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SENATE BILL NO. 1028

Offered January 17, 2020

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 in Northampton County; appropriations of Northampton County to incorporated towns for educational purposes.

Patron—Lewis

Referred to Committee on Finance and Appropriations

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:

"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.

"Amplification, transmission and distribution equipment" means, but is not limited to, 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.

"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.

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

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing 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 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 tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to 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

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

66 "Internet" means collectively, the myriad of computer and telecommunications facilities, which  
67 comprise the interconnected worldwide network of computer networks.

68 "Internet service" means a service that enables users to access proprietary and other content,  
69 information electronic mail, and the Internet as part of a package of services sold to end-user  
70 subscribers.

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

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

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

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

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

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

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

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

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

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

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

124 "*Qualifying locality*" means Halifax County or Northampton County.

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

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

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

137 The terms "retail sale" and a "sale at retail" specifically include the following: (i) the sale or charges  
138 for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous  
139 days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in  
140 which rooms, lodging, space, or accommodations are regularly furnished to transients for a  
141 consideration; (ii) sales of tangible personal property to persons for resale when because of the operation  
142 of the business, or its very nature, or the lack of a place of business in which to display a certificate of  
143 registration, or the lack of a place of business in which to keep records, or the lack of adequate records,  
144 or because such persons are minors or transients, or because such persons are engaged in essentially  
145 service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds  
146 due to the difficulty of policing such business operations; (iii) the separately stated charge made for  
147 automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during  
148 its repair; and (iv) the separately stated charge for equipment available for lease or purchase by a  
149 provider of satellite television programming to the customer of such programming. Equipment sold to a  
150 provider of satellite television programming for subsequent lease or purchase by the customer of such  
151 programming shall be deemed a sale for resale. The Tax Commissioner is authorized to promulgate  
152 regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on  
153 the cost price of such tangible personal property to such persons and may refuse to issue certificates of  
154 registration to such persons. The terms "retail sale" and a "sale at retail" also specifically include the  
155 separately stated charge made for supplies used during automotive repairs whether or not there is  
156 transfer of title or possession of the supplies and whether or not the supplies are attached to the  
157 automobile. The purchase of such supplies by an automotive repairer for sale to the customer of such  
158 repair services shall be deemed a sale for resale.

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

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

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

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

180 "Sales price" means the total amount for which tangible personal property or services are sold,  
181 including any services that are a part of the sale, valued in money, whether paid in money or otherwise,

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

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

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

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

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

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

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

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

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

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

236 **§ 58.1-605. To what extent and under what conditions cities and counties may levy local sales**  
237 **taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled**  
238 **thereto.**

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

241 B. The council of any city and the governing body of any county may levy a general retail sales tax  
242 at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall  
243 be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to

244 all the provisions of this chapter and the rules and regulations published with respect thereto. No  
245 discount under § 58.1-622 shall be allowed on a local sales tax.

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

251 2. Prior to any change in the rate of any local sales and use tax, the Tax Commissioner shall provide  
252 remote sellers with at least 30 days' notice. Any change in the rate of any local sales and use tax shall  
253 only become effective on the first day of a calendar quarter. Failure to provide notice pursuant to this  
254 section shall require the Commonwealth and the locality to apply the preceding effective rate until 30  
255 days after notification is provided.

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

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

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

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

293 H. One-half of such payments to counties are subject to the further qualification, other than as set  
294 out in subsection G, that in any county wherein is situated any incorporated town not constituting a  
295 separate special school district that has complied with its charter provisions providing for the election of  
296 its council and mayor for a period of at least four years immediately prior to the adoption of the sales  
297 tax ordinance, the county treasurer shall pay into the town treasury of each such town for general  
298 governmental purposes the proper proportionate amount received by him in the ratio that the school age  
299 population of each such town bears to the school age population of the entire county, based on the latest  
300 estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement  
301 pertaining to the time interval between compliance with election provisions and adoption of the sales tax  
302 ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a  
303 separate special school district is increased by the annexation of territory or otherwise since the last  
304 estimate of school age population provided by the Weldon Cooper Center for Public Service, such

305 increase shall, for the purposes of this section, be added to the school age population of such town as  
 306 shown by the last such estimate and a proper reduction made in the school age population of the county  
 307 or counties from which the annexed territory was acquired.

308 I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its  
 309 discretion, appropriate funds to any incorporated town not constituting a separate school district within  
 310 such county that has not complied with the provisions of its charter relating to the elections of its  
 311 council and mayor, an amount not to exceed the amount it would have received from the tax imposed  
 312 by this chapter if such election had been held; however, Halifax County *and Northampton County* may  
 313 appropriate any amount to any such incorporated town.

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

321 **§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction or**  
 322 **renovation of schools.**

323 A. 1. In addition to the sales tax authorized under § 58.1-605, ~~Halifax County~~ *a qualifying locality*  
 324 may levy a general retail sales tax at a rate not to exceed one percent as determined by its governing  
 325 body to provide revenue solely for capital projects for the construction or renovation of schools in  
 326 ~~Halifax County~~ *such locality*. Such tax shall be added to the rates of the state and local sales tax  
 327 imposed by this chapter and shall be subject to all the provisions of this chapter and the rules and  
 328 regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on this local  
 329 sales tax.

330 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction  
 331 or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans  
 332 shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be  
 333 financed by bonds or loans, on a date chosen by the governing body and specified in any resolution  
 334 passed pursuant to the provisions of subdivision B 1. Such expiration date shall not be more than 20  
 335 years after the date of the resolution passed pursuant to the provisions of subdivision B 1.

336 B. 1. This tax may be levied only if the tax is approved in a referendum within ~~Halifax County~~ *the*  
 337 *qualifying locality* held in accordance with § 24.2-684 and initiated by a resolution of the local  
 338 governing body. Such resolution shall state (i) if the capital projects for the construction or renovation  
 339 of schools are to be financed by bonds or loans, the date by which such bonds or loans shall be repaid  
 340 or (ii) if the capital projects for the construction or renovation of schools are not to be financed by  
 341 bonds or loans, a specified date on which the sales tax shall expire.

342 2. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general  
 343 circulation in ~~Halifax County~~ *the qualifying locality* once a week for three consecutive weeks prior to  
 344 the election. The question on the ballot for the referendum shall include language stating (i) that the  
 345 revenues from the sales tax shall be used solely for capital projects for the construction or renovation of  
 346 schools and (ii) the date on which the sales tax shall expire.

347 C. The governing body of ~~Halifax County~~ *the qualifying locality*, if it elects to impose a local sales  
 348 tax under this section after approval at a referendum as provided in subsection B shall do so by the  
 349 adoption of an ordinance stating its purpose and referring to this section and providing that such  
 350 ordinance shall be effective on the first day of a month at least 120 days after its adoption. Such  
 351 ordinance shall state the date on which the sales tax shall expire. A certified copy of such ordinance  
 352 shall be forwarded to the Tax Commissioner so that it will be received within five days after its  
 353 adoption.

354 D. Any local sales tax levied under this section shall be administered and collected by the Tax  
 355 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the  
 356 state sales tax; however, the local sales tax levied under this section shall not be levied on food  
 357 purchased for human consumption, as defined in § 58.1-611.1.

358 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid  
 359 into the state treasury to the credit of a special fund that is hereby created on the Comptroller's books  
 360 *for each qualifying locality* under the name "Collections of Additional Local Sales Taxes in ~~Halifax~~  
 361 ~~County~~ \_\_\_\_\_ (INSERT NAME OF THE QUALIFYING LOCALITY)." ~~The~~ *Each* fund shall be  
 362 administered as provided in § 58.1-605. *A separate fund shall be created for each qualifying locality.*  
 363 *Only local sales tax moneys collected in that qualifying locality shall be deposited into that locality's*  
 364 *fund.*

365 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in  
 366 any month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in the

367 proper amount in favor of ~~Halifax County~~ *each qualifying locality*, and such payments shall be charged  
 368 to the account of ~~Halifax County~~ *the qualifying locality* under ~~the~~ *its* special fund created by this  
 369 section. If errors are made in any such payment, or adjustments are otherwise necessary, whether  
 370 attributable to refunds to taxpayers or to some other fact, the errors shall be corrected and adjustments  
 371 made in the payments for the next two months as follows: one-half of the total adjustment shall be  
 372 included in the payment for each of the next two months. In addition, the payment shall include a  
 373 refund of amounts erroneously not paid to ~~Halifax County~~ *each qualifying locality* and not previously  
 374 refunded during the three years preceding the discovery of the error. A correction and adjustment in  
 375 payments described in this subsection due to the misallocation of funds by the dealer shall be made  
 376 within three years of the date of the payment error.

377 G. The revenues from this tax shall be used solely for capital projects for new construction or major  
 378 renovation of schools in ~~Halifax County~~ *the qualifying locality*, including bond and loan financing costs  
 379 related to such construction or renovation.

380 **§ 58.1-606.1. Additional local use tax in certain localities; use of revenues for construction or**  
 381 **renovation of schools.**

382 A. 1. The governing body of ~~Halifax County~~ *a qualifying locality* may levy a use tax at the rate of  
 383 such sales tax under § 58.1-605.1 to provide revenue for capital projects for the construction or  
 384 renovation of schools in ~~Halifax County~~ *such locality*. Such tax shall be added to the rates of the state  
 385 and local use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and  
 386 all amendments thereof, and the rules and regulations published with respect thereto, except that no  
 387 discount under § 58.1-622 shall be allowed on a local use tax.

388 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction  
 389 or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans  
 390 shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be  
 391 financed by bonds or loans, on a date chosen by the governing body and specified in any resolution  
 392 passed pursuant to the provisions of subsection B. Such expiration date shall not be more than 20 years  
 393 after the date of the resolution passed pursuant to the provisions of subsection B.

394 B. The governing body of ~~Halifax County~~ *the qualifying locality*, if it elects to impose a local use  
 395 tax under this section may do so only if it has previously imposed the local sales tax authorized by  
 396 § 58.1-605.1, by the adoption of an ordinance stating its purpose and referring to this section and  
 397 providing that the local use tax shall become effective on the first day of a month at least 120 days after  
 398 its adoption. Such ordinance shall state the date on which the use tax shall expire. A certified copy of  
 399 such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days  
 400 after its adoption.

401 C. Any local use tax levied under this section shall be administered and collected by the Tax  
 402 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the  
 403 state use tax; however, the local sales tax levied under this section shall not be levied on food purchased  
 404 for human consumption, as defined in § 58.1-611.1.

405 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax  
 406 applies, the situs of which for state and local sales tax purposes is the locality of location of each place  
 407 of business of every dealer paying the tax to the Commonwealth without regard to the locality of  
 408 possible use by the purchasers. However, the local use tax authorized by this section shall apply to  
 409 tangible personal property purchased outside the Commonwealth for use or consumption within the  
 410 locality imposing the local use tax, or stored within the locality for use or consumption, where the  
 411 property would have been subject to the sales tax if it had been purchased within the Commonwealth.  
 412 The local use tax shall also apply to leases or rentals of tangible personal property where the place of  
 413 business of the lessor is outside the Commonwealth and such leases or rentals are subject to the state  
 414 tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.

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

422 F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E  
 423 of § 58.1-605.1. The Comptroller shall distribute the revenue to ~~Halifax County~~ *the qualifying locality*.

424 G. All revenue from this local use tax revenue shall be used solely for capital projects for new  
 425 construction or major renovation of schools in ~~Halifax County~~ *the qualifying locality*, including bond  
 426 and loan financing costs related to such construction or renovation.