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SENATE BILL NO. 730

Offered January 15, 2026

A BILL to amend and reenact §§ 33.2-358, 33.2-371, 33.2-1524, 33.2-1524.1, 33.2-1526.1, 33.2-3401, 33.2-3402, 33.2-3403, 33.2-3502, 46.2-774, 58.1-602, 58.1-603, as it is currently effective and as it may become effective, 58.1-609.5, 58.1-609.11, 58.1-612, 58.1-623, 58.1-647, and 58.1-648 of the Code of Virginia; to amend the Code of Virginia by adding in Article 2 of Chapter 19 of Title 33.2 a section numbered 33.2-1904.1, by adding in Article 11 of Chapter 19 of Title 33.2 a section numbered 33.2-1937, by adding in Chapter 24 of Title 33.2 a section numbered 33.2-2402, by adding in Chapter 7 of Title 46.2 a section numbered 46.2-775, by adding sections numbered 58.1-603.3 and 58.1-612.3, and by adding in Chapter 17 of Title 58.1 an article numbered 13, consisting of a section numbered 58.1-1749; and to amend Chapter 766 of the Acts of Assembly of 2013 by adding a nineteenth enactment, relating to sales and use tax on taxable services and digital personal property; taxes levied in certain transportation districts; funding for transportation.

Patron—Surovell

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-358, 33.2-371, 33.2-1524, 33.2-1524.1, 33.2-1526.1, 33.2-3401, 33.2-3402, 33.2-3403, 33.2-3502, 46.2-774, 58.1-602, 58.1-603, as it is currently effective and as it may become effective, 58.1-609.5, 58.1-609.11, 58.1-612, 58.1-623, 58.1-647, and 58.1-648 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 19 of Title 33.2 a section numbered 33.2-1904.1, by adding in Article 11 of Chapter 19 of Title 33.2 a section numbered 33.2-1937, by adding in Chapter 24 of Title 33.2 a section numbered 33.2-2402, by adding in Chapter 7 of Title 46.2 a section numbered 46.2-775, by adding sections numbered 58.1-603.3 and 58.1-612.3, and by adding in Chapter 17 of Title 58.1 an article numbered 13, consisting of a section numbered 58.1-1749 as follows:

§ 33.2-358. Allocation of funds to programs.

A. The 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, the primary state highway system, and the secondary state highway system and for city and town street maintenance payments made pursuant to § 33.2-319 and payments made to counties that have withdrawn or elect to withdraw from the secondary state highway system pursuant to § 33.2-366.

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 construction programs, and after allocation is made pursuant to subsection A, the Board shall allocate all remaining funds, including funds apportioned pursuant to 23 U.S.C. § 104, or any successor programs, as follows:

1. ~~Thirty~~ *Twenty-seven and one-half* percent of the remaining funds to state of good repair purposes as set forth in § 33.2-369;

2. ~~Twenty~~ *Eighteen* percent of the remaining funds to the high-priority projects program established pursuant to § 33.2-370;

3. ~~Twenty~~ *Eighteen* percent of the remaining funds to the highway construction district grant programs established pursuant to § 33.2-371;

4. ~~Twenty~~ *Twenty-six and one-half* percent of the remaining funds to the Interstate Operations and Enhancement Program established pursuant to § 33.2-372; and

5. Ten percent of the remaining funds to the Virginia Highway Safety Improvement Program established pursuant to § 33.2-373.

C. The funds allocated in subsection B shall not include the following funds: Congestion Mitigation Air Quality funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(4), or any successor program, and any state matching funds; Surface Transportation Block Grant set-aside for Transportation Alternatives pursuant to 23 U.S.C. § 213, or any successor program, and any state matching funds; Surface Transportation Block Grant Program funds subject to 23 U.S.C. § 133(d)(1)(A)(i), or any successor program, and any state matching funds; and funds received pursuant to federal programs established by the federal government after June 30, 2020, with specific rules that include major restrictions on the types of projects that may be funded, excluding restrictions on the location of projects with regard to highway functional or administrative classification or population, provided such funds are under the control of the Board.

D. In addition, the 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

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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.

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

§ 33.2-371. Highway construction district grant programs.

A. As used in this section:

"Land area" means the total land area of the counties within a highway construction district reduced by the area of any military reservations and state or national parks or forests within its boundaries and such other similar areas and facilities of five square miles in area or more, as may be determined by the Board.

"Population" means the population according to the latest U.S. census or the latest population estimates made by the Weldon Cooper Center for Public Service of the University of Virginia, whichever is more recent.

B. The Board shall establish a grant program in each highway construction district to fund projects and strategies that address a need in the Statewide Transportation Plan developed pursuant to § 33.2-353 *and for purposes set forth in subsection D*.

C. The Board shall solicit candidate projects and strategies from local governments for consideration in the applicable highway construction district's grant program. Candidate projects and strategies shall be screened, evaluated, and selected by the Board according to the process established pursuant to subsection B of § 33.2-214.1 but shall be within a highway construction district and not outside such highway construction district. Candidate projects and strategies from localities within a highway construction district shall be scored against projects and strategies within the same highway construction district. Only those candidate projects and strategies submitted by a locality shall be funded.

D. *From funds available for each district where funding is made available pursuant to §§ 46.2-775 and 58.1-2299.20, the Board shall award up to 15 percent for transit capital and operating support for transit agencies providing service within such district. No agency that receives funds directly from either the Hampton Roads Transportation Accountability Commission pursuant to Chapter 26 (§ 33.2-2600 et seq.), the Central Virginia Transportation Authority pursuant to Chapter 37 (§ 33.2-3700 et seq.), or a transportation district established pursuant to Chapter 19 (§ 33.2-1900 et seq.) shall receive funds pursuant to this subsection.*

E. Funds allocated to this program under § 33.2-358 shall be distributed to each highway construction district for that district's grant program as follows:

1. Thirty percent based on the ratio of the population of the cities and towns eligible to receive payments pursuant to § 33.2-319 within a highway construction district to the total population of the cities and towns eligible to receive payments pursuant to § 33.2-319 within the Commonwealth;

2. Twenty-eight percent based on the ratio of vehicle miles traveled on primary highways within the highway construction district to the total vehicle miles traveled on primary highways in the Commonwealth;

3. Twenty-four percent based on the ratio of the population of counties within a highway construction district to the total population of all counties within the Commonwealth;

4. Ten percent based on the ratio of the number of primary lane-miles in the highway construction district to the total number of primary lane-miles within the Commonwealth;

5. Six percent based on the ratio of the land area of counties within the highway construction district to the total land area of counties within the Commonwealth; and

6. Two percent based on a primary need factor based on addressing the largest under-allocation to highway construction districts relative to primary needs.

~~E.~~ *F.* Projects awarded funds under a grant program established by this section may be administered by the local government pursuant to § 33.2-228 or by the Department.

§ 33.2-1524. Commonwealth Transportation Fund.

A. There is hereby created in the Department of the Treasury a special nonreverting fund to be known as the Commonwealth Transportation Fund (the Fund). The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of the year shall not revert to the general fund but shall remain in the Fund. The Fund shall consist of all funds appropriated to the Fund and all funds dedicated to the Fund pursuant to law, including:

1. Revenues pursuant to §§ 58.1-2289 and 58.1-2701;

2. Revenues pursuant to subsections A and G of § 58.1-638 and § 58.1-638.3;

3. Tolls and other revenues derived from the projects financed or refinanced pursuant to this title that are payable into the state treasury and tolls and other revenues derived from other transportation projects, which may include upon the request of the applicable appointed local governing body, as soon as their obligations have been satisfied, such tolls and revenue derived for transportation projects pursuant to the Chesapeake Bay Bridge and Tunnel District and Commission established in Chapter 22 (§ 33.2-2200 et seq.) and to the Richmond Metropolitan Transportation Authority established in Chapter 29 (§ 33.2-2900 et seq.), or if the

appointed local governing body requests refunding or advanced refunding by the Board and such refunding or advanced refunding is approved by the General Assembly. Such funds shall be held in separate subaccounts of the Commonwealth Transportation Fund to the extent required by law or the Board;

4. Revenues pursuant to § 58.1-2425;

5. Revenues pursuant to subdivisions A 1 through 12 of § 46.2-694 and §§ 46.2-694.1, 46.2-697, and 46.2-697.2, except where provided elsewhere in such sections and excluding revenues deposited into a special fund for the Department of Motor Vehicles pursuant to § 46.2-686;

6. Revenues pursuant to § 58.1-1741;

7. Revenues pursuant to § 58.1-815.4;

8. Revenues from § 58.1-2249;

9. Such other funds as may be appropriated by the General Assembly from time to time and designated for the Commonwealth Transportation Fund;

10. All interest, dividends, and appreciation that may accrue to the Transportation Trust Fund established pursuant to § 33.2-1524.1 and the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530;

11. All amounts required by contract to be paid over to the Commonwealth Transportation Fund;

12. Concession payments paid to the Commonwealth by a private entity pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.); and

13. Revenues pursuant to § 58.1-2531.

B. Funds in the Fund shall be distributed as follows:

1. Of the funds from subdivisions A 1, 2, 4 through 8, and 13: (i) ~~51~~ *47* percent to the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530 and (ii) ~~49~~ *53* percent to the Transportation Trust Fund established pursuant to § 33.2-1524.1;

2. The funds from subdivisions A 3 and 12 shall be deposited into the Transportation Trust Fund established pursuant to § 33.2-1524.1;

3. Of the funds from subdivision A 10: (i) two-thirds shall be deposited in the Virginia Transportation Infrastructure Bank established pursuant to Article 1 (§ 33.2-1500 et seq.) and (ii) one-third shall be deposited into the Transportation Partnership Opportunity Fund established pursuant to § 33.2-1529.1.

C. From funds available pursuant to subsection B, (i) $40 million annually shall be deposited into the Route 58 Corridor Development Fund pursuant to § 33.2-2300, (ii) $40 million annually shall be deposited into the Northern Virginia Transportation District Fund pursuant to § 33.2-2400, and (iii) $80 million annually shall be deposited into the Special Structure Fund pursuant to § 33.2-1532, though the amount deposited shall be adjusted annually based on the greater of (a) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor or (b) zero. Such deposits may be made in one or more installments.

§ 33.2-1524.1. Transportation Trust Fund.

There is hereby created in the Department of Treasury a special nonreverting fund to be known as the Transportation Trust Fund, consisting of funds distributed from the Commonwealth Transportation Fund pursuant to § 33.2-1524. The revenues deposited pursuant to subdivision B 1 of § 33.2-1524 shall be distributed during the year to result in the following:

1. For construction programs pursuant to § 33.2-358, ~~53~~ *51.2* percent;

2. To the Commonwealth Mass Transit Fund established pursuant to § 33.2-1526, ~~23~~ *26* percent;

3. To the Commonwealth Rail Fund established pursuant to § 33.2-1526.4, ~~7.5~~ *8* percent;

4. To the Commonwealth Port Fund established pursuant to § 33.2-1526.5, 2.5 percent;

5. To the Commonwealth Aviation Fund established pursuant to § 33.2-1526.6, 1.5 percent;

6. To the Commonwealth Space Flight Fund established pursuant to § 33.2-1526.7, ~~one~~ *0.8* percent;

7. To the Priority Transportation Fund established pursuant to § 33.2-1527, ~~10.5~~ *9* percent; and

8. To a special fund within the Commonwealth Transportation Fund in the state treasury, one percent to be used to meet the necessary expenses of the Department of Motor Vehicles.

§ 33.2-1526.1. Use of the Commonwealth Mass Transit Fund.

A. All funds deposited pursuant to § 33.2-1524.1 into the Commonwealth Mass Transit Fund (the Fund), established pursuant to § 33.2-1526, shall be allocated as set forth in this section.

B. From funds available pursuant to subsection D, up to $50 million shall be allocated to the Washington Metropolitan Area Transit Authority as matching funds to federal and other funds provided by the Federal Transit Administration, the District of Columbia, and the State of Maryland. However, such funds shall only be provided if the District of Columbia and the State of Maryland each provide an amount equal to one-third of the funding provided by the Federal Transit Administration to the Washington Metropolitan Area Transit Authority. The funds provided by the Commonwealth shall not exceed the funds provided by the District of Columbia or the State of Maryland.

C. The Board may establish policies for the implementation of this section, including the determination of the state share of operating, capital, and administrative costs related to mass transit. For purposes of this

section, capital costs may include debt service payments on local or agency transit bonds. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes as set forth in this section. No funds from the Fund shall be allocated without a local match from the recipient.

D. Each year the Director of the Department of Rail and Public Transportation shall make recommendations to the Board for the allocation of funds from the Fund. Such recommendations, and the final allocations approved by the Board, shall adhere to the following, except as provided in subsection E:

1. ~~Twenty-four and one-half~~ *Twenty-three* percent of the funds shall be allocated to support operating costs of transit providers and shall be distributed by the Board on the basis of service delivery factors, based on effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every three years and shall be finalized 6 months prior to the fiscal year of implementation. The Washington Metropolitan Area Transit Authority (WMATA) and the commuter rail system jointly operated by the Northern Virginia Transportation Commission (NVTC) and the Potomac and Rappahannock Transportation Commission (PRTC), established pursuant to Chapter 19 (§ 33.2-1900 et seq.) shall not be eligible for an allocation of funds pursuant to this subdivision.

2. ~~Seventeen~~ *Twelve and one-half* percent of the funds shall be allocated for capital purposes and distributed utilizing the transit capital prioritization process established by the Board pursuant to § 33.2-214.4. WMATA and the commuter rail system jointly operated by NVTC and PRTC, established pursuant to Chapter 19 (§ 33.2-1900 et seq.) shall not be eligible for an allocation of funds pursuant to this subdivision.

3. ~~Three and one-half~~ *Four* percent of funds may be allocated to NVTC for distribution to the commuter rail system jointly operated by NVTC and PRTC, established pursuant to Chapter 19 (§ 33.2-1900 et seq.), for operating and capital purposes. ~~The amount of funds distributed pursuant to this subdivision and the selection of systems receiving funds pursuant to this subdivision shall be based on service delivery factors including effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every three years and shall be finalized six months prior to the fiscal year of implementation. Any funds remaining after such distribution shall be redistributed to subdivision 2.~~

4. ~~Forty-six and one-half~~ *Fifty-five and one-half* percent of the funds shall be allocated to the NVTC for distribution to WMATA for capital purposes and operating assistance, as determined by the Commission. ~~All allocations pursuant to this subdivision shall not exceed 50 percent of the total operating and capital assistance required to be provided by NVTC or other Virginia entities in the approved WMATA budget. If the default allocation pursuant to this subdivision exceeds an amount equal to 50 percent of the total operating and capital assistance required to be provided by NVTC or other Virginia entities in the approved WMATA budget, the remaining funds shall be redistributed to subdivision 2. No contributions made to WMATA pursuant to § 33.2-3401 by the Commonwealth or NVTC shall be relevant for the purposes of administering this subdivision.~~

5. ~~Six~~ *Three* percent of the funds shall be allocated by the Board for the Transit Ridership Incentive Program established pursuant to § 33.2-1526.3.

6. ~~Two and one-half~~ *Two* percent of the funds shall be allocated for special programs, including ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, and may be allocated to any local governing body, planning district commission, transportation district commission, or public transit corporation. Remaining funds may also be used directly by the Department of Rail and Public Transportation to (i) finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout the Commonwealth or (ii) finance up to 80 percent of the cost of development and implementation of projects with a purpose of enhancing the provision and use of public transportation services.

E. The Board may consider the transfer of funds from subdivisions D 2 and 6 to subdivision D 1 in times of statewide economic distress or statewide special need.

F. The Department of Rail and Public Transportation may reserve a balance of up to five percent of the Fund revenues in order to ensure stability in providing operating and capital funding to transit entities from year to year, provided that such balance shall not exceed five percent of revenues in a given biennium.

G. The Board may allocate up to 3.5 percent of the funds set aside for the Fund to support costs of project development, project administration, and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management grants and programs.

H. Funds allocated to the Northern Virginia Transportation Commission (NVTC) for WMATA pursuant to subdivision D 4 shall be credited to the Counties of Arlington, Fairfax, and Loudoun and the Cities of Alexandria, Fairfax, and Falls Church. Funds allocated pursuant to this subsection shall be credited as follows:

1. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality using WMATA's capital formula shall be paid first by NVTC, which shall use 95 percent state aid for these payments.

2. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall include 20 percent of annual local bus capital expenses. Local transit subsidies and local capital costs of Loudoun County shall not be included. Hold harmless protections and obligations for NVTC's jurisdictions agreed to by NVTC ~~on November 5, 1998,~~ shall ~~remain in effect~~ *be included*.

I. Appropriations from the Fund are intended to provide a stable and reliable source of revenue, as defined by P.L. 96-184.

J. Notwithstanding any other provision of law, funds allocated to WMATA may be disbursed by the Department of Rail and Public Transportation directly to WMATA or to any other transportation entity that has an agreement to provide funding to WMATA.

K. ~~In any year that the total Virginia operating assistance in the approved WMATA budget increases by more than three percent from the total operating assistance in the prior year's approved WMATA budget, the Board shall withhold an amount equal to 35 percent of the funds available under subdivision D 4. The following items shall not be included in the calculation of any WMATA budget increase: (i) any service, equipment, or facility that is required by any applicable law, rule, or regulation; (ii) any capital project approved by the WMATA Board before or after the effective date of this provision; (iii) any payments or obligations of any kind arising from or related to legal disputes or proceedings between or among WMATA and any other person or entity; and (iv) any service increases approved by the WMATA Board.~~ *The Board shall distribute to WMATA all funds required pursuant to subdivision D 4 if:*

1. The WMATA Board of Directors adopts a policy to establish a methodology for determining the measurement of Metrorail and Metrobus annual unit cost growth using mod-specific operating costs and vehicle revenue hours. Such policy shall determine a baseline year and associated data from which annual unit cost growth will be measured. Baseline operating cost and vehicle revenue data shall be actual and for the most recent year and may be preliminary and not yet audited by the Federal Transit Administration's National Transit Database;

2. Beginning no later than the WMATA proposed budget for Fiscal Year 2028, WMATA annually publishes the results of the annual unit cost growth calculation as described in the policy adopted pursuant to subdivision 1, detailing the year-over-year operating expenses and vehicle revenue hours by mode for rail and bus and percentage growth increase from the prior year; and

3. Beginning in Fiscal Year 2029, the approved WMATA budget's unit cost of rail or bus service does not grow more than three percent.

However, if the approved WMATA budget's unit cost of rail or bus service grows more than three percent from the previous year, the Board shall withhold an amount equal to 35 percent of the funds available under subdivision D 4 for such year. If the WMATA Board of Directors fails to adopt such a policy pursuant to subdivision 1, the Board shall withhold an amount equal to 35 percent of the funds available under subdivision D 4 for Fiscal Year 2028 and for every subsequent fiscal year in which such a policy has not been adopted.

L. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 4 if (i) any alternate directors participate or take action at an official WMATA Board meeting or committee meeting as Board directors for a WMATA compact member when both directors appointed by that same WMATA compact member are present at the WMATA Board meeting or committee meeting or (ii) the WMATA Board of Directors has not adopted bylaws that would prohibit such participation by alternate directors.

M. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 4 unless (i) WMATA has adopted a detailed capital improvement program covering the current fiscal year and, at a minimum, the next five fiscal years, and at least one public hearing on such capital improvement program has been held in a locality embraced by the Northern Virginia Transportation Commission (NVTC), and (ii) WMATA has adopted or updated a strategic plan within the preceding ~~36 months~~ *five years*, and at least one public hearing on such plan or updated plan has been held in a locality embraced by NVTC.

The strategic plan shall require (a) an assessment of state of good repair needs; (b) a review of the performance of fixed-route bus service, including schedules, route design, connectivity, and vehicle sizes; (c) an evaluation of opportunities to improve operating efficiency of the transit network, including reliability of trips and travel speed; (d) an examination and identification of opportunities to share services where multiple transit providers' services overlap; and (e) an examination of opportunities to improve service in underserved areas.

N. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 4 unless WMATA prepares and submits a proposed detailed annual operating budget and any proposed capital expenditures and projects for the following fiscal year to the Board by April 1 of each year. The budget shall include information on expenditures, indebtedness, pensions and other liabilities, and other information as prescribed by the Board. Additionally such funds shall be withheld if the Commonwealth's and Northern Virginia Transportation Commission's representatives to the WMATA Board of Directors and the WMATA General Manager fail to annually address the Commonwealth Transportation Board regarding the WMATA budget, system performance, and utilization of the Commonwealth's investment in the WMATA system.

O. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 3 unless the commuter rail system jointly operated by Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission, established pursuant to Chapter 19 (§ 33.2-1900 et seq.), submits a detailed annual operating budget and any proposed capital expenditures and projects for the following fiscal year to the Board by ~~February~~ *March* 1 of each year. The operating plan and budget shall include information on expenditures, indebtedness, *service delivery factors including effectiveness and efficiency*, and other information as prescribed by the Board.

§ 33.2-1904.1. Distribution of revenues from the Northern Virginia Transportation District Regional Fund.

A. There is hereby created in the state treasury a special nonreverting fund for the benefit of the localities within the Northern Virginia Transportation District to be known as the Northern Virginia Transportation District Regional Fund (the Fund). The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 46.2-775, 58.1-603.3, and 58.1-1749 that are attributable to revenues generated in any county or city located within the Northern Virginia Transportation District shall be paid into the state treasury and credited to the Fund as set forth in this section and shall be used for public transportation purposes.

B. Two percent of the annual Fund revenues shall be distributed to the Northern Virginia Transportation Commission for technical assistance, planning, and design to advance transit projects that benefit the Northern Virginia Transportation District.

C. Beginning in fiscal year 2028:

1. A total of $136 million shall be deposited by the Comptroller into the Washington Metropolitan Area Transit Authority (WMATA) Capital Fund established pursuant to § 33.2-3401. For each fiscal year after 2028, such amount to be deposited into the WMATA Capital Fund pursuant to this subdivision shall be equal to 103 percent of the amount deposited in the preceding fiscal year. Any revenue generated in excess of the amount distributed to the WMATA for capital purposes pursuant to subdivision B 1 of § 33.2-3401 shall be credited to this amount.

2. A total of $9.1 million shall be deposited by the Comptroller into the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500. For each fiscal year after 2028, such amount to be deposited into the Commuter Rail Operating and Capital Fund pursuant to this subdivision shall be equal to 103 percent of the amount deposited in the preceding fiscal year.

D. Any revenue generated pursuant to the laws described in subsection A in excess of the amounts distributed pursuant to subsections B and C shall remain in the Fund and held in trust accounts for each county and city located within such district for public transportation purposes. The amount in each trust account shall be determined on a pro rata basis in proportion to the revenues generated and attributable to such county or city.

§ 33.2-1937. Other transportation districts with unique needs.

The General Assembly finds that transportation districts that (i) have a population of 800,000 or more, as shown by the most recent United States census, (ii) have not less than one million motor vehicles registered therein, and (iii) have a total transit ridership of not less than four million riders per year across all transit systems within the transportation district and that jointly operate with another transportation district a commuter rail service have unique transportation needs.

§ 33.2-2402. Potomac and Rappahannock Transportation Commission Regional Fund.

A. There is hereby created in the state treasury a special nonreverting fund for the benefit of the localities embraced by the Potomac and Rappahannock Transportation Commission to be known as the Potomac and Rappahannock Transportation Commission Regional Fund (the Fund). The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 46.2-775 and 58.1-603.3 that are attributable to revenues generated in any county or city embraced by the Potomac and Rappahannock Transportation Commission shall be paid into the state treasury and credited to the Fund as set forth in this section and shall be used for public transportation purposes.

B. Beginning in fiscal year 2028, $18.2 million shall be deposited by the Comptroller into the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500. For each fiscal year after 2028, such amount to be deposited into the Commuter Rail Operating and Capital Fund pursuant to this subsection shall be equal to 103 percent of the amount deposited in the preceding fiscal year.

C. Any revenue generated pursuant to the laws described in subsection A in excess of the amounts distributed pursuant to subsection B shall remain in the Fund and be used for public transportation purposes in accordance with the Potomac and Rappahannock Transportation Commission's strategic plan for transit or adopted budget. The amount in each trust account shall be determined on a pro rata basis in proportion to the revenues generated and attributable to such county or city.

§ 33.2-3401. Washington Metropolitan Area Transit Authority Capital Fund.

A. There is hereby created in the state treasury a special nonreverting fund for the benefit of the Northern Virginia Transportation District to be known as the Washington Metropolitan Area Transit Authority Capital Fund. The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund

pursuant to §§ *33.2-1904.1,* 33.2-2400, 33.2-3404, 58.1-802.3, 58.1-1741, 58.1-1743, and 58.1-2299.20 shall be paid into the state treasury and credited to the Fund as set forth in subsection B ~~and shall be used for the payment of capital purposes incurred, or to be incurred, by WMATA~~. Interest on moneys in the Fund shall remain in the Fund and be credited to it. 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. The Comptroller shall disburse funds to WMATA on a monthly basis if NVTC has provided the certification required by subsection B of § 33.2-3402.

B. *The amounts dedicated to the Fund shall be deposited monthly by the Comptroller into the Fund and thereafter distributed by NVTC as soon as practicable for use by WMATA for capital purposes. The amount distributed to WMATA for capital purposes shall not exceed:*

1. For fiscal year 2027, $154.5 million; and

2. For fiscal year 2028 and each fiscal year thereafter, the sum of (i) the amount referenced in subdivision 1 and (ii) $136 million. Beginning in fiscal year 2029 and annually thereafter, the amount provided pursuant to clause (ii) shall be adjusted by increasing the amount provided for the previous fiscal year by three percent.

1. ~~Within the Fund, there shall be established~~ *NVTC shall establish* a separate, segregated account into which revenues dedicated to the Fund pursuant to §§ 33.2-2400 and 58.1-1741 shall be deposited (the Restricted Account). Revenues deposited into the Restricted Account shall be available for use by WMATA for capital purposes other than for the payment of, or security for, debt service on bonds or other indebtedness of WMATA.

2. ~~Within the Fund, there shall be established~~ *NVTC shall establish* a separate, segregated account into which revenues dedicated to the Fund pursuant to §§ 33.2-3404, 58.1-802.3, 58.1-1743, *58.1-1749,* and 58.1-2299.20 shall be deposited (the Non-Restricted Account). Revenues deposited into the Non-Restricted Account shall be available for use by WMATA for capital purposes, including for the payment of, or security for, debt service on bonds or other indebtedness of WMATA, or for any other WMATA capital purposes.

C. The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of federal, state, or local revenues otherwise available to participating jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

D. However, the $136 million or adjusted amount thereafter shall not be provided to WMATA unless the District of Columbia contributes at least $173 million in 2027 and the State of Maryland contributes at least $152 million in 2027 to the WMATA, such amounts to be adjusted by three percent increases each year thereafter.

§ 33.2-3402. NVTC oversight.

A. In any year that funds are deposited into the Fund, the NVTC shall ~~request~~ *verify the publication of* certain documents and reports from WMATA to confirm the benefits of the WMATA system to persons living, traveling, commuting, and working in the localities that the NVTC comprises. Such documents and reports shall include:

1. WMATA's annual capital budget;

2. WMATA's annual independent financial audit;

3. WMATA's National Transit Data annual profile; ~~and~~

4. Single audit reports issued in accordance with the Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards (2 C.F.R. Part 200)*;*

5. In the annual budget or other regular reports to the WMATA Board of Directors, data describing the performance and condition of the rail and bus systems including safety, reliability, ridership, cost savings initiatives, financial performance, and the use of the funds provided from the Fund to improve the safety and condition of the rapid heavy rail mass transportation system; and

6. By June 30, 2027, and contingent upon enactment of similar reporting requirements by the District of Columbia and the State of Maryland, WMATA's reporting commitments under the DMV Moves Plan, comprising the most recent 20-year capital plan, to be updated every five years, including analysis of potential capital investments that reduce operating costs; funding or financial plans for major projects with capital costs greater than $300 million, adjusted with inflation; and an annual report to the Metropolitan Washington Council of Governments on system performance, detailing progress toward DMV Moves goals and objectives.

B. NVTC shall be responsible for ~~coordinating the delivery~~ *verifying publication, either on the WMATA website or by other means,* of such documents and reports ~~with~~ *by* WMATA. Funding of the Commonwealth to support WMATA pursuant to § 33.2-1526.1 shall be contingent on WMATA ~~providing~~ *publishing* the documents and reports described in subsection A, and NVTC shall provide annual certification to the Comptroller that such documents and reports have been ~~received~~ *published.*

§ 33.2-3403. NVTC report.

By December 15 of each year that funds are deposited into the Fund, NVTC shall report to the Governor

~~and~~, the General Assembly, *and the Commonwealth Transportation Board* on the performance and condition of WMATA. Such report shall contain, at a minimum, documentation of the following:

1. ~~The safety and reliability of the rapid heavy rail mass transportation system and bus network~~ *An assessment of the data, trends, and information included in WMATA documents and reports as described in subsection A of § 33.2-3402*; *and*

2. ~~The financial performance of WMATA related to the operations of the rapid heavy rail mass transportation system, including farebox recovery, service per rider, and cost per service hour;~~

~~3. The financial performance of WMATA related to the operations of the bus mass transportation system, including farebox recovery, service per rider, and cost per service hour;~~

~~4.~~ Potential strategies to reduce the growth in ~~such~~ costs and to improve the efficiency of WMATA operations~~;~~

~~5. Use of the funds provided from the Fund to improve the safety and condition of the rapid heavy rail mass transportation system; and~~

~~6. Ridership of the rapid heavy rail mass transportation system and the bus mass transportation system~~.

§ 33.2-3502. Authority to issue bonds.

The transportation districts described in subsection B of § 33.2-3500 may issue bonds and other evidences of debt as may be authorized by this section or other law. The provisions of Article 5 (§ 33.2-1920 et seq.) of Chapter 19 shall apply, mutatis mutandis, to the issuance of such bonds or other debt. The Authority may issue bonds or other debt in such amounts as it deems appropriate. ~~The bonds may be supported by any funds available in the Fund, provided that the total amount of debt service for all outstanding bonds may not exceed 66 percent of the revenues dedicated to the Fund pursuant to § 58.1-2299.20.~~

§ 46.2-774. (For contingent expiration, see Acts 2020, cc. 1230 and 1275) Distribution of revenues.

All revenues collected pursuant to this chapter, *except those collected pursuant to § 46.2-775,* shall be used first to pay for the direct cost of administration of this chapter by the Department, and then shall be deposited into the Commonwealth Transportation Fund established pursuant to § 33.2-1524.

§ 46.2-775. Regional Highway Use Fee.

A. There is hereby imposed an additional annual regional highway use fee on any motor vehicle registered in the Commonwealth under § 46.2-694 or 46.2-697 that is an alternative fuel vehicle and electric motor vehicle or a fuel-efficient vehicle. Such regional highway use fee shall be 29.34 percent of the amount of the highway use fee assessed pursuant to § 46.2-772 for such vehicle. The fee shall be collected by the Department in the same manner as the highway use fee pursuant to § 46.2-772, mutatis mutandis.

B. There is hereby established a regional mileage-based user fee program. The program shall be a voluntary program that allows owners of vehicles subject to the regional highway use fee pursuant to subsection A to pay a mileage-based fee in lieu of the regional highway use fee. Such program shall be administered in the same manner as the mileage-based user fee program created pursuant to § 46.2-773, mutatis mutandis.

C. All revenues collected pursuant to this section shall be used first to pay for the direct cost of the administration of this section by the Department, and then shall be deposited in the following manner:

1. For any vehicle that is principally garaged in any county or city that is a member of the Northern Virginia Transportation Commission, such funds shall be deposited into the Northern Virginia Transportation District Regional Fund created pursuant to § 33.2-1904.1.

2. For any vehicle that is principally garaged in any county or city that is a member of the Potomac and Rappahannock Transportation Commission, such funds shall be deposited into the Potomac and Rappahannock Transportation Commission Regional Fund created pursuant to § 33.2-2402.

3. For any vehicle that is principally garaged in any county or city that is subject to § 58.1-2299.20, but that is not subject to subdivisions 1 or 2, such funds shall be distributed in the same manner as in § 58.1-2299.20, mutatis mutandis.

4. For any vehicle that is not subject to subdivisions 1, 2, or 3, such funds shall be deposited into the Commonwealth Transportation Fund established pursuant to § 33.2-1524.

§ 58.1-602. Definitions.

As used in this chapter, unless the context clearly shows otherwise:

"Accommodations" means any room or rooms, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, short-term rental, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration. "Accommodations" does not include rooms or space offered by a person in the business of providing conference rooms, meeting space, or event space if the person does not also offer rooms available for overnight sleeping.

"Accommodations fee" means the room charge less the discount room charge, if any, provided that the accommodations fee shall not be less than $0.

"Accommodations intermediary" means any person other than an accommodations provider that (i) facilitates the sale of an accommodation and (ii) either (a) charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale;

(b) collects a room charge from the customer; or (c) charges a fee, other than an accommodations fee, to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider.

"Accommodations intermediary" does not include a person:

1. If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such person;

2. Who facilitates the sale of an accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodations provider to such person; or

3. Who is licensed as a real estate licensee pursuant to Article 1 (§ 54.1-2100 et seq.) of Chapter 21 of Title 54.1, when acting within the scope of such license.

"Accommodations provider" means any person that furnishes accommodations to the general public for compensation. The term "furnishes" includes the sale of use or possession or the sale of the right to use or possess.

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined in this section shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Affiliate" means the same as such term is defined in § 58.1-439.18.

"Amplification, transmission, distribution, and network equipment" means production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing, and retrieving end-user subscribers' requests. A "network" includes modems, fiber optic cables, coaxial cables, radio equipment, routing equipment, switching equipment, a cable modem termination system, associated software, transmitters, power equipment, storage devices, servers, multiplexers, and antennas, which network is used to provide Internet service, regardless of whether the provider of such service is also a telephone common carrier or whether such network is also used to provide services other than Internet services.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program that is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Digital code" means a code that permits an end user to obtain at a later date a digital subscription service, digital personal property, or both.

"Digital personal property" means property delivered electronically to an end user, including software, digital audio and audiovisual products, reading materials, and other data or applications, that the end user owns or has the ability to continually access, whether by downloading, streaming, or otherwise accessing the content, without having to pay an additional subscription or usage fee to the seller after paying the initial purchase price.

"Digital services" means the following services:

1. Software application;

2. Computer-related;

3. Website hosting and design;

4. Data storage; and

5. Digital subscription.

"Digital subscription service" means a service, including audio and visual streaming services, that for a fee allows the end user to access and use software, reading materials, or other digital data or applications for a defined period of time, and which products the end user does not own or have permanent access to outside of such period of time.

"Discount room charge" means the full amount charged by the accommodations provider to the accommodations intermediary, or an affiliate thereof, for furnishing the accommodations.

"Distribution" means the transfer or delivery of *a taxable service or* tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of *a taxable service or* tangible personal property by a person that has processed, manufactured, refined, or converted such *taxable*

service or tangible personal property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"End user" means any purchaser of a taxable service acquired or transferred electronically or tangible personal property for such purchaser's personal consumption or use, and not for the acquisition or transfer for resale or for use as a component part of or for the integration into a product transferred electronically. "End user" does not include a person who receives by contract a product transferred electronically, including digital personal property or a digital subscription service, for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing *taxable* services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges, service charges, or interest from credit extended on the lease or rental of tangible personal property under conditional lease or rental contracts or other conditional contracts providing for the deferred payments of the lease or rental price.

"Gross sales" means the sum total of all retail sales of tangible personal property or *taxable* services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" does not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to *taxable services or* tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to *taxable services or* tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, "integrated process" does not mean general maintenance or administration.

"Internet" means, collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor to such protocol, to communicate information of all kinds by wire or radio.

"Internet service" means a service that enables users to access content, information, and other services offered over the Internet.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. "Manufacturing" also includes the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination of whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" includes, but is not limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but is not limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in

place to the site of final assembly. For purposes of this chapter, "modular building" does not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person that owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person that purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of *a taxable service or* tangible personal property not *provided,* held, or used by a seller in the course of an activity for which it is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided that such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, also includes Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of "person" means the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Qualifying locality" means Charlotte County, Gloucester County, Halifax County, Henry County, Mecklenburg County, Northampton County, Patrick County, Pittsylvania County, or the City of Danville.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Remote seller" means any dealer deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 under the criteria specified in subdivision C 10 or 11 of § 58.1-612 or any software provider acting on behalf of such dealer.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of *a taxable service or* tangible personal property ~~or services taxable under this chapter~~, and ~~shall include~~ *includes* any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale ~~which~~ *that* is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" specifically include the following: (i) the sale or charges for any accommodations furnished to transients for less than 90 continuous days; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or purchase by a provider of satellite television programming to the customer of such programming. Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons. The terms "retail sale" and a "sale at retail" also specifically

include the separately stated charge made for supplies used during automotive repairs whether or not there is transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the customer of such repair services shall be deemed a sale for resale.

The term "transient" does not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient, provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" do not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Room charge" means the full retail price charged to the customer for the use of the accommodations before taxes. "Room charge" includes any fee charged to the customer and retained as compensation for facilitating the sale, whether described as an accommodations fee, facilitation fee, or any other name. The room charge shall be determined in accordance with 23VAC10-210-730 and the related rulings of the Department on the same.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which *taxable services or* tangible personal property ~~or services are~~ *is* sold, including any *taxable* services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" does not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Short-term rental" means the same as such term is defined in § 15.2-983.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Streaming" means a method of transmitting or receiving video and audio data over a computer network

as a steady, continuous flow, allowing playback to proceed while subsequent data is being received.

"Tangible personal property" means personal property that may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. "Tangible personal property" does not include stocks, bonds, notes, insurance or other obligations or securities. "Tangible personal property" includes (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, ~~and~~ (ii) manufactured signs, *and (iii) digital personal property.*

"Taxable service" means any of the following services used or consumed in the Commonwealth:

1. Admissions charged for attendance at any event or place of amusement or entertainment;

2. Charges to use any recreation, fitness, or sports facilities, including membership fees and dues;

3. Nonmedical personal services or counseling, including (i) hair care, nail care, skin care, cosmetology, beauty, tanning, exercise, nutrition, weight control, sensory stimulation, or relaxation services or counseling and (ii) piercing, tattooing, exfoliation, implants, and other cosmetic body modifications. Nonmedical personal services or counseling does not include surgical procedures or separately billed services that are required to be performed by or under the direction of a person licensed or certified by a board within the Department of Health Professions, pursuant to Subtitle III (§ 54.1-2400 et seq.) of Title 54.1;

4. Dry cleaning and laundry services, and garment and shoe repairs and alterations;

5. Companion animal care, including grooming, boarding, walking, training, and feeding. Companion animal care does not include veterinary medical procedures or separately billed services that are required to be performed by or under the direction of a person licensed or certified by the Board of Veterinary Medicine pursuant to Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1;

6. Residential home repair or maintenance, including carpentry, painting, plumbing, electrical, and HVAC, when the work performed does not require a state or local permit and is paid for directly by a resident or homeowner;

7. Residential landscaping services, including landscaping design and maintenance, lawn services, or tree removal, when paid for directly by a resident or homeowner;

8. Residential cleaning services, including housekeeping, rug cleaning, upholstery cleaning and dyeing, window cleaning, power washing, and servicing of swimming pools, when paid for directly by a resident or homeowner;

9. Vehicle and engine repair, maintenance, cleaning, painting, and remodeling;

10. Repairs or alterations to tangible personal property or the functioning thereof, including appliances, electronics, computers, jewelry, watches, musical instruments, and art;

11. Delivery or shipping services, including wrapping and packing;

12. Storage of tangible personal property, including climate-controlled storage and self-storage;

13. Travel, event, and aesthetic planning services that are separately billed from the sale of product, including travel agents, event planning, catering, and interior design services; and

14. Digital subscription services, including a digital code used to obtain a digital subscription service.

"Taxable service" includes any transaction for digital services where the purchaser or consumer of the service is a business but does not include any service otherwise exempt under this chapter.

"Transferred electronically" means obtained by the purchaser by means other than tangible storage media.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. "Use" does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. "Use" does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as defined in this section.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities that are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, "used directly" refers to the activities specified in this definition and, in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator, including, but not limited to, Internet service.

§ 58.1-603. (Contingent expiration date) Imposition of sales tax.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail ~~or~~, distributing, *leasing, renting, or furnishing taxable services or* tangible personal property in this

Commonwealth~~, or who rents or furnishes any of the things or services taxable under this chapter~~, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, ~~or who leases or rents such property within this Commonwealth,~~ in the amount of ~~4.3~~ *four* percent:

1. Of the gross sales price of each *taxable service or* item or article of tangible personal property when sold at retail ~~or~~, distributed, *or furnished* in this Commonwealth.

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

~~4. (Effective until September 1, 2021) Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.~~

4. ~~(Effective September 1, 2021)~~ Of the gross proceeds derived from the sale or charges for accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

~~5. Of the gross sales of any services that are expressly stated as taxable within this chapter.~~

§ 58.1-603. (Contingent effective date) Imposition of sales tax.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail ~~or~~, distributing, *leasing, renting, or furnishing taxable services or* tangible personal property in this Commonwealth~~, or who rents or furnishes any of the things or services taxable under this chapter~~, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, ~~or who leases or rents such property within this Commonwealth,~~ in the amount of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:

1. Of the gross sales price of each *taxable service or* item or article of tangible personal property when sold at retail ~~or~~, distributed, *or furnished* in this Commonwealth.

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

~~4. (Effective until September 1, 2021) Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.~~

4. ~~(Effective September 1, 2021)~~ Of the gross proceeds derived from the sale or charges for accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

~~5. Of the gross sales of any services which are expressly stated as taxable within this chapter.~~

§ 58.1-603.3. Additional state sales and use tax in transportation districts with unique needs.

A. In addition to the sales tax imposed pursuant to §§ 58.1-603, 58.1-603.1, and 58.1-603.2, there is hereby levied and imposed in any county or city:

1. That is a member of the Northern Virginia Transportation Commission, a retail sales tax at the rate of 0.385 percent

2. That is embraced by the Northern Virginia Transportation Authority pursuant to § 33.2-2501 and not described in subdivision 1, a retail sales tax at the rate of 0.615 percent; and

3. That is a member of the Potomac and Rappahannock Transportation Commission, a retail sales tax at the rate of 0.2 percent.

B. The tax imposed pursuant to this section shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1. Such tax shall be added to the rate of the state sales tax imposed pursuant to §§ 58.1-603, 58.1-603.1, and 58.1-603.2 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

C. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller as follows:

1. The revenue generated pursuant to subdivision A 1 shall be deposited into the Northern Virginia Transportation District Regional Fund created pursuant to § 33.2-1904.1;

2. The revenue generated and collected pursuant to subdivision A 2 shall be used for public transportation purposes by the locality in which such revenue was generated; and

3. The revenue generated and collected pursuant to subdivision A 3 shall be deposited into the Potomac and Rappahannock Transportation Commission Regional Fund created pursuant to § 33.2-2402.

§ 58.1-609.5. Taxable services exemptions.

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

1. ~~Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made; services rendered by repairmen for which a separate charge is made; and services not involving an exchange of tangible personal property which provide access to or use of the Internet and any other related electronic communication service, including software, data, content and other information services delivered electronically via the Internet~~ *Professional services, including education or training, legal, financial, accounting and tax preparation, real estate, engineering, architectural, or insurance services.*

2. ~~An amount separately charged for labor or services rendered in installing, applying, remodeling, or repairing property sold or rented~~ *Services performed by a person who does not receive more than $2,500 per year in gross receipts for performance of such services.*

3. *Services that provide internet access service as that term is defined in § 58.1-647.*

4. Transportation charges separately stated.

~~4. Separately stated charges for alterations to apparel, clothing and garments.~~

5. Charges for gift wrapping services performed by a nonprofit organization.

~~6. An amount separately charged for labor or services rendered in connection with the modification of prewritten programs as defined in § 58.1-602.~~

~~7. Custom programs as defined in § 58.1-602.~~

~~8. An amount separately charged for labor rendered in connection with diagnostic work for automotive repair and emergency roadside service for motor vehicles, as defined by § 46.2-100, regardless of whether there is a sale of a repair or replacement part or a shop supply charge.~~

~~9.~~ *6.* The sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for more than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space or accommodations are regularly furnished to transients for a consideration.

~~10. Beginning January 1, 1996, maintenance contracts, the terms of which provide for both repair or replacement parts and repair labor, shall be subject to tax upon one-half of the total charge for such contracts only. Persons providing maintenance pursuant to such a contract may purchase repair or replacement parts under a resale certificate of exemption. Warranty plans issued by an insurance company, which constitute insurance transactions, are subject to the provisions of subdivision 1 above.~~

7. Residential cleaning, home repair or maintenance, or landscaping services that are purchased by a homeowners' association or similar entity or by a landlord for the benefit of his tenant.

§ 58.1-609.11. Exemptions for nonprofit entities.

A. For purposes of this section, "nonprofit organization" or "nonprofit entity" means an entity that meets the requirements of subsection D. "Nonprofit organization" or "nonprofit entity" includes a single member limited liability company whose sole member is a nonprofit organization.

B. Any nonprofit organization that holds a valid certificate of exemption from the Department of Taxation, or any nonprofit church that holds a valid self-executing certificate of exemption, that exempts it from collecting or paying state and local retail sales or use taxes as of June 30, 2003, pursuant to § 58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9, or 58.1-609.10, as such sections are in effect on June 30, 2003, shall remain exempt from the collection or payment of such taxes under the same terms and conditions as provided under such sections as such sections existed on June 30, 2003, until: (i) July 1, 2007, for such entities that were exempt under § 58.1-609.4; (ii) July 1, 2008, for such entities that were exempt under § 58.1-609.7; (iii) July 1, 2004, for the first one-half of such entities that were exempt under § 58.1-609.8, except churches, which will remain exempt under the same criteria and procedures in effect for churches on June 30, 2003; (iv) July 1, 2005, for the second one-half of such entities that were exempt under § 58.1-609.8; and (v) July 1, 2006, for such entities that were exempt under § 58.1-609.9 or under § 58.1-609.10. At the end of the applicable period of such exemptions, to maintain or renew an exemption for the period of time set forth in subsection G, each entity must follow the procedures set forth in subsection C and meet the criteria set forth in subsection D. Provided, however, that any entity that was exempt from collecting sales and use tax shall continue to be exempt from such collection, and any entity that was exempt from paying sales and use tax for the purchase of services, as of June 30, 2003, shall continue to be exempt from such payment, provided that it follows the other procedures set forth in subsection C and meets the criteria set forth in subsection D. Provided further, however, that an educational institution doing business in the Commonwealth which provides a face-to-face educational experience in American government and was exempt pursuant to subdivision 4 of § 58.1-609.4 from paying sales and use tax for the purchase of services, as of June 30, 2003, shall continue to be exempt from such payment, provided that it follows the other procedures set forth in subsection C and meets the criteria set forth in subsection D.

C. 1. On and after July 1, 2004, in addition to the organizations described in subsection B, and except as restricted in subdivision 2, the tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to purchases of *taxable services or* tangible personal property for use or

consumption by any nonprofit entity that, pursuant to this section, (i) files an appropriate application with the Department of Taxation, (ii) meets the applicable criteria, and (iii) is issued a certificate of exemption from the Department of Taxation for the period of time covered by the certificate.

2. If the entity that is exempt under this section is exempt from federal income tax under § 501(c)(19) of the Internal Revenue Code, or has annual gross receipts of less than $5,000 and is organized for at least one of the purposes set forth in § 501(c)(19) of the Internal Revenue Code, then the exemption under this section for such entity shall not apply to purchases of *taxable services or* tangible personal property that are used primarily (i) for social and recreational activities for members or (ii) for providing insurance benefits to members or members' dependents.

D. To qualify for the exemption under subsection C, a nonprofit entity must meet the applicable criteria under this subsection as follows:

1. a. The entity is exempt from federal income taxation (i) under § 501(c)(3) of the Internal Revenue Code; (ii) under § 501(c)(4) of the Internal Revenue Code and is organized for a charitable purpose; or (iii) under § 501(c)(19) of the Internal Revenue Code; or

b. The entity has annual gross receipts of less than $5,000, and the entity is organized for at least one of the purposes set forth in § 501(c)(3) of the Internal Revenue Code, one of the charitable purposes set forth in § 501(c)(4) of the Internal Revenue Code, or one of the purposes set forth in § 501(c)(19) of the Internal Revenue Code; and

2. The entity is in compliance with all applicable state solicitation laws and, where applicable, provides appropriate verification of such compliance; and

3. The entity's annual general administrative costs, including salaries and fundraising, relative to its annual gross revenue, under generally accepted accounting principles, is not greater than 40 percent; and

4. If the entity's gross annual revenue was at least $750,000 in the previous year, then the entity must provide a financial review performed by an independent certified public accountant. However, for any entity with gross annual revenue of at least $1.5 million in the previous year, the Department may require that the entity provide a financial audit performed by an independent certified public accountant. If the Department specifically requires an entity with gross annual revenue of at least $1.5 million in the previous year to provide a financial audit performed by an independent certified public accountant, then the entity shall provide such audit in order to qualify for the exemption under this section, which audit shall be in lieu of the financial review; and

5. If the entity filed a federal 990 or 990 EZ tax form, or the successor forms to such forms, with the Internal Revenue Service, then it must provide a copy of such form to the Department of Taxation; and

6. If the entity did not file a federal 990 or 990 EZ tax form, or the successor forms to such forms, with the Internal Revenue Service, then the entity must provide the following information:

a. A list of the Board of Directors or other responsible agents of the entity, composed of at least two individuals, with names and addresses where the individuals physically can be found; and

b. The location where the financial records of the entity are available for public inspection.

E. On and after July 1, 2004, in addition to the criteria set forth in subsection D, the Department of Taxation shall ask each entity for the total taxable purchases made in the preceding year, unless such records are not available through no fault of the entity. If the records are not available through no fault of the entity, then the entity must provide such information to the Department the following year. No information provided pursuant to this subsection (except the failure to provide available information) shall be a basis for the Department of Taxation to refuse to exempt an entity.

F. Any entity that is determined under subsections C, D, and E by the Department of Taxation to be exempt from paying sales and use tax shall also be exempt from collecting sales and use tax, at its election, if (i) the entity is within the same class of organization of any entity that was exempt from collecting sales and use tax on June 30, 2003, or (ii) the entity is organized exclusively to foster, sponsor, and promote physical education, athletic programs, and contests for youths in the Commonwealth.

G. The duration of each exemption granted by the Department of Taxation shall be no less than five years and no greater than seven years. During the period of such exemption, the failure of an exempt entity to maintain compliance with the applicable criteria set forth in subsection D shall constitute grounds for revocation of the exemption by the Department. At the end of the period of such exemption, to maintain or renew the exemption, each entity must provide the Department of Taxation the same information as required upon initial exemption and meet the same criteria.

H. For purposes of this section, the Department of Taxation and the Department of Agriculture and Consumer Services shall be allowed to share information when necessary to supplement the information required.

§ 58.1-612. Tax collectible from dealers; "dealer" defined; jurisdiction.

A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons that are dealers, as defined in this section, and that have sufficient contact with the Commonwealth to qualify under (i) subsections B and C or (ii) subsections B and D.

B. As used in this chapter, "dealer" includes every person that:

1. Manufactures or produces *taxable services or* tangible personal property for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

2. Imports or causes to be imported into this Commonwealth *taxable services or* tangible personal property from any state or foreign country, for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

3. Sells at retail, or that offers for sale at retail, or that has in its possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, *taxable services or* tangible personal property;

4. Has sold at retail, used, consumed, distributed, *furnished,* or stored for use or consumption in this Commonwealth, *taxable services or* tangible personal property and that cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such *taxable services or* tangible personal property;

5. Leases or rents tangible personal property for a consideration, permitting the use or possession of such property without transferring title thereto;

6. Is the lessee or rentee of tangible personal property and that pays to the owner of such property a consideration for the use or possession of such property without acquiring title thereto;

7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts orders from persons in this Commonwealth for future delivery and whose principal refuses to register as a dealer under § 58.1-613; or

8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter, whether it holds, or is required to hold, a certificate of registration under § 58.1-613.

C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if it:

1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office, warehouse, or place of business of any nature;

2. Solicits business in this Commonwealth by employees, independent contractors, agents or other representatives;

3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on billboards or posters located in this Commonwealth, or through materials distributed in this Commonwealth by means other than the United States mail;

4. Makes regular deliveries of tangible personal property within this Commonwealth by means other than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles other than those operated by a common carrier enter this Commonwealth more than 12 times during a calendar year to deliver goods sold by him;

5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or distributed from a location within this Commonwealth;

6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular, seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or marketing activities occurring in this Commonwealth or benefits from the location in this Commonwealth of authorized installation, servicing, or repair facilities;

7. Is owned or controlled by the same interests which own or control a business located within this Commonwealth;

8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the franchisee or licensee is required to obtain a certificate of registration under § 58.1-613;

9. Owns tangible personal property that is for sale located in this Commonwealth, or that is rented or leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to consumers in this Commonwealth;

10. Receives more than $100,000 in gross revenue, or other minimum amount as may be required by federal law, from retail sales in the Commonwealth in the previous or current calendar year, provided that in determining the amount of a dealer's gross revenues, the sales made by all commonly controlled persons as defined in subsection D shall be aggregated; or

11. Engages in 200 or more separate retail sales transactions, or other minimum amount as may be required by federal law, in the Commonwealth in the previous or current calendar year, provided that in determining the total number of a dealer's retail sales transactions, the sales made by all commonly controlled persons as defined in subsection D shall be aggregated.

D. A dealer is presumed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 (unless the presumption is rebutted as provided herein) if any commonly controlled person maintains a distribution center, warehouse, fulfillment center, office, or similar location within the Commonwealth that facilitates the delivery of tangible personal property sold by the dealer to its customers. The presumption in this subsection may be rebutted by demonstrating that the activities conducted by the commonly controlled person in the Commonwealth are not significantly associated with the dealer's ability to

establish or maintain a market in the Commonwealth for the dealer's sales. For purposes of this subsection, a "commonly controlled person" means any person that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered, as the dealer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the dealer as a corporation that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered.

E. Notwithstanding any other provision of this section, the following shall not be considered to determine whether a person that has contracted with a commercial printer for printing in the Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to be required to register under § 58.1-613:

1. The ownership or leasing by that person of tangible or intangible property located at the Virginia premises of the commercial printer which is used solely in connection with the printing contract with the person;

2. The sale by that person of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer;

3. Activities in connection with the printing contract with the person performed by or on behalf of that person at the Virginia premises of the commercial printer; and

4. Activities in connection with the printing contract with the person performed by the commercial printer within Virginia for or on behalf of that person.

F. In addition to the jurisdictional standards contained in subsections C and D, nothing contained in this chapter other than in subsection E shall limit any authority that this Commonwealth may enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales and use taxes by any dealer that regularly or systematically solicits sales within this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

§ 58.1-612.3. Tax collectible from bundled transactions.

A. For purposes of this section, a bundled transaction includes taxable services or tangible personal property that is taxable under this chapter and consists of distinct and identifiable properties, services, or both, sold for one nonitemized charge for which the tax treatment or tax rates of the distinct properties and services are different.

B. If the charge of a bundled transaction is attributable to taxable services or taxable property and services that are not taxable or property that is not taxable, the portion of the charge attributable to the nontaxable services or property shall be subject to tax unless the dealer is able to reasonably identify the nontaxable portion from its books and records kept in the regular course of business.

C. If the charge of a bundled transaction is attributable to taxable services or taxable property that are subject to different tax rates under this chapter or Chapter 6.2 (§ 58.1-645 et seq.), the total price may be treated as attributable to the products subject to tax at the highest tax rate unless the dealer is able to reasonably identify the portion of such transaction that is subject to the lower tax rate from its books and records kept in the regular course of business.

§ 58.1-623. Sales or leases presumed subject to tax; exemption certificates.

A. All sales or leases are subject to the tax until the contrary is established. The burden of proving that a sale~~,~~ *or* distribution~~,~~ *of taxable services or tangible personal property or the* lease~~,~~ or storage of tangible personal property is not taxable is upon the dealer unless he takes from the taxpayer a certificate to the effect that the property is exempt under this chapter. However, the sale or distribution of cigarettes shall be subject to the provisions of § 58.1-623.2 and require a cigarette exemption certificate issued pursuant to § 58.1-623.2.

B. The certificate mentioned in this section shall relieve the person who takes such certificate from any liability for the payment or collection of the tax, except upon notice from the Tax Commissioner that such certificate is no longer acceptable. Such certificate shall be signed by and bear the name and address of the taxpayer; shall indicate the number of the certificate of registration, if any, issued to the taxpayer; shall indicate the general character of the *taxable service or* tangible personal property sold, distributed, leased, or stored, or to be sold, distributed, leased, or stored under a blanket exemption certificate; and shall be substantially in such form as the Tax Commissioner may prescribe. If an exemption pertains to a nonprofit organization, other than a nonprofit church, that has qualified for a sales and use tax exemption under § 58.1-609.11, the exemption certificate shall be valid until the scheduled expiration date stated on the exemption certificate.

C. If a taxpayer who gives a certificate under this section makes any use of the *taxable service or tangible personal* property other than an exempt use or retention, demonstration, or display while holding the property for resale, distribution, or lease in the regular course of business, such use shall be deemed a taxable sale by

the taxpayer as of the time the property or service is first used by him, and the cost of the *service or* property to him shall be deemed the sales price of such retail sale. If the sole use of the *service or* property other than retention, demonstration, or display in the regular course of business is the rental of the *service or* property while holding it for sale, distribution, or lease, the taxpayer may elect to pay the tax on the amount of the rental charged, rather than the cost of the *service or* property to him.

D. If a taxpayer gives a certificate under this section with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased, but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales or distributions from the mass of commingled goods shall be deemed to be sales or distributions of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold or distributed.

E. If a taxpayer fails to give the dealer at the time of purchase an exemption certificate previously issued by the Department, no interest shall be paid on a subsequent refund claim for any period prior to the date the taxpayer makes a complete refund claim with the Department. This subsection shall not apply to transactions exempted under self-executing certificates of exemption not issued to a specific taxpayer by the Department.

§ 58.1-647. Definitions.

Terms used in this chapter shall have the same meanings as those used in Chapter 6 ~~of this title~~ *(§ 58.1-600 et seq.),* unless defined otherwise, as follows:

"Cable service" means the one-way transmission to subscribers of (i) video programming as defined in 47 U.S.C. § ~~522 (20)~~ *522(20)* or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service. Cable service does not include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. § ~~332 (d)~~ *332(d)* and any direct-to-home satellite service as defined in 47 U.S.C. § ~~303 (v)~~ *303(v)*.

"Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls.

"Coin-operated communications service" means a communications service paid for by means of inserting coins in a coin-operated telephone.

"Communications services" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, *and any other service utilizing any communications infrastructure, including international calling services, extended call area services, and internet application-based services,* to a point or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for the transmission or conveyance. ~~The term~~ *"Communications services"* includes~~, but is not limited to,~~ (i) the connection, movement, change, or termination of communications services; (ii) detailed billing of communications services; (iii) sale of directory listings in connection with a communications service; (iv) central office and custom calling features; (v) voice mail and other messaging services; ~~and~~ (vi) directory assistance*; and (vii) digital subscription services. With the exception of digital subscription services, "communications services" applies to any service described or listed in this definition, regardless of whether the customer is billed for such service on the basis of a subscription charge, a periodic charge, or a charge for actual usage, including such a fee for the use of an internet-based application, excluding the original cost of purchasing the application.*

"Communications services provider" means every person who provides communications services to customers in the Commonwealth and is or should be registered with the Department as a provider.

"Cost price" means the actual cost of the purchased communications service computed in the same manner as the sales price.

"Customer" means the person who contracts with the seller of communications services. If the person who utilizes the communications services is not the contracting party, the person who utilizes the services on his own behalf or on behalf of an entity is the customer of such service. "Customer" does not include a reseller of communications services or the mobile communications services of a serving carrier under an agreement to serve the customer outside the communications service provider's licensed service area.

"Customer channel termination point" means the location where the customer either inputs or receives the private communications service.

"Digital subscription service" means a service, including audio and visual streaming services, that for a fee allows the user to access and use software, reading materials, or other digital data or applications for a defined period of time, and which products the user does not own or have permanent access to outside of such period of time.

"Information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using, or making available information via communications services for purposes other than the electronic transmission, conveyance, or routing.

"Internet access service" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to users. "Internet access service" does not include

telecommunications services, except to the extent telecommunications services are purchased, used, or sold by a provider of Internet access to provide Internet access.

"Place of primary use" means the street address representative of where the customer's use of the communications services primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile communications services, the place of primary use shall be within the licensed service area of the home service provider.

"Postpaid calling service" means the communications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, debit card, or by a charge made to a telephone number that is not associated with the origination or termination of the communications service.

"Prepaid calling service" means the right to access exclusively communications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars that decrease in number with use.

"Private communications service" means a communications service that entitles the customer or user to exclusive or priority use of a communications channel or group of channels between or among channel termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

"Retail sale" or a "sale at retail" means a sale of communications services for any purpose other than for resale or for use as a component part of or for the integration into communications services to be resold in the ordinary course of business.

"Sales price" means the total amount charged in money or other consideration by a communications services provider for the sale of the right or privilege of using communications services in the Commonwealth, including any property or other services that are part of the sale. The sales price of communications services shall not be reduced by any separately identified components of the charge that constitute expenses of the communications services provider, including but not limited to, sales taxes on goods or services purchased by the communications services provider, property taxes, taxes measured by net income, and universal-service fund fees.

"Service address" means, (i) the location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid. If the location is not known in clause (i), "service address" means (ii) the origination point of the signal of the telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller. If the location is not known in clauses (i) and (ii), the service address means (iii) the location of the customer's place of primary use.

§ 58.1-648. Imposition of sales tax; exemptions.

A. Beginning January 1, 2007, there is levied and imposed, in addition to all other taxes and fees of every kind imposed by law, a sales or use tax on the customers of communications services in the amount of ~~5%~~ *five percent* of the sales price of each communications service that is sourced to the Commonwealth in accordance with § 58.1-649.

B. The sales price on which the tax is levied shall not include charges for any of the following: (i) an excise, sales, or similar tax levied by the United States or any state or local government on the purchase, sale, use, or consumption of any communications service that is permitted or required to be added to the sales price of such service, if the tax is stated separately; (ii) a fee or assessment levied by the United States or any state or local government, including but not limited to, regulatory fees and emergency telephone surcharges, that is required to be added to the price of service if the fee or assessment is separately stated; (iii) coin-operated communications services; (iv) sale or recharge of a prepaid calling service; (v) provision of air-to-ground radiotelephone services, as that term is defined in 47 C.F.R. § 22.99; (vi) a communications services provider's internal use of communications services in connection with its business of providing communications services; (vii) charges for property or other services that are not part of the sale of communications services, if the charges are stated separately from the charges for communications services; (viii) sales for resale; (ix) charges for communications services to the Commonwealth, any political subdivision of the Commonwealth, and the federal government and any agency or instrumentality of the federal government; and (x) charges for communications services to any customers on any federal military bases or installations when a franchise fee or similar fee for access is payable to the federal government, or any agency or instrumentality thereof, with respect to the same communications services.

C. Communications services on which the tax is hereby levied shall not include the following: (i) information services; (ii) installation or maintenance of wiring or equipment on a customer's premises; (iii) the sale or rental of tangible personal property; (iv) the sale of advertising, including but not limited to, directory advertising; (v) bad check charges; (vi) billing and collection services; (vii) Internet access service, electronic mail service, electronic bulletin board service, or similar services that are incidental to Internet access, such as voice-capable ~~e-mail~~ *email* or instant messaging; (viii) digital ~~products~~ ~~delivered~~

~~electronically~~ *personal property or digital services, as those terms are defined in § 58.1-602*, ~~such~~ ~~as~~ *including* software, downloaded music, ~~ring~~ ~~tones~~ *ringtones*, and reading materials; and (ix) over-the-air radio and television service broadcast without charge by an entity licensed for such purposes by the Federal Communications Commission. Also, those entities exempt from the tax imposed in accordance with the provisions of Article 4 (§ 58.1-3812 et seq.) of Chapter 38 ~~of~~ ~~Title~~ ~~58.1~~, in effect on January 1, 2006, shall continue to be exempt from the tax imposed in accordance with the provisions of this chapter.

Article 13.

Retail Delivery Fees in Certain Transportation Districts.

§ 58.1-1749. Transportation districts with unique needs; retail delivery fees.

A. In addition to all other fees and taxes imposed under law, there is hereby imposed an additional retail delivery fee in the amount of 20 cents for any retail delivery made in any county or city that is a member of the Northern Virginia Transportation Commission. On and after July 1, 2027, such rates provided under this section shall be adjusted annually based on the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year or (ii) zero.

B. The tax imposed pursuant to subsection A shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1. Such tax shall be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603 except as herein provided.

C. No discount under § 58.1-622 shall be allowed for the tax imposed under this section.

D. The revenue generated and collected from the tax imposed pursuant to this section shall be deposited into the Northern Virginia Transportation District Regional Fund pursuant to § 33.2-1904.1.

E. For additional transportation districts that may become subject to this section, funds shall be established by appropriate legislation.

2. That Chapter 766 of the Acts of Assembly of 2013 is amended by adding a nineteenth enactment as follows:

19. That the provisions of the fourteenth enactment of this act shall not apply to any revenues generated pursuant to § 58.1-603 of the Code of Virginia.