

HOUSE BILL NO. 805

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance

on _____)

(Patron Prior to Substitute--Delegate Rasoul)

A BILL to amend and reenact §§ 58.1-602, 58.1-605, 58.1-605.1, and 58.1-606.1 of the Code of Virginia, relating to additional local sales and use tax to support schools; referendum.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-602, 58.1-605, 58.1-605.1, and 58.1-606.1 of the Code of Virginia are amended and reenacted as follows:

§ 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

27 purchase of the right to use accommodations via a transaction directly, including via one or more payment
28 processors, between a customer and an accommodations provider.

29 "Accommodations intermediary" does not include a person:

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

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

36 3. Who is licensed as a real estate licensee pursuant to Article 1 (§ 54.1-2100 et seq.) of Chapter
37 21 of Title 54.1, when acting within the scope of such license.

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

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

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

47 "Amplification, transmission, distribution, and network equipment" means production,
48 distribution, and other equipment used to provide Internet-access services, such as computer and
49 communications equipment and software used for storing, processing, and retrieving end-user subscribers'
50 requests. A "network" includes modems, fiber optic cables, coaxial cables, radio equipment, routing
51 equipment, switching equipment, a cable modem termination system, associated software, transmitters,
52 power equipment, storage devices, servers, multiplexers, and antennas, which network is used to provide

53 Internet service, regardless of whether the provider of such service is also a telephone common carrier or
54 whether such network is also used to provide services other than Internet services.

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

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

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

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

66 "Distribution" means the transfer or delivery of tangible personal property for use, consumption,
67 or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person
68 that has processed, manufactured, refined, or converted such property, but does not include the transfer or
69 delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt
70 under this chapter.

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

78 "Gross sales" means the sum total of all retail sales of tangible personal property or services as
79 defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" does not

80 include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal
81 Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or
82 the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605
83 or 58.1-606.

84 "Import" and "imported" are words applicable to tangible personal property imported into the
85 Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words
86 applicable to tangible personal property exported from the Commonwealth to other states as well as to
87 foreign countries.

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

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

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

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

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

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

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

120 "Modular building" means, but is not limited to, single and multifamily houses, apartment units,
121 commercial buildings, and permanent additions thereof, comprised of one or more sections that are
122 intended to become real property, primarily constructed at a location other than the permanent site, built
123 to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the
124 Virginia Department of Housing and Community Development, and shipped with most permanent
125 components in place to the site of final assembly. For purposes of this chapter, "modular building" does
126 not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified
127 under the provisions of the National Manufactured Housing Construction and Safety Standards Act of
128 1974 (42 U.S.C. § 5401 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

208 "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental,
209 conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and
210 any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal
211 property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the
212 furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the

213 premises of the person furnishing, preparing, or serving such tangible personal property. A transaction
214 whereby the possession of property is transferred but the seller retains title as security for the payment of
215 the price shall be deemed a sale.

216 "Sales price" means the total amount for which tangible personal property or services are sold,
217 including any services that are a part of the sale, valued in money, whether paid in money or otherwise,
218 and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer,
219 without any deduction therefrom on account of the cost of the property sold, the cost of materials used,
220 labor or service costs, losses or any other expenses whatsoever. "Sales price" does not include (i) any cash
221 discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit
222 extended on sales of tangible personal property under conditional sale contracts or other conditional
223 contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes
224 collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the
225 price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service
226 charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or
227 service charge does not exceed 20 percent of the price of the meal. Where used articles are taken in trade,
228 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
229 chapter shall be paid on the net difference between the sales price of the new or used articles and the credit
230 for the used articles.

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

235 "Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof;
236 (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the
237 operation of the equipment, without regard to the proximity to the equipment, the method of attachment,
238 or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other
239 property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or

240 maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control
241 testing of product, materials, equipment, or processes; or the measurement of equipment performance or
242 production parameters regardless of where or when the quality control, testing, or measuring activity takes
243 place, how the activity affects the operation of equipment, or whether the equipment and supplies come
244 into contact with the product.

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

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

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

254 "Use" means the exercise of any right or power over tangible personal property incident to the
255 ownership thereof, except that it does not include the sale at retail of that property in the regular course of
256 business. "Use" does not include the exercise of any right or power, including use, distribution, or storage,
257 over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth
258 to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via
259 mail or telephone. "Use" does not include any sale determined to be a gift transaction, subject to tax under
260 § 58.1-604.6.

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

263 "Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers
264 to those activities that are an integral part of the production of a product, including all steps of an integrated
265 manufacturing or mining process, but not including ancillary activities such as general maintenance or
266 administration. When used in relation to mining, "used directly" refers to the activities specified in this

267 definition and, in addition, any reclamation activity of the land previously mined by the mining company
268 required by state or federal law.

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

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

273 **§ 58.1-605. To what extent and under what conditions cities and counties may levy local sales**
274 **taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled**
275 **thereto.**

276 A. No county, city or town shall impose any local general sales or use tax or any local general
277 retail sales or use tax except as authorized by this section or § 58.1-605.1.

278 B. The council of any city and the governing body of any county may levy a general retail sales
279 tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall
280 be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to all
281 the provisions of this chapter and the rules and regulations published with respect thereto. No discount
282 under § 58.1-622 shall be allowed on a local sales tax.

283 C. 1. The council of any city and the governing body of any county desiring to impose a local sales
284 tax under this section may do so by the adoption of an ordinance stating its purpose and referring to this
285 section, and providing that such ordinance shall be effective on the first day of a month at least 60 days
286 after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that
287 it will be received within five days after its adoption.

288 2. Prior to any change in the rate of any local sales and use tax, the Tax Commissioner shall provide
289 remote sellers with at least 30 days' notice. Any change in the rate of any local sales and use tax shall only
290 become effective on the first day of a calendar quarter. Failure to provide notice pursuant to this section
291 shall require the Commonwealth and the ~~locality~~ county or city to apply the preceding effective rate until
292 30 days after notification is provided.

293 D. Any local sales tax levied under this section shall be administered and collected by the Tax
294 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

295 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid
296 into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books
297 under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the
298 account of each particular city or county levying a local sales tax under this section. The basis of such
299 credit shall be the city or county in which the sales were made as shown by the records of the Department
300 and certified by it monthly to the Comptroller, namely, the city or county of location of each place of
301 business of every dealer paying the tax to the Commonwealth without regard to the city or county of
302 possible use by the purchasers. If a dealer has any place of business located in more than one political
303 subdivision by reason of the boundary line or lines passing through such place of business, the amount of
304 sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of
305 this section as follows: one-half shall be assignable to each political subdivision where two are involved,
306 one-third where three are involved, and one-fourth where four are involved.

307 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in
308 any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia
309 in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax
310 moneys, and such payments shall be charged to the account of each such city or county under the special
311 fund created by this section. If errors are made in any such payment, or adjustments are otherwise
312 necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected
313 and adjustments made in the payments for the next two months as follows: one-half of the total adjustment
314 shall be included in the payments for the next two months. In addition, the payment shall include a refund
315 of amounts erroneously not paid to the city or county and not previously refunded during the three years
316 preceding the discovery of the error. A correction and adjustment in payments described in this subsection
317 due to the misallocation of funds by the dealer shall be made within three years of the date of the payment
318 error.

319 G. Such payments to counties are subject to the qualification that in any county wherein is situated
320 any incorporated town constituting a special school district and operated as a separate school district under
321 a town school board of three members appointed by the town council, the county treasurer shall pay into
322 the town treasury for general governmental purposes the proper proportionate amount received by him in
323 the ratio that the school age population of such town bears to the school age population of the entire
324 county. If the school age population of any town constituting a separate school district is increased by the
325 annexation of territory since the last estimate of school age population provided by the Weldon Cooper
326 Center for Public Service, such increase shall, for the purposes of this section, be added to the school age
327 population of such town as shown by the last such estimate and a proper reduction made in the school age
328 population of the county or counties from which the annexed territory was acquired.

329 H. One-half of such payments to counties are subject to the further qualification, other than as set
330 out in subsection G, that in any county wherein is situated any incorporated town not constituting a
331 separate special school district that has complied with its charter provisions providing for the election of
332 its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax
333 ordinance, the county treasurer shall pay into the town treasury of each such town for general
334 governmental purposes the proper proportionate amount received by him in the ratio that the school age
335 population of each such town bears to the school age population of the entire county, based on the latest
336 estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement pertaining
337 to the time interval between compliance with election provisions and adoption of the sales tax ordinance
338 shall not apply to a tier-city. If the school age population of any such town not constituting a separate
339 special school district is increased by the annexation of territory or otherwise since the last estimate of
340 school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for
341 the purposes of this section, be added to the school age population of such town as shown by the last such
342 estimate and a proper reduction made in the school age population of the county or counties from which
343 the annexed territory was acquired.

344 I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its
345 discretion, appropriate funds to any incorporated town not constituting a separate school district within

346 such county that has not complied with the provisions of its charter relating to the elections of its council
347 and mayor, ~~an amount not to exceed the amount it would have received from the tax imposed by this~~
348 ~~chapter if such election had been held; however, Charlotte County, Gloucester County, Halifax County,~~
349 ~~Henry County, Mecklenburg County, Northampton County, Patrick County, and Pittsylvania County may~~
350 ~~appropriate any amount to any such incorporated town.~~

351 J. It is further provided that if any incorporated town which would otherwise be eligible to receive
352 funds from the county treasurer under subsection G or H be located in a county that does not levy a general
353 retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of
354 one percent to provide revenue for the general fund of the town, subject to all the provisions of this section
355 generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in
356 no case continue to be levied on or after the effective date of a county ordinance imposing a general retail
357 sales tax in the county within which such town is located.

358 **§ 58.1-605.1. Additional local sales tax; use of revenues for construction or renovation of**
359 **schools.**

360 A. 1. In addition to the sales tax authorized under § 58.1-605, ~~a qualifying locality~~ any county or
361 city may levy a general retail sales tax at a rate not to exceed one percent as determined by its governing
362 body to provide revenue solely for capital projects for the construction or renovation of schools ~~in~~ in serving
363 each such ~~locality~~ county or city. Such tax shall be added to the rates of the state and local sales tax
364 imposed by this chapter and shall be subject to all the provisions of this chapter and the rules and
365 regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on this local
366 sales tax.

367 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the
368 construction or renovation of schools ~~are to be financed~~ include financing by bonds or loans, on the date
369 by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation
370 of schools ~~are not to be financed~~ do not include financing by bonds or loans, on a date chosen by the
371 governing body and specified in any resolution passed pursuant to the provisions of subdivision B 1. Such

372 expiration date shall not be more than 20 years after the date of the resolution passed pursuant to the
373 provisions of subdivision B 1.

374 B. 1. This tax may be levied only if the tax is approved in a referendum within the ~~qualifying~~
375 ~~locality~~ county or city held in accordance with § 24.2-684 and initiated by a resolution of the local
376 governing body. Such resolution shall state (i) if the capital projects for the construction or renovation of
377 schools ~~are to be financed~~ include financing by bonds or loans, the date by which such bonds or loans
378 shall be repaid or (ii) if the capital projects for the construction or renovation of schools ~~are not to be~~
379 ~~financed~~ do not include financing by bonds or loans, a specified date on which the sales tax shall expire.

380 2. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general
381 circulation in the ~~qualifying locality~~ county or city once a week for three consecutive weeks prior to the
382 election. The question on the ballot for the referendum shall include language stating (i) that the revenues
383 from the sales tax shall be used solely for capital projects for the construction or renovation of schools
384 and (ii) the date on which the sales tax shall expire.

385 C. The governing body of the ~~qualifying locality~~ county or city, if it elects to impose a local sales
386 tax under this section after approval at a referendum as provided in subsection B shall do so by the adoption
387 of an ordinance stating its purpose and referring to this section and providing that such ordinance shall be
388 effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the date
389 on which the sales tax shall expire. A certified copy of such ordinance shall be forwarded to the Tax
390 Commissioner so that it will be received within five days after its adoption.

391 D. Any local sales tax levied under this section shall be administered and collected by the Tax
392 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the
393 state sales tax; however, the local sales tax levied under this section shall not be levied on food purchased
394 for human consumption or essential personal hygiene products, as such terms are defined in § 58.1-611.1.

395 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid
396 into the state treasury to the credit of a special fund that is hereby created on the Comptroller's books for
397 each ~~qualifying locality~~ county or city under the name "Collections of Additional Local Sales Taxes in
398 ____ (INSERT NAME OF THE ~~QUALIFYING LOCALITY~~ COUNTY OR CITY)." Each fund shall be

399 administered as provided in § 58.1-605. A separate fund shall be created for each ~~qualifying locality~~
400 county or city. Only local sales tax moneys collected in that ~~qualifying locality~~ county or city shall be
401 deposited in that ~~locality's~~ county's or city's fund.

402 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in
403 any month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in the
404 proper amount in favor of each ~~qualifying locality~~ county or city, and such payments shall be charged to
405 the account of the ~~qualifying locality~~ county or city under its special fund created by this section. If errors
406 are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to
407 taxpayers or to some other fact, the errors shall be corrected and adjustments made in the payments for
408 the next two months as follows: one-half of the total adjustment shall be included in the payment for each
409 of the next two months. In addition, the payment shall include a refund of amounts erroneously not paid
410 to each ~~qualifying locality~~ county or city and not previously refunded during the three years preceding the
411 discovery of the error. A correction and adjustment in payments described in this subsection due to the
412 misallocation of funds by the dealer shall be made within three years of the date of the payment error.

413 G. The revenues from this tax shall be used solely for capital projects described in clauses (i) and
414 (ii) for new construction or major renovation of schools in serving the qualifying locality county or city,
415 including bond and loan financing costs related to such construction or renovation capital projects.
416 Revenues from this tax may be used (i) for repayment of existing indebtedness incurred from capital
417 projects for new construction or major renovation of schools that were begun or completed prior to the
418 imposition of such tax or (ii) to finance capital projects for new construction or major renovation of
419 schools after the imposition of such tax.

420 **§ 58.1-606.1. Additional local use tax; use of revenues for construction or renovation of**
421 **schools.**

422 A. 1. The governing body of a ~~qualifying locality~~ county or city may levy a use tax at the rate of
423 such sales tax under § 58.1-605.1 to provide revenue for capital projects for the construction or renovation
424 of schools ~~in serving such locality~~ county or city. Such tax shall be added to the rates of the state and local
425 use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and all

426 amendments thereof, and the rules and regulations published with respect thereto, except that no discount
427 under § 58.1-622 shall be allowed on a local use tax.

428 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the
429 construction or renovation of schools ~~are to be financed~~ include financing by bonds or loans, on the date
430 by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation
431 of schools ~~are not to be financed~~ do not include financing by bonds or loans, on a date chosen by the
432 governing body and specified in any resolution passed pursuant to the provisions of subsection B. Such
433 expiration date shall not be more than 20 years after the date of the resolution passed pursuant to the
434 provisions of subsection B.

435 B. The governing body of the ~~qualifying locality~~ county or city, if it elects to impose a local use
436 tax under this section may do so only if it has previously imposed the local sales tax authorized by § 58.1-
437 605.1, by the adoption of an ordinance stating its purpose and referring to this section and providing that
438 the local use tax shall become effective on the first day of a month at least 120 days after its adoption.
439 Such ordinance shall state the date on which the use tax shall expire. A certified copy of such ordinance
440 shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

441 C. Any local use tax levied under this section shall be administered and collected by the Tax
442 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the
443 state use tax; however, the local use tax levied under this section shall not be levied on food purchased for
444 human consumption or essential personal hygiene products, as such terms are defined in § 58.1-611.1.

445 D. The local use tax authorized by this section shall not apply to transactions to which the sales
446 tax applies, the situs of which for state and local sales tax purposes is the ~~locality~~ county or city of location
447 of each place of business of every dealer paying the tax to the Commonwealth without regard to the
448 ~~locality~~ county or city of possible use by the purchasers. However, the local use tax authorized by this
449 section shall apply to tangible personal property purchased outside the Commonwealth for use or
450 consumption within the ~~locality~~ county or city imposing the local use tax, or stored within the ~~locality~~
451 county or city for use or consumption, where the property would have been subject to the sales tax if it
452 had been purchased within the Commonwealth. The local use tax shall also apply to leases or rentals of

453 tangible personal property where the place of business of the lessor is outside the Commonwealth and
454 such leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in
455 which the state use tax applies.

456 E. Out-of-state dealers who hold certificates of registration to collect the use tax from their
457 customers for remittance to the Commonwealth shall, to the extent reasonably practicable, in filing their
458 monthly use tax returns with the Tax Commissioner, break down their shipments into the Commonwealth
459 by counties and cities so as to show the county or city of destination. If, however, the out-of-state dealer
460 is unable accurately to assign any shipment to a particular county or city, the local use tax on the tangible
461 personal property involved shall be remitted to the Commonwealth by such dealer without attempting to
462 assign the shipment to any county or city.

463 F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection
464 E of § 58.1-605.1. The Comptroller shall distribute the revenue to the ~~qualifying locality~~ county or city.

465 G. All revenue from this local use tax ~~revenue~~ shall be used solely for capital projects described
466 in clauses (i) and (ii) for new construction or major renovation of schools in serving the qualifying locality
467 county or city, including bond and loan financing costs related to such construction or renovation.
468 Revenues from this tax may be used (i) for repayment of existing indebtedness incurred from capital
469 projects for new construction or major renovation of schools that were begun or completed prior to the
470 imposition of such tax or (ii) to finance capital projects for new construction or major renovation of
471 schools after the imposition of such tax.

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