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SENATE BILL NO. 20

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 5, 2002)

(Patron Prior to Substitute-Senator Miller, K. G.)

*A BILL to amend and reenact § 58.1-609.4 of the Code of Virginia, relating to educational sales and use tax exemptions.***Be it enacted by the General Assembly of Virginia:****1. That § 58.1-609.4 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-609.4. Educational exemptions.

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

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

2. (i) Tangible personal property for use or consumption by a college or other institution of learning, including food purchased for free distribution at the facilities of the college or other institution of learning, and (ii) tangible personal property for use or consumption by, sold by, or donated to a noncommercial educational telecommunications entity, said exemption to apply to each transaction in the chain of commerce from manufacture to final disposition, provided that such college, institution of learning, or telecommunications entity is nonprofit.

3. Ending June 30, 2001, tangible personal property purchased by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively for the purpose of providing education, training and services to retarded citizens of the Commonwealth, provided that such property is used exclusively for the purpose set forth herein and that such organization receives more than fifty percent of its total funding from federal, state, or local governments.

4. Ending July 1, ~~2002~~ 2007, tangible personal property and services purchased by an educational institution doing business in the Commonwealth which (i) admits regularly enrolled high school and college students and (ii) provides a face-to-face educational experience in American government, a program which leads towards the successful completion of United States history, civics, and problems in democracy courses in high school, or which is acceptable for full credit towards an undergraduate or graduate level college degree, provided such institution is nonprofit.

5. Ending June 30, 2001, books and other reading materials for use by nonprofit organizations organized solely to distribute such books and reading materials to school-age children.

6. Ending June 30, 2001, tangible personal property purchased for use by a nonprofit, nonstock corporation which receives no financial aid from the Commonwealth or the federal government and is organized exclusively for the purpose of operating, at no charge to the pupils, a combination boarding and day school for the severely physically handicapped children and young adults of the Commonwealth.

7. Ending July 1, ~~2002~~ 2007, tangible personal property sold or leased to a foundation which exclusively provides either training and education of any type or duration for employees of governmental law-enforcement and corrections agencies or education of the public in citizen cooperation with public authorities in crime prevention and solution, provided such foundation is nonprofit.8. Ending July 1, ~~2002~~ 2007, tangible personal property purchased for use, consumption, or sale at retail by a nonprofit elementary or secondary school, or Parent Teacher Association or other group associated with a nonprofit elementary or secondary school for use in fund-raising activities, the net proceeds (gross receipts less direct expenses) of which are contributed directly to the school or used to purchase certified school equipment, and certified school equipment purchased by such groups for contribution directly to the school. For the purposes of this subdivision, "certified school equipment" means equipment for which the Parent Teacher Association or other group has received certification from the school that it will accept as a donation of equipment. The certification provided by the school shall be in accordance with regulations promulgated by the Tax Commissioner. Notwithstanding the other provisions of this subdivision, the tax shall not apply to the sale of class rings, school photographs, and other fund-raising programs from which a nonprofit elementary or secondary school receives a commission or the net proceeds after the payment of vendors and other direct expenses.

9. a. From July 1, 1989, through June 30, 2001, tangible personal property purchased for use or

consumption by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized primarily for the purpose of operating a state-licensed day-care center or a preschool that hires only certified public school teachers and which has a regularly prescribed curriculum.

b. From July 1, 1990, through June 30, 2001, tangible personal property purchased for use or consumption by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized primarily for the purpose of operating a state-licensed day-care center or a preschool that hires only certified public school teachers or teachers who are college graduates holding a degree from an accredited four-year institution of higher education and certified by an organization recognized by the U.S. Department of Education or by some other nationally recognized organization, and which has a regularly prescribed curriculum.

10. Beginning July 1, 1989, and ending July 1, 2002 2007, personal property purchased for use or consumption by a private, nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, which operates a county public library, and such library is also used as a recreational center for county residents.

11. Beginning July 1, 1989, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized primarily for the purpose of operating a public library.

12. Beginning July 1, 1990, and ending July 1, 2002 2007, tangible personal property and services purchased for use by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, which is organized and operated primarily for the purpose of encouraging participation in the free enterprise system through information programs directed to secondary schools and college students, college scholarship programs, and recognition of achievement in the American free enterprise system.

13. Beginning July 1, 1990, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized primarily for the purpose of operating an arts center which offers and sponsors a year-round schedule of art education classes for adults and children, a continuous series of exhibits focusing on twentieth century art, and a wide range of seminars for the public at no or a nominal charge.

14. Beginning July 1, 1991, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit volunteer organization which is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized and operated exclusively for the purpose of enhancing education by assisting a city public library with its physical and service needs.

15. Beginning July 1, 1991, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively to combat illiteracy by tutoring and training adults and by increasing community awareness of the illiteracy problem.

16. Beginning July 1, 1995, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit volunteer organization which is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized exclusively for the purpose of raising funds for grant aid to any state, county or municipal library open to the public within the boundaries of the Eighth Planning District established pursuant to § 15.2-4203.

17. Beginning July 1, 1995, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to provide educational and recreational services for at-risk youth and which maintains a partnership with a magnet school within the boundaries of the Twenty-third Planning District established pursuant to § 15.2-4203.

18. Beginning July 1, 1995, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to provide specialized information and referral services, education programs and advocacy on behalf of deaf and hard-of-hearing persons within the boundaries of the Eighth Planning District established pursuant to § 15.2-4203.

19. Beginning July 1, 1995, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit research, educational, and communications organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively to promote highway safety.

20. Beginning July 1, 1996, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized as a consortium of not less than forty private, historically black colleges and universities for the purposes of raising funds, providing program services, and offering technical services to support its member colleges and universities and their students.

21. Beginning July 1, 1997, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue

Code and organized and operated (i) to conduct and publish educational research for public school improvement, reform, and teacher education and (ii) to disseminate such research in the community to encourage residents to take an interest in the teaching and learning activities of local schools.

22. Beginning July 1, 1997, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code which designs, equips and operates educational telecommunications networks and classrooms serving schools and colleges within the Commonwealth and whose activities include purchasing audio-visual equipment, contracting for transmission services and training teachers.

23. Beginning July 1, 1997, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code which is organized for the exclusive purpose of supporting reading education programs for all Virginia citizens, accomplished through local councils, special interest councils, teacher-training programs and annual conventions where ideas, techniques and methods are shared by educator members who will use the acquired knowledge in direct reading education.

24. Beginning July 1, 1997, through June 30, 2001, tangible personal property purchased for use or consumption by a nonprofit scientific, educational, and charitable organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively for the purpose of emphasizing scientific investigation and holding an annual science fair for students within the boundaries of the Tenth Planning District established pursuant to § 15.2-4203.

25. Beginning July 1, 1997, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to provide residential treatment and educational services to abused children and their families and to operate a Head Start program.

26. Beginning July 1, 1997, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to educate the public about animal agriculture and its importance to the quality of life of citizens, and to support research and education to continuously improve animal agriculture production practices.

27. Beginning July 1, 1997, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively to promote and advance the interests of vocational-technical education in the public schools.

28. From July 1, 1998, through June 30, 2001, tangible personal property purchased for use or consumption by a nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively to operate a school which provides an ecumenical Christian education for students in grades seven through twelve and to develop Christian study programs and to train teachers for excellence in education.

29. Beginning July 1, 1998, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit corporation located in the Tidewater region, exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively to nurture pre-school children of parents pursuing self-sufficiency, by providing an affordable, quality education program.

30. From July 1, 1998, through June 30, 2001, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized for the purposes of (i) developing a pool of data processing professionals who will share their knowledge and business expertise with members of the organization and other members of the community who are evaluating information technology for ongoing endeavors, (ii) sponsoring high school computer competitions, community computer training camps, and free data processing workshops and classes, and (iii) providing college scholarships to computer competition team members.

31. Beginning July 1, 2000, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit corporation located within the boundaries of the Eighth Planning District established pursuant to § 15.2-4203, exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to design and deliver educational programs for (i) older persons by older persons, including disabled, low-income and minority individuals, for the purpose of keeping older persons up-to-date in technology, psychology and health maintenance and (ii) the purpose of exploring human values, the philosophical underpinnings of community service, and the ultimate meaning of life.

32. Beginning July 1, 2000, and ending July 1, 2002 2007, tangible personal property purchased for use or consumption by a nonprofit corporation in Central Virginia, located within the boundaries of the Eleventh Planning District established pursuant to § 15.2-4203, exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to coordinate professionals, expertise, curricular materials, funds and school personnel to (i) create educational programs that raise community awareness regarding

183 watershed health, (ii) collect data about the watershed so as to help further soil, water and habitat
184 conservation in the community, and (iii) design replicable project models that can be of use to rural
185 Virginia's schools and communities, all through hands-on learning experiences.

186 33. Beginning July 1, 2000, and ending July 1, ~~2002~~ 2007, tangible personal property purchased for
187 use or consumption by a nonprofit organization located within the boundaries of the Fifteenth Planning
188 District established pursuant to § 15.2-4203, exempt from taxation pursuant to § 501 (c) (3) of the
189 Internal Revenue Code and organized for the purpose of providing opportunities for international
190 educational exchange for foreign high school students to visit Virginia, and for Virginia high school
191 students to visit foreign countries.

192 34. Beginning July 1, 2001, and ending July 1, ~~2002~~ 2007, tangible personal property purchased for
193 use or consumption by a nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal
194 Revenue Code and organized exclusively to support the mission and purposes of a community college in
195 the Commonwealth by raising funds for student scholarships and college programs.

196 35. Beginning July 1, 2001, and ending July 1, ~~2002~~ 2007, tangible personal property purchased for
197 use or consumption by a nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal
198 Revenue Code and organized exclusively to provide an alternative traditional, experiential educational
199 program as well as GED preparation and testing for juvenile offenders who meet either the criteria for
200 commitment in the Department of Juvenile Justices System or Child in Need of Service/Supervision
201 petitions and probation.

202 36. Beginning July 1, 2001, and ending July 1, ~~2002~~ 2007, tangible personal property purchased for
203 use or consumption by a nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal
204 Revenue Code and organized exclusively to provide evaluation, education, training, and employment of
205 handicapped persons.

206 37. Beginning July 1, 2001, and ending July 1, ~~2002~~ 2007, tangible personal property purchased for
207 use or consumption by a nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal
208 Revenue Code and organized exclusively to (i) foster, promote and engage in aerospace education, (ii)
209 coordinate the preparation and execution of an annual fly-in exposition, (iii) provide a forum for the
210 exchange of aviation educational information, and (iv) make distributions to other nonprofit
211 organizations for use in aerospace education.

212 38. Beginning July 1, 2001, and ending July 1, ~~2002~~ 2007, tangible personal property purchased for
213 use or consumption by a nonprofit organization exempt from taxation pursuant to § 501 (c) (3) of the
214 Internal Revenue Code and organized for the purpose of serving as the administrative, financial, and
215 fiscal agent for an institution of higher education in the Commonwealth of Virginia in research and
216 sponsored program administration.

217 39. Beginning July 1, 2001, and ending July 1, ~~2002~~ 2007, tangible personal property purchased for
218 use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal
219 Revenue Code and organized to provide a stable educational system beginning in infancy and continuing
220 through the eighth grade emphasizing traditional values and traditional education.

221 40. *Beginning July 1, 2002, and ending July 1, 2007, tangible personal property purchased for use*
222 *or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal*
223 *Revenue Code and organized for purposes including but not limited to (i) being an advocate for the*
224 *liberal arts and sciences at the undergraduate level and (ii) recognizing and encouraging scholarship,*
225 *friendship and cultural interests.*

226 *B. Notwithstanding the provisions in subsection A, the tax imposed by this chapter or pursuant to the*
227 *authority granted in §§ 58.1-605 and 58.1-606 shall apply to purchases of construction materials to be*
228 *incorporated into real property made by any individual, organization or entity described in subsection*
229 *A.*

230 **2. That the Department of Taxation shall promulgate guidelines for purposes of defining**
231 **construction materials to be incorporated into real property. In preparing such guidelines, the**
232 **Department shall not be subject to the provisions of the Administrative Process Act (§ 2.2-4000 et**
233 **seq.) but shall cooperate with and seek the counsel of interested groups including dealers,**
234 **representatives of the business community, and other interested persons.**