-to-date travel data, or improve emergency response.

§ 33.1-46.2. Designation of high-occupancy vehicle lanes; use of such lanes; penalties.

A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during peak traffic periods, the Commonwealth Transportation Board may designate one or more lanes of any highway in the interstate, primary, or secondary highway systems as high-occupancy vehicle lanes, hereinafter referred to in this section as HOV lanes. When lanes have been so designated and have been appropriately marked with such signs or other markers as the Board may prescribe, they shall be reserved during periods designated by the Board for the exclusive use of buses and high-occupancy vehicles. Any local governing body may also, with respect to highways under its exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of such HOV lanes. Any highway for which the local jurisdiction receives highway maintenance funds pursuant to § 33.1-41.1 shall be deemed to be within the exclusive jurisdiction of the local governing body for the purposes of this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of occupants as determined by the Board or, for HOV lanes designated by a local governing body, by that local governing body. Notwithstanding the foregoing provisions of this section, no designation of any lane or lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

1. Emergency vehicles such as fire-fighting vehicles, ambulances, and rescue squad vehicles,

2. Law-enforcement vehicles,

3. Motorcycles,

4. a. Transit and commuter buses designed to transport 16 or more passengers, including the driver,

b. Any vehicle operating under a certificate issued under § 46.2-2075, 46.2-2080, 46.2-2096, 46.2-2099.4, or 46.2-2099.44,

5. Vehicles of public utility companies operating in response to an emergency call,

6. Vehicles bearing clean special fuel vehicle license plates *or clean special fuel stickers* issued pursuant to § 46.2-749.3, provided such use is in compliance with federal law,

7. Taxicabs having two or more occupants, including the driver, or

8. (Contingent effective date, see Editor's note) Any active duty military member in uniform who is utilizing Interstate Route 264 and Interstate Route 64 for the purposes of traveling to or from a military facility in the Hampton Roads Planning District.

In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and HOV lanes opened to use by all vehicles when restricting use of HOV lanes becomes impossible or undesirable and the temporary lifting of HOV limitations is indicated by signs along or above the affected portion of highway.

The Commissioner of VDOT shall implement a program of the HOV facilities in the Hampton Roads Planning District beginning not later than May 1, 2000. This program shall include the temporary lifting of HOV restrictions and the opening of HOV lanes to all traffic when an incident resulting from nonrecurring causes within the general lanes occurs such that a lane of traffic is blocked or is expected to be blocked for 10 minutes or longer. The HOV restrictions for the facility will be reinstated when the general lane is no longer blocked and is available for use.

The Commissioner shall maintain necessary records to evaluate the effects of such openings on the operation of the general lanes and the HOV lanes. He shall report on the effects of this program. This program will terminate if the Federal Highway Administration requires repayment of any federal highway construction funds because of the program's impact on the HOV facilities in Hampton Roads.

B. In designating any lane or lanes of any highway as HOV lanes, the Board, or local governing body as the case may be, shall specify the hour or hours of each day of the week during which the lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a designated HOV lane in violation of this section shall be guilty of a traffic infraction which shall not be a moving violation and on conviction shall be fined $100. However, violations committed within the boundaries of Planning District Eight shall be punishable as follows:

For a first offense, by a fine of $125;

For a second offense within a period of five years from a first offense, by a fine of $250;

For a third offense within a period of five years from a first offense, by a fine of $500; and

For a fourth or subsequent offense within a period of five years from a first offense, by a fine of $1,000.

Upon a conviction under this section, the court shall furnish to the Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction which shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no driver demerit points shall be assessed for any violation of this section; except that persons convicted of second, third, fourth, or subsequent violations within five years of a first offense committed in Planning District Eight shall be assessed three demerit points for each such violation.

C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of

this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the registered owner of the vehicle testifies in open court under oath that he was not the operator of the vehicle at the time of the violation. A summons for a violation of this section may be executed in accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of the vehicle is a rental or leasing company.

D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this section is served in any county, city, or town, it may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for his failure to appear on the return date of the summons.

E. Notwithstanding § 33.1-252, high-occupancy vehicles having three or more occupants (HOV-3) may be permitted to use the Omer L. Hirst-Adelard L. Brault Expressway (Dulles Toll Road) without paying a toll.

F. Notwithstanding the contrary provisions of this section, the following conditions shall be met before the HOV-2 designation of Interstate Route 66 outside the Capital Beltway can be changed to HOV-3 or any more restrictive designation:

1. The Department shall publish a notice of its intent to change the existing designation and also immediately provide similar notice of its intent to all members of the General Assembly representing districts that touch or are directly impacted by traffic on Interstate Route 66.

2. The Department shall hold public hearings in the corridor to receive comments from the public.

3. The Department shall make a finding of the need for a change in such designation, based on public hearings and its internal data and present this finding to the Commonwealth Transportation Board for approval.

4. The Commonwealth Transportation Board shall make written findings and a decision based upon the following criteria:

a. Is changing the HOV-2 designation to HOV-3 in the public interest?

b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will facilitate the flow of traffic on Interstate Route 66?

c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act Amendments of 1990?

G. [Repealed.]

§ 33.1-49. Power and authority of Commonwealth Transportation Board generally.

The Commonwealth Transportation Board may plan, designate, acquire, open, construct, reconstruct, improve, maintain, discontinue, abandon and regulate the use of the Interstate System in the same manner in which it is now or may be authorized to plan, designate, acquire, open, construct, reconstruct, improve, maintain, discontinue, abandon and regulate the use of the primary system of state highways. The Board may vacate, close or change the location of any street or public way in the manner in which it is now authorized by law to vacate, close or change the location of a highway in the primary system. The Board shall have any and all other authority and power relative to such Interstate System as is vested in it relative to highways in the primary system and shall include the right to acquire by purchase, eminent domain, grant or dedication title to lands or rights-of-way for such interstate highways whether within or without the limits of any city or town, and in addition thereto, shall have such other power, control and jurisdiction necessary to comply with the provisions of the Federal-Aid Highway Act of 1956 and all acts amendatory or supplementary thereto, all other provisions of law to the contrary notwithstanding.

Regulations adopted pursuant to this section and § 33.1-12 shall provide that hauling limits for explosive, flammable, or other hazardous cargo shall not apply to the compressed natural gas or liquefied natural gas stored on board a vehicle for the propulsion of that vehicle. Restrictions may apply to carried or transported fuel not stored for the propulsion of the vehicle.

§ 33.1-251. Unlawful for Department of Transportation to permit free passage over certain bridges and ferries; exceptions.

Except for those persons exempted from tolls under § 33.1-252 *or reimbursed under § 33.1-251.1*, it shall be unlawful for the Department of Transportation or any employee thereof to give or permit free passage over any bridge, tunnel or ferry which has been secured through the issuance of revenue bonds and which bonds are payable from the revenues of such project. Every vehicle shall pay the same toll as others similarly situated. Except as provided in § 33.1-252, the provisions hereof shall apply with full force and effect to vehicles and employees of the state government, governments of counties, cities and

towns or other political subdivisions, and to vehicles and persons of all other categories and descriptions, public, private, eleemosynary, or otherwise.

§ 33.1-251.1. Natural gas vehicle toll reimbursement.

Upon application to the Department of Transportation on a form prescribed by the Commissioner of Highways, operators of natural gas vehicles registered pursuant to § 46.2-602.4 shall be reimbursed for tolls paid on highways in the Commonwealth. Such applications may be filed quarterly with evidence provided by the applicant's electronic transponder and such other information as may be required by the Commissioner of Highways. An application for reimbursement must be made within one year of the end of the quarter for which the application is made in order to receive reimbursement.

Reimbursements shall be paid on a first-come, first-served basis, not to exceed a total of $10 million in reimbursement per year. If reimbursements for any year are less than $10 million, the remainder of funds in the subaccount shall revert to the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001.

§ 46.2-600. Owner to secure registration and certificate of title or certificate of ownership.

Except as otherwise provided, for the purposes of this chapter, a moped shall be deemed a motor vehicle.

Except as otherwise provided in this chapter every person who owns a motor vehicle, trailer or semitrailer, or his authorized attorney-in-fact, shall, before it is operated on any highway in the Commonwealth, register with the Department and obtain from the Department the registration card and certificate of title for the vehicle. Individuals applying for registration shall provide the Department with the residence address of the owner of the vehicle being registered. A business applying for registration shall provide the Department with the street address of the owner or lessee of the vehicle being registered.

At the time of registration, the owner of the vehicle shall disclose if the vehicle is a natural gas vehicle and should be registered pursuant to § 46.2-602.4.

At the option of the applicant for registration, the address shown on the title and registration card may be either a post office box or the business or residence address of the applicant.

Unless he has previously applied for registration and a certificate of title or he is exempted under §§ 46.2-619, 46.2-626.1, 46.2-631, and 46.2-1206, every person residing in the Commonwealth who owns a motor vehicle, trailer, or semitrailer, or his duly authorized attorney-in-fact, shall, within 30 days of the purchase or transfer, apply to the Department for a certificate of ownership.

Nothing in this chapter shall be construed to require titling or registration in the Commonwealth of any farm tractor or special construction and forestry equipment, as defined in § 46.2-100.

Notwithstanding the foregoing provisions of this section, provided such vehicle is registered and titled elsewhere in the United States, nothing in this chapter shall be construed to require titling or registration in the Commonwealth of any vehicle located in the Commonwealth if that vehicle is registered to a non-Virginia resident active duty military service member, activated reserve or national guard member, or mobilized reserve or national guard member living in Virginia.

§ 46.2-602.4. Registration of natural gas vehicles; titling and registration of converted natural gas vehicles.

A. The Department shall require registrants to disclose whether the vehicle is fueled by natural gas. If the vehicle is fueled by natural gas, the registration shall disclose what type of fuel is used, the end-of-life date for gas storage cylinders, and whether the vehicle is converted or an original equipment manufactured vehicle.

If the vehicle is a converted natural gas vehicle with previously used gas storage cylinders, the Department shall not register the vehicle unless the cylinders have been inspected by a certified compressed natural gas (CNG) Fuel System Inspector prior to use and the registrant is able to present documentation verifying such inspection.

When a motor vehicle is converted to be fueled by natural gas or to use natural gas and another fuel type, the person in whose name the vehicle is registered shall within 30 days notify the Department of record of the conversion or alternative fuel types.

B. 1. Upon receipt of an application and such evidence of ownership as required by the Commissioner pursuant to § 46.2-625, the Department shall issue a certificate of title for a converted natural gas vehicle, regardless of the submission of a Virginia certificate of title issued for the vehicle prior to conversion.

2. No converted natural gas vehicle shall be registered or operated on the highways of the Commonwealth until the owner submits to the Department a certification by a certified CNG Fuel System Inspector that the conversion is complete and proof that the vehicle has passed a Virginia safety inspection subsequent to the certification. Such certification shall be on a form approved by the Commissioner and the Superintendent and shall state that the inspector has verified that the containers, valves, pressure relief devices, including the vent system, and other fuel system components are in safe working order.

3. The completion of the certification required by this section shall not impose any liability on the safety inspector for the quality of the conversion process; however, nothing in this section shall be construed so as to relieve the safety inspector of any liability that may be imposed pursuant to Article 21 (§ 46.2-1157 et seq.) of Chapter 10 or under any regulation promulgated pursuant to § 46.2-1165, relating to the safety inspection of the converted natural gas vehicle.

4. The submission of a certification pursuant to this section shall be sufficient documentation to exempt the converted natural gas vehicle for which it is submitted from the emissions inspection program required by Article 22 (§ 46.2-1176 et seq.) of Chapter 10.

5. When necessary and upon application, the Department shall issue temporary trip permits in accordance with § 46.2-651 for the purpose of transporting the converted natural gas vehicle to and from an official Virginia safety inspection station.

The provisions of this subsection need only be satisfied once for each converted natural gas vehicle.

C. Any reference in this section to a vehicle fueled by natural gas includes (i) a vehicle fueled by propane and (ii) a bi-fuel vehicle.

§ 46.2-694. (Contingent expiration date) Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

1. Thirty-three dollars for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

2. Thirty-eight dollars for each passenger car or motor home which weighs more than 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than 10 adults including the driver if the private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less than $23 if the vehicle weighs 4,000 pounds or less or $28 if the vehicle weighs more than 4,000 pounds.

4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be less than $23 if the vehicle weighs 4,000 pounds or less or $28 if the vehicle weighs more than 4,000 pounds.

5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for human beings.

6. Thirteen dollars plus $0.30 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed in subdivision 7 of this subsection on submission to the Commissioner of a declaration of operations and equipment as he may prescribe. An additional $5 shall be charged if the motor vehicle weighs more than 4,000 pounds.

7. Thirteen dollars plus $0.70 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed under this subsection. An additional $5 shall be charged if the motor vehicle weighs more than 4,000 pounds. In lieu of the foregoing fee of $0.70 per 100 pounds, a motor carrier of passengers, operating two or more vehicles both within and outside the Commonwealth and registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the registration fees provided in this subsection so that the total registration fees to be paid for such vehicles of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total number of miles traveled by such vehicles of such carrier within the Commonwealth bears to the total number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in each instance is the estimated total mileage to be traveled by such vehicles during the license year for which such fees are paid, subject to the adjustment in accordance with an audit to be made by representatives of the Commissioner at the end of such license year, the expense of such audit to be borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less than $33. For the purpose of determining such apportioned registration fees, only those motor vehicles, trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion

in determining the apportionment provided for herein.

8. Thirteen dollars plus $0.80 per 100 pounds or major fraction thereof for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for the transportation of passengers. An additional fee of $5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a chauffeur for the transportation of passengers, and which operates or should operate under permits issued by the Department as required by law. An additional fee of $5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a surcharge of $3 which shall be distributed as provided in § 46.2-1191.

10a. Fourteen dollars for a moped, to be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

11. Twenty-three dollars for a bus used exclusively for transportation to and from church school, for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be $28.

12. Thirteen dollars plus $0.70 per 100 pounds or major fraction thereof for other passenger-carrying vehicles.

13. An additional fee of $4.25 per year shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of this subsection. All funds collected from $4 of the $4.25 fee shall be paid into the state treasury and shall be set aside as a special fund to be used only for emergency medical service purposes. The moneys in the special emergency medical services fund shall be distributed as follows:

a. Two percent shall be distributed to the State Department of Health to provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting volunteer recruitment, retention and training activities;

b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency medical services training programs (excluding advanced life support classes); (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support shall be used to recruit and retain volunteer emergency medical services personnel only, including public awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical services system development, initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and statewide performance contracts for emergency medical services to meet the objectives stipulated in § 32.1-111.3; (vi) technology and radio communication enhancements; and (vii) improved emergency preparedness and response. Any funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the State Department of Health's Office of Emergency Medical Services for use in emergency medical services; and

e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

All revenues generated by the remaining $0.25 of the $4.25 fee approved by the 2008 Session of the General Assembly shall be deposited into the Rescue Squad Assistance Fund and used only to pay for the costs associated with the certification and recertification training of emergency medical services personnel.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health on the use of the funds returned to it pursuant to this section. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this section for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the

number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

E. All fees collected pursuant to subdivisions A 1 through 12 for the registration of a natural gas vehicle registered pursuant to § 46.2-602.4 shall be deposited in the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001.

§ 46.2-694. (Contingent effective date) Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

1. Twenty-three dollars for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

2. Twenty-eight dollars for each passenger car or motor home which weighs more than 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than 10 adults including the driver if the private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less than $23 if the vehicle weighs 4,000 pounds or less or $28 if the vehicle weighs more than 4,000 pounds.

4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be less than $23 if the vehicle weighs 4,000 pounds or less or $28 if the vehicle weighs more than 4,000 pounds.

5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for human beings.

6. Thirteen dollars plus $0.30 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed in subdivision 7 of this subsection on submission to the Commissioner of a declaration of operations and equipment as he may prescribe. An additional $5 shall be charged if the motor vehicle weighs more than 4,000 pounds.

7. Thirteen dollars plus $0.70 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed under this subsection. An additional $5 shall be charged if the motor vehicle weighs more than 4,000 pounds. In lieu of the foregoing fee of $0.70 per 100 pounds, a motor carrier of passengers, operating two or more vehicles both within and outside the Commonwealth and registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the registration fees provided in this subsection so that the total registration fees to be paid for such vehicles of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total number of miles traveled by such vehicles of such carrier within the Commonwealth bears to the total number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in each instance is the estimated total mileage to be traveled by such vehicles during the license year for which such fees are paid, subject to the adjustment in accordance with an audit to be made by representatives of the Commissioner at the end of such license year, the expense of such audit to be borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less than $33. For the purpose of determining such apportioned registration fees, only those motor vehicles, trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion in determining the apportionment provided for herein.

8. Thirteen dollars plus $0.80 per 100 pounds or major fraction thereof for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for the transportation of passengers. An additional fee of $5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a chauffeur for the transportation of passengers, and which operates or should operate under permits issued by the Department as required by law. An additional fee of $5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a surcharge of $3 which shall be distributed as provided in § 46.2-1191.

10a. Fourteen dollars for a moped, to be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

11. Twenty-three dollars for a bus used exclusively for transportation to and from church school, for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be $28.

12. Thirteen dollars plus $0.70 per 100 pounds or major fraction thereof for other passenger-carrying vehicles.

13. An additional fee of $4.25 per year shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of this subsection. All funds collected from $4 of the $4.25 fee shall be paid into the state treasury and shall be set aside as a special fund to be used only for emergency medical service purposes. The moneys in the special emergency medical services fund shall be distributed as follows:

a. Two percent shall be distributed to the State Department of Health to provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting volunteer recruitment, retention and training activities;

b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency medical services training programs (excluding advanced life support classes); (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support shall be used to recruit and retain volunteer emergency medical services personnel only, including public awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical services system development, initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and statewide performance contracts for emergency medical services to meet the objectives stipulated in § 32.1-111.3; (vi) technology and radio communication enhancements; and (vii) improved emergency preparedness and response. Any funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the State Department of Health's Office of Emergency Medical Services for use in emergency medical services; and

e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

All revenues generated by the remaining $0.25 of the $4.25 fee approved by the 2008 Session of the General Assembly shall be deposited into the Rescue Squad Assistance Fund and used only to pay for the costs associated with the certification and recertification training of emergency medical services personnel.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health on the use of the funds returned to it pursuant to this section. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this section for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the

Commissioner or to his authorized agent.

E. All fees collected pursuant to subdivisions A 1 through 12 for the registration of a natural gas vehicle registered pursuant to § 46.2-602.4 shall be deposited in the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001.

§ 46.2-694.1. (Contingent expiration date) Fees for trailers and semitrailers not designed and used for transportation of passengers.

A. Unless otherwise specified in this title, the registration fees for trailers and semitrailers not designed and used for the transportation of passengers on the highways in the Commonwealth shall be as follows:

Registered Gross Weight	1-Year Fee	2-Year Fee	Permanent Fee
0-1,500 lbs	$18.00	$36.00	$70.00
1,501-4,000 lbs	$28.50	$57.00	$75.00
4,001 lbs & above	$40.00	$80.00	$100.00

From the foregoing registration fees, the following amounts, regardless of weight category, shall be paid by the Department into the state treasury and set aside for the payment of the administrative costs of the safety inspection program provided for in Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of this title: (i) from each one-year registration fee, one dollar and fifty cents; (ii) from each two-year registration fee, three dollars; and (iii) from each permanent registration fee, four dollars.

B. All fees collected pursuant to this section for the registration of a natural gas vehicle registered pursuant to § 46.2-602.4 shall be deposited in the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001.

§ 46.2-694.1. (Contingent effective date) Fees for trailers and semitrailers not designed and used for transportation of passengers.

A. Unless otherwise specified in this title, the registration fees for trailers and semitrailers not designed and used for the transportation of passengers on the highways in the Commonwealth shall be as follows:

Registered Gross Weight	1-Year Fee	2-Year Fee	Permanent Fee
0-1,500 lbs	$8.00	$16.00	$50.00
1,501-4,000 lbs	$18.50	$37.00	$50.00
4,001 lbs & above	$23.50	$47.00	$50.00

From the foregoing registration fees, the following amounts, regardless of weight category, shall be paid by the Department into the state treasury and set aside for the payment of the administrative costs of the safety inspection program provided for in Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of this title: (i) from each one-year registration fee, one dollar and fifty cents; (ii) from each two-year registration fee, three dollars; and (iii) from each permanent registration fee, four dollars.

B. All fees collected pursuant to this section for the registration of a natural gas vehicle registered pursuant to § 46.2-602.4 shall be deposited in the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001.

§ 46.2-749.3. Special license plates and stickers for clean special fuel vehicles.

A. The owner of any motor vehicle, except a motorcycle, that may utilize clean special fuel may purchase special license plates *or apply for stickers* indicating the motor vehicle utilizes clean special fuels. Upon receipt of an application, the Commissioner shall issue special license plates *or stickers* to the owners of such vehicles.

As used in this section, "clean special fuel" means any product or energy source used to propel a highway vehicle, the use of which, compared to conventional gasoline or reformulated gasoline, results in lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide or particulates or any combination thereof. The term includes compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, hythane (a combination of compressed natural gas and hydrogen), and electricity.

On and after July 1, 2006, license plates provided for in this section shall be issued with a new design distinctively different from the design of license plates issued to owners of vehicles that qualify for license plates under this section whose applications are received by the Department prior to July 1, 2006, hereinafter referred to as "the FY 2007 design." The distinctively different design shall be developed by the Department in consultation with the Department of State Police.

On and after July 1, 2011, license plates provided for in this section shall be issued with a new design distinctively different from the design of license plates issued to owners of vehicles that qualify for license plates under this section whose applications are received by the Department prior to July 1, 2011 (hereinafter referred to as the FY 2012 design). The distinctively different design shall be developed by the Department in consultation with the Department of State Police. Thereafter, only "the FY 2012 design" plate shall be issued to owners of vehicles that qualify for license plates under this section.

On and after July 1, 2014, stickers provided for in this section shall be issued to owners of vehicles registered pursuant to § 46.2-602.4 as provided in subsection C. The design shall be developed by the Department in consultation with the Department of State Police. The cost of such stickers shall be not more than the cost of the sticker and its development by the Department.

1. For the purposes of subdivision A 6 of § 33.1-46.2, on HOV lanes serving the I-95/395 corridor, only vehicles *(i)* registered with and displaying special license plates issued under this section prior to July 1, 2006, *or (ii) registered pursuant to § 46.2-602.4 and displaying stickers issued under this section* shall be treated as vehicles displaying special license plates *or stickers* issued under this section.

2. For the purposes of subdivision A 6 of § 33.1-46.2, on HOV lanes serving the Interstate Route 66 corridor, only vehicles *(i)* registered with and displaying special license plates issued under this section prior to July 1, 2011, *or (ii) registered pursuant to § 46.2-602.4 and displaying stickers issued under this section* shall be treated as vehicles displaying special license plates issued under this section.

3. The Commissioner of Highways shall provide annually to the Chairmen of the Senate and House of Delegates Committees on Transportation traffic volumes on the HOV facilities that result in a degraded condition as identified in SAFETEA-LU or other applicable federal law and reported to the Federal Highway Administration. This report shall be used by the Chairmen of their respective committees to recommend further restriction on use of HOV facilities by clean special fuel vehicles.

4. The Commissioner of the Department of Motor Vehicles, in consultation with the Motor Vehicle Dealer Board, shall develop procedures to ensure that all potential purchasers of clean special fuel vehicles receive adequate notice of the benefits, risks and timelines required for the issuance of clean special fuel vehicle license plates *and stickers*.

B. With the exception of plates issued to government-use vehicles, the annual fee for plates issued pursuant to this section shall be $25 in addition to the prescribed fee for state license plates. For each such $25 fee collected in excess of 1,000 registrations pursuant to this section, ~~$15~~ *$7.50* shall be paid to the ~~State~~ ~~Treasury~~ *state treasury* and credited to a special nonreverting fund known as the HOV Enforcement Fund, established within the Department of Accounts, for use by the Virginia State Police for enhanced HOV enforcement*, and $7.50 shall be paid to the state treasury and credited to the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001*. The fee for plates issued pursuant to this section to government-use vehicles shall be as prescribed in subsection A of § 46.2-750.

C. Owners of trailers, semitrailers, pickup or panel trucks, tractor trucks, and tow trucks registered pursuant to § 46.2-602.4 may apply to the Department for clean special fuel stickers on a form prescribed by the Department.

§ 46.2-1129.2. Further extension of weight limits for vehicles fueled by natural gas.

Any motor vehicle that is fueled, wholly or partially, by natural gas shall be allowed up to an additional 2,000 pounds total in gross, single axle, tandem axle, or bridge formula weight limits.

To be eligible for this exception, the operator of the vehicle must be able to demonstrate that the vehicle is a natural gas vehicle, a bi-fuel vehicle using natural gas, or a vehicle that has been converted to a natural gas vehicle.

§ 46.2-1130. Crossing bridge or culvert by vehicle heavier than allowed; where weight signs to be erected.

No vehicle shall cross any bridge or culvert in the Commonwealth if the gross weight of such vehicle is greater than the amount posted for the bridge or culvert as its carrying capacity.

Signs stating the carrying capacity shall be erected and maintained near each end of the bridge or culvert on the approaches to such bridge or culvert. Whenever the weight capacity of any structure on the interstate or primary system is reduced below the weight limit permitted on the road of which it is a part, a sign indicating that there is a restricted structure shall be placed in advance of the last alternate route on the road upon which there is a restricted structure. Whenever the weight capacity of any structure is reduced below the weight limit permitted on the road of which it is a part, a sign indicating that there is a restricted structure, shall be placed in advance of the last alternate route on the road upon which there is a restricted structure.

The weight capacity of any structure shall apply to fuel carried on board a vehicle but shall not apply to fuel on board a liquefied natural gas or compressed natural gas vehicle that is necessary for the propulsion of such vehicle.

CHAPTER 30.

NATURAL GAS VEHICLE INCENTIVE FUND AND PROGRAM.

§ 46.2-3000. Definitions.

"Fund" means the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001.

"Grant" means a grant issued pursuant to the Access to Natural Gas Grant Program or the Natural Gas Vehicle Grant Program.

"Incremental cost" means the capital cost of an applicant's project less a baseline cost that would otherwise be incurred by an applicant in the normal course of a project involving conventional fuels.

§ 46.2-3001. Natural Gas Vehicle Incentive Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Natural Gas Vehicle Incentive Fund (the Fund). The Fund shall be established on the books of the Comptroller. 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. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

Funds for the Natural Gas Vehicle Incentive Fund shall be paid into the state treasury and credited to the Fund and shall include, in addition to all funds appropriated by the General Assembly, such as funds provided under the federal Congestion Mitigation and Air Quality Improvement (CMAQ) program and any grants, donations, gifts, or bequests, the following:

1. Five percent of the amount allocated pursuant to subsection B of § 33.1-23.1;

2. Revenues collected pursuant to subsection E of § 46.2-694 and subsection B of § 46.2-694.1;

3. The designated 50 percent of fees collected pursuant to subsection B of § 46.2-749.3;

4. Five percent of revenues collected pursuant to clause (i) of subsection A of § 58.1-2904 and remitted pursuant to subsection C of § 58.1-2905;

5. Half of the revenues collected pursuant to clause (iii) of subsection A of § 58.1-2904 as established in § 58.1-2907; and

6. Revenue from taxes as provided in § 58.1-3713.4.

Moneys in the Fund shall be used solely for the purposes of (i) reimbursement of tolls pursuant § 33.1-251.1; (ii) grants under the Access to Natural Gas Grant Program pursuant to § 46.2-3002; and (iii) grants under the Natural Gas Vehicle Grant Program established pursuant to § 46.2-3003. Annually, $10 million shall be allocated from the Fund into a subaccount for the reimbursement of tolls pursuant to clause (i). After such $10 million is allocated, then 50 percent of the Fund may annually be used to fund grants pursuant to clause (ii), and the remaining 50 percent of the Fund may annually be used to fund grants pursuant to clause (iii).

§ 46.2-3002. Access to Natural Gas Grant Program.

A. Beginning January 1, 2015, but not later than December 31, 2019, any person that, for the purposes of allowing the public to refuel natural gas vehicles within three miles of an interstate highway, (i) constructs a new natural gas fueling station, (ii) adds natural gas fueling capacity to an existing conventional fueling station, or (iii) converts an existing conventional fueling station into a natural gas fueling station, may compete for a grant pursuant to this section by applying to the Department. To be eligible for a grant under the program, an applicant shall agree to make the refueling facility available to persons not associated with the person at times designated by the grant agreement. A recipient of a grant under this chapter is not eligible to receive a second grant under this chapter for the same facility. A recipient of a grant under this chapter shall use the grant only to pay the costs of the facility for which the grant is made. The recipient may not use the grant to pay the recipient's administrative expenses.

B. Grants shall be in an amount not to exceed to the lesser of 50 percent of incremental costs of the refueling facility or (i) $100,000 if the refueling station is a compressed natural gas station, (ii) $250,000 if the refueling station is a liquefied natural gas station, or (iii) $400,000 if the refueling station is both a compressed and liquefied natural gas station.

C. The Department shall develop guidelines setting forth the general requirements of qualifying and applying for a grant. Such guidelines shall establish criteria under which grants are awarded to applicants on a competitive basis, shall provide that decisions awarding grants shall be made annually, and shall give priority in awarding grants to those applicants that are expected to provide the greatest capacity to meet existing or future demand for public access to natural gas refueling, including reducing the distance between refueling facilities along routes with the greatest projected need for such facilities, relative to the cost of the grant.

§ 46.2-3003. Natural Gas Vehicle Grant Program.

A. Beginning January 1, 2015, but not later than December 31, 2019, any person that:

1. Converts a vehicle to a natural gas, bi-fuel, or propane vehicle, and such conversion is federally certified and inspected by a certified CNG Fuel System Inspector, may apply for a grant from the Fund. Such grant shall be in an amount equal to 50 percent of the conversion cost, not to exceed $25,000 per vehicle. No more than five grants pursuant to this subsection shall be awarded per person per year. Grant applications pursuant to this subsection must be received within one year of the conversion.

2. Purchases a new OEM natural gas, bi-fuel, or propane vehicle may apply for a grant from the Fund. Such grant shall be in an amount equal to 50 percent of the incremental cost of purchasing such new vehicle, not to exceed $25,000 per vehicle. No more than $250,000 in grants pursuant to this subsection shall be awarded per person per year. Grant applications pursuant to this subsection must be received within one year of the purchase of the OEM natural gas, bi-fuel, or propane vehicle.

B. Persons shall apply to the Department for a grant pursuant to this section. Grants shall be issued

in the order that each completed eligible application is received. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund, such grants shall be paid in the next fiscal year in which funds are available. Conversions or purchases must be completed by December 31, 2019, and applications must be received by December 31, 2020.

C. The Department shall develop guidelines setting forth the general requirements of qualifying for a grant.

§ 46.2-3004. Public may purchase natural gas from state fuel network.

Any private individual or entity who is not acting under the authority of a federal, state, or local government agency and is not purchasing compressed natural gas from the state's fuel network for sale, resale, distribution, redistribution, trade, exchange, or in furtherance of a commercial enterprise may purchase compressed natural gas from the state's fuel network.

The Department shall promulgate regulations providing that state and local agencies may (i) restrict the purchase by private individuals or entities in case of an emergency that warrants holding compressed natural gas in reserve for use by state or emergency vehicles, (ii) be given priority to dispense and receive compressed natural gas from the state's fuel network sites, (iii) limit the amount of compressed natural gas that may be purchased from the state's fuel network by any private individual or entity at any one time or in the aggregate during a given period of time, and (iv) stipulate conditions upon which a private individual or entity's authorization to purchase compressed natural gas from the state fuel network may be granted, revoked, or suspended under this section.

§ 56-1. Definitions.

Whenever used in this title, unless the context requires a different meaning:

"Broadband connection," for purposes of this section, means a connection where transmission speeds exceed 200 kilobits per second in at least one direction.

"Commission" means the State Corporation Commission.

"Compressed natural gas fueling service" means the replenishment of the compressed natural gas storage tank of a motor vehicle, locomotive, ship, boat, or other transportation device fueled by compressed natural gas.

"Corporation" or "company" includes all corporations created by acts of the General Assembly of Virginia, or under the general incorporation laws of this Commonwealth, or doing business therein, and shall exclude all municipal corporations, other political subdivisions, and public institutions owned or controlled by the Commonwealth.

"Electric vehicle charging service" means the replenishment of the battery of a plug-in electric motor vehicle, which replenishment occurs by plugging the motor vehicle into an electric power source in order to charge or recharge its battery.

"Interexchange telephone service" means telephone service between points in two or more exchanges that is not classified as local exchange telephone service. "Interexchange telephone service" shall not include Voice-over-Internet protocol service for purposes of regulation by the Commission, including the imposition of certification processing fees and other administrative requirements, and the filing or approval of tariffs. Nothing herein shall be construed to either mandate or prohibit the payment of switched network access rates or other intercarrier compensation, if any, related to Voice-over-Internet protocol service.

"Liquefied natural gas fueling service" means the replenishment of the liquefied natural gas storage tank of a motor vehicle, locomotive, ship, boat, or other transportation device fueled by liquefied natural gas.

"Local exchange telephone service" means telephone service provided in a geographical area established for the administration of communication services and consists of one or more central offices together with associated facilities which are used in providing local exchange service. Local exchange service, as opposed to interexchange service, consists of telecommunications between points within an exchange or between exchanges which are within an area where customers may call at specified rates and charges. "Local exchange telephone service" shall not include Voice-over-Internet protocol service for purposes of regulation by the Commission, including the imposition of certification processing fees and other administrative requirements, and the filing or approval of tariffs. Nothing herein shall be construed to either mandate or prohibit the payment of switched network access rates or other intercarrier compensation, if any, related to Voice-over-Internet protocol service.

"Mail" includes electronic mail and other forms of electronic communication when the customer has requested or authorized electronic bill delivery or other electronic communications.

"Municipality" or "municipal corporation" shall include an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403.

"Person" includes individuals, partnerships, limited liability companies, and corporations.

"Plug-in electric motor vehicle" means an on-road motor vehicle that draws propulsion using a traction battery that has at least four kilowatt hours of capacity, uses an external source of electric energy to charge or recharge the battery, has a gross vehicle weight of not more than 14,000 pounds,

and meets any applicable emissions standards.

"Public service corporation" or "public service company" includes gas, pipeline, electric light, heat, power and water supply companies, sewer companies, telephone companies, and all persons authorized to transport passengers or property as a common carrier. "Public service corporation" or "public service company" shall not include (i) a municipal corporation, other political subdivision or public institution owned or controlled by the Commonwealth; however, if such an entity has obtained a certificate to provide services pursuant to § 56-265.4:4, then such entity shall be deemed to be a public service corporation or public service company and subject to the authority of the Commission with respect only to its provision of the services it is authorized to provide pursuant to such certificate; or (ii) any company described in subdivision (b)(10) of § 56-265.1.

"Railroad" includes all railroad or railway lines, whether operated by steam, electricity, or other motive power, except when otherwise specifically designated.

"Railroad company" includes any company, trustee or other person owning, leasing or operating a railroad.

"Rate" means rate charged for any service rendered or to be rendered.

"Rate," "charge" and "regulation" include joint rates, joint charges and joint regulations, respectively.

"Regulated operating revenue" includes only revenue from services not found to be competitive.

"Transportation company" includes any railroad company, any company transporting express by railroad, and any ship or boat company.

"Virginia limited liability company" means (i) any limited liability company organized under Chapter 12 (§ 13.1-1000 et seq.) of Title 13.1, (ii) any entity that has become a limited liability company pursuant to Article 12.2 (§ 13.1-722.8 et seq.) of Chapter 9 of Title 13.1 or pursuant to conversion or domestication under Chapter 12 (§ 13.1-1000 et seq.) of Title 13.1, or (iii) any foreign limited liability company that is organized or is domesticated by filing articles of organization that meet the requirements of §§ 13.1-1003 and 13.1-1011 and include (a) the name of the foreign limited liability company immediately prior to the filing of the articles of organization; (b) the date on which and the jurisdiction in which the foreign limited liability company was first formed, organized, created or otherwise came into being; and (c) the jurisdiction that constituted the seat, siege social, or principal place of business or central administration of the foreign limited liability company, or any equivalent thereto under applicable law, immediately prior to the filing of the articles of organization. With respect to an organization or domestication pursuant to clause (iii), the terms and conditions of a domestication shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the foreign limited liability company in the conduct of its business or by applicable law other than the law of the Commonwealth, as appropriate, and the provisions governing the status, powers, obligations, and choice of law applicable under § 13.1-1010.3 shall apply to any limited liability company so domesticated or organized.

"Voice-over-Internet protocol service" or "VoIP service" means any service that: (i) enables real-time, two-way voice communications that originate or terminate from the user's location using Internet protocol or any successor protocol and (ii) uses a broadband connection from the user's location. This definition includes any such service that permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

§ 56-1.2. Persons not designated as public utility, public service corporation, etc.

The terms public utility, public service corporation, or public service company, as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) of this title, shall not refer to:

1. Any person who owns or operates property and provides electricity, natural gas, water, or sewer service to residents or tenants on the property, provided that (i) the electricity, natural gas, water or sewer service provided to the residents or tenants is purchased by the person from a public utility, public service corporation, public service company, or person licensed by the Commission as a competitive provider of energy services, or a county, city or town, or other publicly regulated political subdivision or public body, (ii) the person or his agent charges to the resident or tenant on the property only that portion of the person's utility charges for the electricity, natural gas, water, or sewer service which is attributable to usage by the resident or tenant on the property, and additional service charges permitted by § 55-226.2, and (iii) the person maintains three years' billing records for such charges; ~~or~~

2. Any person who is not a public service corporation and who provides electric vehicle charging service at retail. The ownership or operation of a facility at which electric vehicle charging service is sold, and the selling of electric vehicle charging service from that facility, does not render the person a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation*; or*

3. Any person who is not a public service corporation and who provides retail compressed natural

gas fueling service or liquefied natural gas fueling service. The ownership or operation of a facility at which compressed natural gas or liquefied natural gas is sold, and the selling of compressed natural gas or liquefied natural gas for the purpose of fueling a motor vehicle, locomotive, ship, boat, or other transportation device from that facility, does not render the person a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.

§ 56-1.2:2. Retail sale of compressed natural gas or liquefied natural gas in connection with the provision of compressed or liquefied natural gas fueling service.

A. The provision of compressed natural gas fueling service or liquefied natural gas fueling service by a person who is not a public utility, public service corporation, or public service company shall not constitute the retail sale of electricity if the compressed natural gas or liquefied natural gas furnished in connection with the provision of compressed natural gas fueling service or liquefied natural gas fueling service is used solely for transportation purposes.

B. The provision of compressed natural gas fueling service or liquefied natural gas fueling service shall:

1. Be a permitted natural gas utility activity of a certificated natural gas utility; and

2. Not affect the status as a public utility of a certificated public utility that provides such service.

§ 56-232.2. Regulation of natural gas service fueling service.

The Commission ~~may refrain from regulating and prescribing~~ *shall not regulate or prescribe* the rates, charges, and fees for the provision of retail compressed natural gas *fueling* service *or retail liquefied natural gas fueling service* provided by ~~corporations~~ *persons* other than public service corporations. Wholesale compressed natural gas sales provided by public service corporations shall continue to be regulated by the Commission to the same extent as are services provided by other public utilities under this chapter. The Commission may adopt regulations implementing this statute.

§ 56-235.11. Compressed natural gas vehicle home fueling appliances; loan programs.

A. As used in this section:

"CNG home fueling appliance" means an appliance for fueling compressed natural gas cylinders in motor vehicles that connects to a customer's household gas meter and permits the fueling of the motor vehicle at the customer's residence.

"CNG home fueling appliance loan program" means a program under which a utility provides a subsidy and other assistance to incentivize participating residential customers to lease a CNG home fueling appliance from the utility.

"Residential customer" means a retail customer that purchases natural gas for consumption at a single-family or multifamily residential dwelling owned by such retail customer.

"Utility" means a public utility authorized to furnish natural gas service in Virginia.

B. Any utility may apply to the Commission for approval to establish a CNG home fueling appliance loan program. Upon approval of its application, the utility shall be authorized to offer to its residential customers the option to lease a CNG home fueling appliance from the utility in accordance with the terms of the program, subject to the limits on the size of the program as provided in this section.

C. The Commission shall approve such application if the applicant utility demonstrates that:

1. The monthly payments under the lease (i) cover the costs of installation and maintenance of the CNG home fueling appliance and (ii) are fixed at an amount that reflects the utility's subsidization of the lease to the end that the customer's lease payments under the program are less than the amount that the customer would reasonably be expected to pay, either as lease payments or as installment payments if the appliance were to be purchased, without the utility's subsidy, which subsidy amount shall be approved by the Commission and consistent with the requirements of subsection E;

2. The conditions for participation in the program are reasonable and include requirements that the participating residential customer be a customer of the utility, meet specified credit requirements approved as reasonable by the Commission, and agree to the terms of a standard lease agreement that has been approved as reasonable by the Commission;

3. The lease payments shall be billed on the residential customer's natural gas utility billing statement as a separate line item, and the lease payments shall not include the cost of the natural gas consumed;

4. The utility shall have the right to disconnect and remove the CNG home fueling appliance for nonpayment of monthly lease payments, but shall not disconnect the customer's residential natural gas service solely as a result of the customer's nonpayment of monthly lease payments; and

5. The utility shall offer to its residential customers the option of participating in the CNG home fueling appliance loan program on a nondiscriminatory, first-come, first-served basis, subject to (i) limitations on the size of the program established by the Commission as provided in subsection D and (ii) the option of the utility not to lease a CNG home fueling appliance to a residential customer if the cost of installing the appliance at the customer's residence, including electric and natural gas

connections and structural alterations, exceeds $2,000.

D. The Commission shall adopt regulations establishing limits on the size of the program. The limits established by the Commission shall ensure that the number of leases in effect at any one time within the utility's service territory does not exceed 500 or such larger number that the Commission finds may be entered into without increasing the risk that one class of customers will be subsidized by another class of customers.

E. The utility's subsidization of the lease payments by residential customers participating in the program shall not be so large as to require an increase in the rates for natural gas service for any class of the utility's customers.

F. The Commission is authorized to adopt rules or regulations that ensure that a utility's CNG home fueling appliance loan program is consistent with the public interest.

§ 56-265.1. Definitions.

In this chapter the following terms shall have the following meanings:

(a) "Company" means a corporation, a limited liability company, an individual, a partnership, an association, a joint-stock company, a business trust, a cooperative, or an organized group of persons, whether incorporated or not; or any receiver, trustee or other liquidating agent of any of the foregoing in his capacity as such; but not a municipal corporation or a county, unless such municipal corporation or county has obtained a certificate pursuant to § 56-265.4:4.

(b) "Public utility" means any company which owns or operates facilities within the Commonwealth of Virginia for the generation, transmission or distribution of electric energy for sale, for the production, storage, transmission, or distribution, otherwise than in enclosed portable containers, of natural or manufactured gas or geothermal resources for sale for heat, light or power, or for the furnishing of telephone service, sewerage facilities or water; however, the term "public utility" shall not include any of the following:

(1) Except as otherwise provided in § 56-265.3:1, any company furnishing sewerage facilities, geothermal resources or water to less than 50 customers. Any company furnishing water or sewer services to 10 or more customers and excluded by this subdivision from the definition of "public utility" for purposes of this chapter nevertheless shall not abandon the water or sewer services unless and until approval is granted by the Commission or all the customers receiving such services agree to accept ownership of the company.

(2) Any company generating and distributing electric energy exclusively for its own consumption.

(3) Any company (A) which furnishes electric service together with heating and cooling services, generated at a central plant installed on the premises to be served, to the tenants of a building or buildings located on a single tract of land undivided by any publicly maintained highway, street or road at the time of installation of the central plant, and (B) which does not charge separately or by meter for electric energy used by any tenant except as part of a rental charge. Any company excluded by this subdivision from the definition of "public utility" for the purposes of this chapter nevertheless shall, within 30 days following the issuance of a building permit, notify the State Corporation Commission in writing of the ownership, capacity and location of such central plant, and it shall be subject, with regard to the quality of electric service furnished, to the provisions of Chapters 10 (§ 56-232 et seq.) and 17 (§ 56-509 et seq.) of this title and regulations thereunder and be deemed a public utility for such purposes, if such company furnishes such service to 100 or more lessees.

(4) Any company, or affiliate thereof, making a first or direct sale, or ancillary transmission or delivery service, of natural or manufactured gas to fewer than 35 commercial or industrial customers, which are not themselves "public utilities" as defined in this chapter, or to certain public schools as indicated in this subdivision, for use solely by such purchasing customers at facilities which are not located in a territory for which a certificate to provide gas service has been issued by the Commission under this chapter and which, at the time of the Commission's receipt of the notice provided under § 56-265.4:5, are not located within any area, territory, or jurisdiction served by a municipal corporation that provided gas distribution service as of January 1, 1992, provided that such company shall comply with the provisions of § 56-265.4:5. Direct sales or ancillary transmission or delivery services of natural gas to public schools in the following localities may be made without regard to the number of schools involved and shall not count against the "fewer than 35" requirement in this subdivision: the Counties of Dickenson, Wise, Russell, and Buchanan, and the City of Norton.

(5) Any company ~~which~~ *that* is not a public service corporation and ~~which~~ *that* provides compressed natural gas *fueling* service *or liquefied natural gas fueling service* at retail for the public.

(6) Any company selling landfill gas from a solid waste management facility permitted by the Department of Environmental Quality to a public utility certificated by the Commission to provide gas distribution service to the public in the area in which the solid waste management facility is located. If such company submits to the public utility a written offer for sale of such gas and the public utility does not agree within 60 days to purchase such gas on mutually satisfactory terms, then the company

may sell such gas to (i) any facility owned and operated by the Commonwealth which is located within three miles of the solid waste management facility or (ii) any purchaser after such landfill gas has been liquefied. The provisions of this subdivision shall not apply to the City of Lynchburg or Fairfax County.

(7) Any authority created pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.) making a sale or ancillary transmission or delivery service of landfill gas to a commercial or industrial customer from a solid waste management facility permitted by the Department of Environmental Quality and operated by that same authority, if such an authority limits off-premises sale, transmission or delivery service of landfill gas to no more than one purchaser. The authority may contract with other persons for the construction and operation of facilities necessary or convenient to the sale, transmission or delivery of landfill gas, and no such person shall be deemed a public utility solely by reason of its construction or operation of such facilities. If the purchaser of the landfill gas is located within the certificated service territory of a natural gas public utility, the public utility may file for Commission approval a proposed tariff to reflect any anticipated or known changes in service to the purchaser as a result of the use of landfill gas. No such tariff shall impose on the purchaser of the landfill gas terms less favorable than similarly situated customers with alternative fuel capabilities; provided, however, that such tariff may impose such requirements as are reasonably calculated to recover the cost of such service and to protect and ensure the safety and integrity of the public utility's facilities.

(8) A company selling or delivering only landfill gas, electricity generated from only landfill gas, or both, that is derived from a solid waste management facility permitted by the Department of Environmental Quality and sold or delivered from any such facility to not more than three commercial or industrial purchasers or to a natural gas or electric public utility, municipal corporation or county as authorized by this section. If a purchaser of the landfill gas is located within the certificated service territory of a natural gas public utility or within an area in which a municipal corporation provides gas distribution service and the landfill gas is to be used in facilities constructed after January 1, 2000, such company shall submit to such public utility or municipal corporation a written offer for sale of that gas prior to offering the gas for sale or delivery to a commercial or industrial purchaser. If the public utility or municipal corporation does not agree within 60 days following the date of the offer to purchase such landfill gas on mutually satisfactory terms, then the company shall be authorized to sell such landfill gas, electricity, or both, to the commercial or industrial purchaser, utility, municipal corporation, or county. Such public utility may file for Commission approval a proposed tariff to reflect any anticipated or known changes in service to the purchaser as a result of the purchaser's use of the landfill gas. No such tariff shall impose on such purchaser of the landfill gas terms less favorable than those imposed on similarly situated customers with alternative fuel capabilities; provided, however, that such tariff may impose such requirements as are reasonably calculated to recover any cost of such service and to protect and ensure the safety and integrity of the public utility's facilities.

(9) A company that is not organized as a public service company pursuant to subsection D of § 13.1-620 and that sells and delivers propane air only to one or more public utilities. Any company excluded by this subdivision from the definition of "public utility" for the purposes of this chapter nevertheless shall be subject to the Commission's jurisdiction relating to gas pipeline safety and enforcement.

(10) A farm or aggregation of farms that owns and operates facilities within the Commonwealth for the generation of electric energy from waste-to-energy technology. As used in this subdivision, (i) "farm" means any person that obtains at least 51 percent of its annual gross income from agricultural operations and produces the agricultural waste used as feedstock for the waste-to-energy technology, (ii) "agricultural waste" means biomass waste materials capable of decomposition that are produced from the raising of plants and animals during agricultural operations, including animal manures, bedding, plant stalks, hulls, and vegetable matter, and (iii) "waste-to-energy technology" means any technology, including but not limited to a methane digester, that converts agricultural waste into gas, steam, or heat that is used to generate electricity on-site.

(11) A company, other than an entity organized as a public service company, that provides non-utility gas service as provided in § 56-265.4:6.

(c) "Commission" means the State Corporation Commission.

(d) "Geothermal resources" means those resources as defined in § 45.1-179.2.

§ 58.1-400.2. Taxation of electric suppliers, pipeline distribution companies, gas utilities, and gas suppliers.

A. Any electric supplier, pipeline distribution company, gas utility, or gas supplier that is subject to income tax pursuant to the Internal Revenue Code of 1986, as amended, except those organized as cooperatives and exempt from federal taxation under § 501 of the Internal Revenue Code of 1986, as amended, shall be subject to the tax levied pursuant to § 58.1-400.

B. Any electric supplier that operates as a cooperative and is exempt from income tax pursuant to § 501 of the Internal Revenue Code of 1986, shall be subject to tax at the tax rate set forth in

§ 58.1-400 on all modified net income derived from nonmember sales. Any gas supplier, pipeline distribution company or gas utility which has a taxable year that begins after January 1, 2001, but before January 1, 2002, shall also be subject to the provisions under subsection E.

C. The following words and terms when used in this section shall have the following meanings:

"Electric supplier" means any corporation, cooperative, partnership or other business entity providing electric service.

"Electricity" is deemed tangible personal property for purposes of the corporate income tax pursuant to this article.

"Gas supplier" means any person licensed by the State Corporation Commission to engage in the business of selling natural gas.

"Gas utility" has the same meaning as provided in § 56-235.8.

"Members" means those customers of a cooperative who receive allocations of patronage capital from a cooperative.

"Modified net income" means all revenue of a cooperative from the sale of electricity within the Commonwealth with the following subtractions:

1. Revenue attributable to sales of electric power to its members.

2. Nonmember share of all ordinary and necessary expenses paid or incurred during the taxable year in carrying on the sale of electric power to nonmembers. Such nonmember expenses shall be determined by allocating the amount of such expenses between sales of electricity to members and sales of electricity to nonmembers. Such allocation shall be applicable to all tax credits available to an electric supplier.

"Nonmember" means those customers which are not members.

"Ordinary and necessary expenses paid or incurred" means ordinary and necessary expenses determined according to generally accepted accounting principles.

"Pipeline distribution company" has the same meaning as provided in § 58.1-2600.

D. The Department of Taxation shall promulgate all regulations necessary to implement the intent of this section. This section shall apply to taxable years beginning on and after January 1, 2001.

E. 1. Any gas supplier, pipeline distribution company or gas utility which has a taxable year that begins after January 1, 2001, but before January 1, 2002, shall be required to file an income tax return as if a short taxable year has occurred covering the period beginning January 1, 2001, and ending on the last day prior to the beginning of the gas supplier's, pipeline distribution company's or gas utility's taxable year pursuant to § 58.1-440 A.

2. If a return is required to be made under subdivision 1 of this subsection, federal taxable income will be determined using the methodology prescribed in § 443 of the Internal Revenue Code, as if the gas supplier, pipeline distribution company or gas utility was undergoing a change of annual accounting period, and § 58.1-440 B and the regulations thereunder.

F. Five percent of the revenues from pipeline distribution companies paying the tax levied pursuant to § 58.1-400 shall be annually paid into the state treasury and credited to the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001.

§ 58.1-609.10. Miscellaneous exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for a refund of the tax paid on the domestic use portion.

2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food, prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

3. Tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to such business, including a simultaneous purchase and taxable leaseback.

4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be

deemed to be delivery of goods for use or consumption outside of the Commonwealth.

5. Tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

6. Tangible personal property purchased for use or consumption in the performance of maintenance and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the Commonwealth.

7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele.

8. School lunches sold and served to pupils and employees of schools and subsidized by government; school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use by students attending a college or other institution of learning, when sold (i) by such institution of learning or (ii) by any other dealer, when such textbooks have been certified by a department or instructor of such institution of learning as required textbooks for students attending courses at such institution.

9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases, and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership, or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise exempt under this section; and samples of prescription drugs and medicines and their packaging distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended). With the exceptions of those medicines and drugs used for agricultural production animals that are exempt to veterinarians under subdivision 1 of § 58.1-609.2, any veterinarian dispensing or selling medicines or drugs on prescription shall be deemed to be the user or consumer of all such medicines and drugs.

10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters, urinary accessories, other durable medical equipment and devices, and related parts and supplies specifically designed for those products; and insulin and insulin syringes, and equipment, devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when such items or parts are purchased by or on behalf of an individual for use by such individual. Durable medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.

11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

12. Special equipment installed on a motor vehicle when purchased by a handicapped person to enable such person to operate the motor vehicle.

13. Special typewriters and computers and related parts and supplies specifically designed for those products used by handicapped persons to communicate when such equipment is prescribed by a licensed physician.

14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients.

b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from taxation under § 501(c) (3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under § 501(c) (3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or

church membership while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or other rooms in the public church buildings used in carrying out the work of the church and its related ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising and are used in carrying out the work of the church; gifts including food for distribution outside the public church building; food, disposable serving items, cleaning supplies and teaching materials used in the operation of camps or conference centers by the church or an organization composed of churches that are exempt under this subdivision and which are used in carrying out the work of the church or churches; and property used in caring for or maintaining property owned by the church including, but not limited to, mowing equipment; and building materials installed by the church, and for which the church does not contract with a person or entity to have installed, in the public church buildings used in carrying out the work of the church and its related ministries, including, but not limited to worship services; administrative rooms; and kindergarten, elementary, and secondary schools.

17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings, incontinence products and wound-care products, when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.

18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive pits.

19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

20. Compressed natural gas home fueling appliances used for fueling compressed natural gas cylinders in motor vehicles that connect to a customer's household gas meter and permit the fueling of the motor vehicle at the customer's residence.

21. Compressed natural gas (CNG) and liquefied natural gas (LNG) station fueling equipment, including condensers, compressors, dispensers, storage cylinders, gas dryers, pumps, and meters, purchased for the business, commercial, or industrial purpose of setting up a CNG or LNG fueling station.

§ 58.1-2259. Fuel uses eligible for refund of taxes paid for motor fuels.

A. A refund of the tax paid for the purchase of fuel in quantities of five gallons or more at any time shall be granted in accordance with the provisions of § 58.1-2261 to any person who establishes to the satisfaction of the Commissioner that such person has paid the tax levied pursuant to this chapter upon any fuel:

1. Sold and delivered to a governmental entity for its exclusive use;

2. Used by a governmental entity, provided persons operating under contract with a governmental entity shall not be eligible for such refund;

3. Sold and delivered to an organization described in subdivision 2 of § 58.1-2226 or subdivision 2 of § 58.1-2250 for its exclusive use in the operation of an aircraft;

4. Used by an organization described in subdivision 2 of § 58.1-2226 or subdivision 2 of § 58.1-2250 for its exclusive use in the operation of an aircraft, provided persons operating under contract with such an organization shall not be eligible for such refund;

5. Purchased by a licensed exporter and subsequently transported and delivered by such licensed exporter to another state for sales or use outside the boundaries of the Commonwealth if the tax applicable in the destination state has been paid, provided a refund shall not be granted pursuant to this section on any fuel which is transported and delivered outside of the Commonwealth in the fuel supply tank of a highway vehicle or an aircraft;

6. Used by any person performing transportation under contract or lease with any transportation district for use in a highway vehicle controlled by a transportation district created under the Transportation District Act of 1964 (§ 15.2-4500 et seq.) and used in providing transit service by the transportation district by contract or lease, provided the refund shall be paid to the person performing such transportation;

7. Used by any private, nonprofit agency on aging, designated by the Department for Aging and Rehabilitative Services, providing transportation services to citizens in highway vehicles owned, operated or under contract with such agency;

8. Used in operating or propelling highway vehicles owned by a nonprofit organization that provides specialized transportation to various locations for elderly or disabled individuals to secure essential services and to participate in community life according to the individual's interest and abilities;

9. Used in operating or propelling buses owned and operated by a county or the school board thereof while being used to transport children to and from public school or from school to and from educational or athletic activities;

10. Used by buses owned or solely used by a private, nonprofit, nonreligious school while being used to transport children to and from such school or from such school to and from educational or athletic activities;

11. Used by any county or city school board or any private, nonprofit, nonreligious school contracting with a private carrier to transport children to and from public schools or any private, nonprofit, nonreligious school, provided the tax shall be refunded to the private carrier performing such transportation;

12. Used in operating or propelling the equipment of volunteer firefighting companies and of volunteer rescue squads within the Commonwealth used actually and necessarily for firefighting and rescue purposes;

13. Used in operating or propelling motor equipment belonging to counties, cities and towns, if actually used in public activities;

14. Used for a purpose other than in operating or propelling highway vehicles, watercraft or aircraft;

15. Used off-highway in self-propelled equipment manufactured for a specific off-road purpose, which is used on a job site and the movement of which on any highway is incidental to the purpose for which it was designed and manufactured;

16. Proven to be lost by accident, including the accidental mixing of (i) dyed diesel fuel with tax-paid motor fuel, (ii) gasoline with diesel fuel, or (iii) undyed diesel fuel with dyed kerosene, but excluding fuel lost through personal negligence or theft;

17. Used in operating or propelling vehicles used solely for racing other vehicles on a racetrack;

18. Used in operating or propelling unlicensed highway vehicles and other unlicensed equipment used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner or lessee of such vehicles and not operated on or over any highway for any purpose other than to move it in the manner and for the purpose mentioned. The amount of refund shall be equal to the amount of the taxes paid less one-half cent per gallon on such fuel so used which shall be paid by the Commissioner into the state treasury to the credit of the Virginia Agricultural Foundation Fund;

19. Used in operating or propelling commercial watercraft. The amount of refund shall be equal to the amount of the taxes paid less one and one-half cents per gallon on such fuel so used which shall be paid by the Commissioner into the state treasury to be credited as provided in subsection D of § 58.1-2289. If any applicant so requests, the Commissioner shall pay into the state treasury, to the credit of the Game Protection Fund, the entire tax paid by such applicant for the purposes specified in subsection D of § 58.1-2289. If any applicant who is an operator of commercial watercraft so requests, the Commissioner shall pay into the state treasury, to the credit of the Marine Fishing Improvement Fund, the entire tax paid by such applicant for the purposes specified in § 28.2-208;

20. Used in operating stationary engines, or pumping or mixing equipment on a highway vehicle if the fuel used to operate such equipment is stored in an auxiliary tank separate from the fuel tank used to propel the highway vehicle, and the highway vehicle is mechanically incapable of self-propulsion while fuel is being used from the auxiliary tank; or

21. Used in operating or propelling recreational and pleasure watercraft.

B. 1. Any person purchasing fuel for consumption in a solid waste compacting or ready-mix concrete highway vehicle, or a bulk feed delivery truck, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle, *or purchasing natural gas fuel for use by a power take-off or engine exhaust for the purpose of unloading bulk cargo by pumping or turning a concrete mixer drum used in the manufacturing process or for the purpose of compacting solid waste, mounted on a motor vehicle and having no separate fuel tank or power unit,* is entitled to a refund in an amount equal to 35 percent of the tax paid on such fuel. For purposes of this section, a "bulk feed delivery truck" means bulk animal feed delivery trucks utilizing power take-off (PTO) driven auger or air feed discharge systems for off-road deliveries of animal feed.

2. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such fuel.

C. Any person purchasing any fuel on which tax imposed pursuant to this chapter has been paid may apply for a refund of the tax if such fuel was consumed by a highway vehicle used in operating an urban or suburban bus line or a taxicab service. This refund also applies to a common carrier of passengers which has been issued a certificate pursuant to § 46.2-2075 or 46.2-2099.4 providing regular route service over the highways of the Commonwealth. No refund shall be granted unless the majority of the passengers using such bus line, taxicab service or common carrier of passengers do so for travel

of a distance of not more than 40 miles, one way, in a single day between their place of abode and their place of employment, shopping areas or schools.

If the applicant for a refund is a taxicab service, he shall hold a valid permit from the Department to engage in the business of a taxicab service. No applicant shall be denied a refund by reason of the fee arrangement between the holder of the permit and the driver or drivers, if all other conditions of this section have been met.

Under no circumstances shall a refund be granted more than once for the same fuel. The amount of refund under this subsection shall be equal to the amount of the taxes paid, except refunds granted on the tax paid on fuel used by a taxicab service shall be in an amount equal to the tax paid less $0.01 per gallon on the fuel used.

Any refunds made under this subsection shall be deducted from the urban highway funds allocated to the highway construction district, pursuant to Article 1.1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title 33.1, in which the recipient has its principal place of business.

Except as otherwise provided in this chapter, all provisions of law applicable to the refund of fuel taxes by the Commissioner generally shall apply to the refunds authorized by this subsection. Any county having withdrawn its roads from the secondary system of state highways under provisions of § 11 Chapter 415 of the Acts of 1932 shall receive its proportionate share of such special funds as is now provided by law with respect to other fuel tax receipts.

D. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such fuel.

E. Any person purchasing diesel fuel used in operating or propelling a passenger car, a pickup or panel truck, or a truck having a gross vehicle weight rating of 10,000 pounds or less is entitled to a refund of a portion of the taxes paid in an amount equal to the difference between the rate of tax on diesel fuel and the rate of tax on gasoline and gasohol pursuant to § 58.1-2217. For purposes of this subsection, "passenger car," "pickup or panel truck," and "truck" shall have the meaning given in § 46.2-100. Notwithstanding any other provision of law, diesel fuel used in a vehicle upon which the fuels tax has been refunded pursuant to this subsection shall be exempt from the tax imposed under Chapter 6 (§ 58.1-600 et seq.).

F. Refunds resulting from any fuel shipments diverted from Virginia shall be based on the amount of tax paid for the fuel less discounts allowed by § 58.1-2233.

G. Any person who is required to be licensed under this chapter and is applying for a refund shall not be eligible for such refund if the applicant was not licensed at the time the refundable transaction was conducted.

§ 58.1-2402. (Contingent expiration date) Levy.

A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law, a tax upon the sale or use of motor vehicles in Virginia, other than a sale to or use by a person for rental as an established business or part of an established business or incidental or germane to such business.

The amount of the tax to be collected shall be determined by the Commissioner by the application of the following rates against the gross sales price:

1. Three percent through midnight on June 30, 2013, four percent (4.0%) beginning July 1, 2013, through midnight on June 30, 2014, four and five-hundredths of a percent (4.05%) beginning July 1, 2014, through midnight on June 30, 2015, four and one tenth of a percent (4.1%) beginning July 1, 2015, through midnight on June 30, 2016, and four and fifteen-hundredths (4.15%) of a percent beginning on and after July 1, 2016, of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such manufactured home sold in the Commonwealth; if such vehicle is a mobile office as defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in the Commonwealth; if such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle sold in the Commonwealth.

2. Three percent through midnight on June 30, 2013, four percent (4.0%) beginning July 1, 2013, through midnight on June 30, 2014, four and five-hundredths of a percent (4.05%) beginning July 1, 2014, through midnight on June 30, 2015, four and one tenth of a percent (4.1%) beginning July 1, 2015, through midnight on June 30, 2016, and four and fifteen-hundredths (4.15%) of a percent beginning on and after July 1, 2016, of the sale price of each motor vehicle, not sold in Virginia but

used or stored for use in the Commonwealth; or three percent of the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in this Commonwealth. If such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle not sold in the Commonwealth but used or stored for use in the Commonwealth. When any motor vehicle or manufactured home not sold in the Commonwealth is first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its current market value.

3. The minimum tax levied on the sale of any motor vehicle in the Commonwealth that is subject to taxation at a rate exceeding zero percent shall be $75, except as provided by those exemptions defined in § 58.1-2403.

4 through 7. [Repealed.]

B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall the same transaction be taxed more than once under either subdivision.

C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision *A* 1 or 2 of § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no longer owned or used by the United States government or any governmental agency, or the Commonwealth of Virginia or any political subdivision thereof, unless such vehicle is then rented, in which case the tax imposed by § 58.1-1736 shall apply, subject to the exemptions provided in § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this chapter under subdivision *A* 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such vehicle is subsequently licensed to operate on the highways of the Commonwealth.

D. Any person who with intent to evade or to aid another person to evade the tax provided for herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to subdivision A 10 of § 46.2-1530, shall be subject to the tax.

§ 58.1-2402. (Contingent effective date) Levy.

A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law, a tax upon the sale or use of motor vehicles in Virginia, other than a sale to or use by a person for rental as an established business or part of an established business or incidental or germane to such business.

The amount of the tax to be collected shall be determined by the Commissioner by the application of the following rates against the gross sales price:

1. Three percent of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such manufactured home sold in the Commonwealth; if such vehicle is a mobile office as defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in the Commonwealth; if such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle sold in the Commonwealth.

2. Three percent of the sale price of each motor vehicle, or three percent of the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in the Commonwealth. If such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle not sold in the Commonwealth but used or stored for use in the Commonwealth. When any motor vehicle or manufactured home not sold in the Commonwealth is first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its current market value.

3. The minimum tax levied on the sale of any motor vehicle in the Commonwealth that is subject to taxation at a rate exceeding zero percent shall be $35, except as provided by those exemptions defined in § 58.1-2403.

4 through 7. [Repealed.]

B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall the same transaction be taxed more than once under either subdivision.

C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision *A* 1 or 2 of § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no longer owned or used by the United States government or any governmental agency, or the Commonwealth of Virginia or any political subdivision thereof, unless such vehicle is then rented, in which case the tax imposed by § 58.1-1736 shall apply, subject to the exemptions provided in § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this chapter under subdivision *A* 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such vehicle is subsequently licensed to operate on the highways of the Commonwealth.

D. Any person who with intent to evade or to aid another person to evade the tax provided for herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to subdivision A 10 of § 46.2-1530, shall be subject to the tax.

§ 58.1-2403. Exemptions.

A. No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

1. Sold to or used by the United States government or any governmental agency thereof;

2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;

3. Registered in the name of a volunteer fire department or rescue squad not operated for profit;

4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any other recognized Indian tribe of the Commonwealth living on the tribal reservation;

5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the lienholder;

6. A manufactured home permanently attached to real estate and included in the sale of real estate;

7. A gift to the spouse, son, or daughter of the transferor. With the exception of a gift to a spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;

8. Transferred from an individual or partnership to a corporation or limited liability company or from a corporation or limited liability company to an individual or partnership if the transfer is incidental to the formation, organization or dissolution of a corporation or limited liability company in which the individual or partnership holds the majority interest;

9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to a wholly owned subsidiary;

10. Being registered for the first time in the Commonwealth and the applicant holds a valid, assignable title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the time of registration in Virginia;

11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or

b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in § 46.2-602.2;

12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on the same day;

13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the use of a church conducted not for profit;

15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the instruction of driver's education when such education is a part of such school's curriculum for full-time students;

16. Sold to an insurance company or local government group self-insurance pool, created pursuant to § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered owner of such vehicle a total loss claim;

17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments, their employees or agents, and members of their families, if such persons are nationals of the state by which they are appointed and are not citizens of the United States;

18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code;

19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier or common carrier of passengers;

20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit corporation as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy for human ailments;

21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;

22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing, medicines and other necessities of life to, and providing shelter for, needy persons in the United States and throughout the world;

23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries of the trust may also be named in the trust instrument, when no consideration has passed between the titleholder and the beneficiaries; and transferred to the original titleholder from the trustees holding title to the motor vehicle;

24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the death of the grantor, when no consideration has passed between the grantor and the beneficiaries in either case;

25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has been paid to the Commonwealth by the lessee purchasing the vehicle;

26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such deceased person; or

27. An all-terrain vehicle, moped, or off-road motorcycle all as defined in § 46.2-100. Such all-terrain vehicles, mopeds, or off-road motorcycles shall not be deemed a motor vehicle or other vehicle subject to the tax imposed under this chapter.

B. The tax imposed on compressed natural gas vehicles and liquefied natural gas vehicles pursuant to § 58.1-2402 shall be on the value of the same vehicle with a conventional gasoline or diesel system as determined by the Commissioner of the Department of Motor Vehicles and not on the value of the vehicle with the compressed natural gas or liquefied natural gas system.

§ 58.1-2627.1. Taxation of pipeline companies.

A. Every pipeline transmission company shall pay to the Department on its allocated and apportioned net taxable income, in lieu of a license tax, the tax levied pursuant to Chapter 3 (§ 58.1-300 et seq.) (State Income Tax) of this title. There shall be deducted from such allocated and apportioned net income an amount equal to the percentage that gross profit (operating revenues less cost of purchased gas) derived from sales in this Commonwealth for consumption by the purchaser of natural or manufactured gas is of the total gross profit in the Commonwealth of the taxpayer.

B. The annual report of such company required pursuant to § 58.1-2628 shall be made to the Department, on forms prepared and furnished by the Department, if the company is a pipeline transmission company or to the Commission if a pipeline distribution company. The Department shall assess the value of the property of each pipeline transmission company and the Commission shall assess the value of the property of each pipeline distribution company. The applicable county, city, town and magisterial district property levies shall attach thereto. The powers and duties granted to the Commission by §§ 58.1-2633 B and C and 58.1-2634 shall apply mutatis mutandis to the Department.

C. A company liable for the license tax under subsection A shall not be liable for the tax imposed

by Chapter 28 (§ 58.1-2814 et seq.) of this title.

D. When a company qualifies as both a pipeline transmission company and a pipeline distribution company, it shall for property tax valuation purposes be considered a pipeline distribution company.

E. Five percent of the revenues from pipeline transmission companies, as defined in § 58.1-2600, paying the tax levied pursuant to § 58.1-300 shall be annually paid into the state treasury and credited to the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001.

§ 58.1-2905. Collection and remittance of tax.

A. A pipeline distribution company or gas utility shall collect the tax from the consumer by adding it as a separate charge to the consumer's monthly statement. Until the consumer pays the tax to such company, the tax shall constitute a debt of the consumer to the Commonwealth. If any consumer receives and pays for gas but refuses to pay the tax that is imposed by the Commonwealth, the pipeline distribution company or gas utility shall notify the Commission of the names and addresses of such consumers. If any consumer fails to pay a bill issued by a pipeline distribution company or gas utility, including the tax imposed by the Commonwealth, the pipeline distribution company or gas utility shall follow its normal collection procedures with regard to the charge for the gas and the tax and upon collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge for gas service and the tax and (ii) remit the tax portion to the Commission. After the consumer pays the tax to the pipeline distribution company or gas utility, the taxes shall be deemed to be held in trust by such pipeline distribution company or gas utility until remitted to the Commission.

B. A pipeline distribution company or gas utility shall remit monthly to the Commission the amount of tax paid during the preceding month by the pipeline distribution company's consumers, except for the portion which represents the local consumption tax, which portion shall be remitted to the locality in which the natural gas was consumed and shall be based on such locality's license fee rate which it imposed.

C. The natural gas consumption tax shall be remitted monthly, on or before the last day of the succeeding month of collection. ~~Those~~ *Five percent of those* portions of the natural gas consumption tax that related to the state consumption tax and the special regulatory tax shall be *paid into the state treasury and credited to the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001, and the remaining 95 percent shall be* remitted to the Commission; the portion that relates to the local consumption tax shall be remitted to the appropriate localities. Failure to remit timely will result in a ten percent penalty.

D. Taxes on natural gas sales in the year ending December 31, 2000, relating to the local license tax, shall be paid in accordance with § 58.1-3731. Monthly payments in accordance with subsection C shall commence on February 28, 2001.

E. The portion of the natural gas consumption tax relating to the local license tax replaces and precludes localities from imposing a license tax in accordance with § 58.1-3731 and the business, professional, occupation and license tax in accordance with Chapter 37 (§ 58.1-3700 et seq.) of this title on gas suppliers subsequent to December 31, 2000, except as provided in subsection D. If the license fee rate imposed by a locality is less than the equivalent of the local consumption tax rate component of the consumption tax paid under subsection A of § 58.1-2904, the excess collected by the Commission shall constitute additional state consumption tax revenue and shall be remitted by the Commission to the state treasury.

F. Nothing in this section shall prohibit a locality from enacting an ordinance or other local law to allow such locality to receive that portion of the natural gas consumption tax that represents the local consumption tax beginning at such time that natural gas service is first made available in such locality. The amount of such local consumption tax to be distributed to the locality shall be determined in accordance with the provisions of subsection B, assuming that the maximum license tax rate allowed pursuant to § 58.1-3731 was imposed.

§ 58.1-2906. Natural gas consumption tax relating to the special regulatory tax; notification of changes.

A. The Commission may in the performance of its function and duty in levying the natural gas utility consumption tax relating to the special regulatory tax, omit the levy on any portion of the tax fixed in § 58.1-2904 as is unnecessary within the Commission's sole discretion for the accomplishment of the objects for which the tax is imposed, including a reasonable margin in the nature of a reserve fund, *provided that the Commissioner of the Department of Motor Vehicles has notified the Commission that the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001 has sufficient funds to pay all grants therefrom anticipated for the next two calendar years.*

B. The Commission shall notify all pipeline distribution companies and gas utilities collecting the tax on consumers of natural gas of any change in the natural gas consumption tax relating to the special regulatory tax not later than the first day of the second month preceding the month in which the revised rate is to take effect.

§ 58.1-2907. Use of natural gas consumption tax relating to special regulatory tax.

~~The~~ *Until such time as the Commissioner of the Department of Motor Vehicles has notified the Commission that the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001 has sufficient funds to pay all grants therefrom anticipated for the next two calendar years, revenues from the* natural gas consumption tax relating to the special regulatory tax paid into the treasury under this chapter shall be deposited *as follows: (i) one-half* into a special fund used only by the Commission for the purpose of making appraisals, assessments and collections against natural gas suppliers and public service corporations furnishing heat, light and power by means of natural gas and for the further purposes of the Commission in investigating and inspecting the properties or the services of such natural gas suppliers and public service corporations, and for the supervision and administration of all laws relative to such natural gas suppliers and public service corporations, whenever the same shall be deemed necessary by the Commission *and (ii) one-half into the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001*.

When the Commissioner of the Department of Motor Vehicles has notified the Commission that sufficient funds exist, then all revenues shall be deposited as provided in clause (i).

§ 58.1-3713.4. Additional one percent tax on gas.

Notwithstanding the rate limitations established in §§ 58.1-3712 and 58.1-3713, a county or city may levy an additional license tax on every person engaging in the business of severing gases from the earth. The license tax shall be at a rate not to exceed one percent of the gross receipts from the sale of gases severed within the county or city. The provisions of § 58.1-3712 as they relate to measurement of gross receipts shall be applicable to this section. ~~The~~ *Fifty percent of the* revenue received from such additional tax shall be paid into the general fund of the county or city from where the gases are severed, *and 50 percent shall be paid into the state treasury and credited to the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001*. However, in the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise and the City of Norton, one-half of the revenues derived from such tax shall be ~~paid to~~ *split between the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001 and* the Virginia Coalfield Economic Development Fund.

2. That the Virginia Port Authority shall conduct a study of the following issues related to the siting of liquefied natural gas (LNG) storage and refueling facilities in the Hampton Roads region for transportation purposes: (i) the costs of developing one or more LNG storage and refueling facilities capable of serving rail locomotives, ships, and trucks involved in the transportation of cargo to and from ports of Hampton Roads; (ii) the optimal locations within Hampton Roads for the siting of such LNG storage and refueling facilities that will be accessible by rail locomotives, ships, and trucks; (iii) issues related to the development of small scale natural gas liquefication facilities at properties of the Port Authority for use in transportation fueling; (iv) the feasibility of, and policy issues relating to, building and operating an LNG storage and refueling facility for trucks at the inland port at Front Royal; (v) options for private financing of such LNG storage and refueling facilities; and (vi) whether existing state and federal laws authorize the bunkering or off-shore fueling of LNG-fueled vessels from facilities located in Hampton Roads and, if not, what legal or administrative changes are required in order to permit such activities. All agencies of the Commonwealth shall provide assistance to the Port Authority for this study, upon request. The Port Authority shall complete its study by November 30, 2015, and shall submit to the Governor, the Senate Committees on Finance, Transportation, and Commerce and Labor, and the House Committees on Appropriations, Transportation, and Commerce and Labor a report of its findings and recommendations.

2. That § 2.2-1176.1 and Article 16 (§§ 33.1-223.3 through 33.1-223.9) of Chapter 1 of Title 33.1 of the Code of Virginia are repealed.

3. That all moneys, if any, in the Alternative Fuels Revolving Fund and the Alternative Fuel Vehicle Conversion Fund shall be placed in the Natural Gas Vehicle Incentive Fund established pursuant to § 46.2-3001 of the Code of Virginia as created by this act.