

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 58.1-602, 58.1-605, 58.1-605.1, and 58.1-606.1 of the Code of Virginia,*
 3 *relating to additional local sales and use tax to support schools; referendum.*

4 [S 1307]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **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**
8 **reenacted as follows:**9 **§ 58.1-602. Definitions.**

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

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

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

19 "Accommodations intermediary" means any person other than an accommodations provider that (i)
 20 facilitates the sale of an accommodation and (ii) either (a) charges a room charge to the customer, and
 21 charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale;
 22 (b) collects a room charge from the customer; or (c) charges a fee, other than an accommodations fee, to the
 23 customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition,
 24 "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of the
 25 right to use accommodations via a transaction directly, including via one or more payment processors,
 26 between a customer and an accommodations provider.

27 "Accommodations intermediary" does not include a person:

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

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

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

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

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

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

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

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

55 "Cost price" means the actual cost of an item or article of tangible personal property computed in the same
 56 manner as the sales price as defined in this section without any deductions therefrom on account of the cost of

ENROLLED

SB1307ER

57 materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

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

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

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

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

76 "Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in
77 this chapter, without any deduction, except as provided in this chapter. "Gross sales" does not include the
78 federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue
79 Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia
80 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.

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

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

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

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

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

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

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

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

116 "Modular building" means, but is not limited to, single and multifamily houses, apartment units,
117 commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended
118 to become real property, primarily constructed at a location other than the permanent site, built to comply

119 with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia
 120 Department of Housing and Community Development, and shipped with most permanent components in
 121 place to the site of final assembly. For purposes of this chapter, "modular building" does not include a mobile
 122 office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of
 123 the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et
 124 seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

242 "Tangible personal property" means personal property that may be seen, weighed, measured, felt, or

243 touched, or is in any other manner perceptible to the senses. "Tangible personal property" does not include
244 stocks, bonds, notes, insurance or other obligations or securities. "Tangible personal property" includes (i)
245 telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility
246 taxes, and (ii) manufactured signs.

247 "Use" means the exercise of any right or power over tangible personal property incident to the ownership
248 thereof, except that it does not include the sale at retail of that property in the regular course of business.
249 "Use" does not include the exercise of any right or power, including use, distribution, or storage, over any
250 tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a
251 nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or
252 telephone. "Use" does not include any sale determined to be a gift transaction, subject to tax under §
253 58.1-604.6.

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

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

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

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

265 **§ 58.1-605. To what extent and under what conditions cities and counties may levy local sales taxes;
266 collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.**

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

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

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

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

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

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

298 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any
299 month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the
300 proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and
301 such payments shall be charged to the account of each such city or county under the special fund created by
302 this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether
303 attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made
304 in the payments for the next two months as follows: one-half of the total adjustment shall be included in the

305 payments for the next two months. In addition, the payment shall include a refund of amounts erroneously not
 306 paid to the city or county and not previously refunded during the three years preceding the discovery of the
 307 error. A correction and adjustment in payments described in this subsection due to the misallocation of funds
 308 by the dealer shall be made within three years of the date of the payment error.

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

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

333 I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its
 334 discretion, appropriate funds to any incorporated town not constituting a separate school district within such
 335 county that has not complied with the provisions of its charter relating to the elections of its council and
 336 mayor; ~~an amount not to exceed the amount it would have received from the tax imposed by this chapter if~~
 337 ~~such election had been held; however, Charlotte County, Gloucester County, Halifax County, Henry County,~~
 338 ~~Mecklenburg County, Northampton County, Patrick County, and Pittsylvania County may appropriate any~~
 339 ~~amount to any such incorporated town.~~

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

347 **§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction or**
 348 **renovation of schools.**

349 A. ~~1.~~ In addition to the sales tax authorized under § 58.1-605, a ~~qualifying locality~~ *any county or city* may
 350 levy a general retail sales tax at a rate not to exceed one percent as determined by its governing body to
 351 provide revenue solely for *public school* capital projects for the construction or renovation of schools ~~in~~
 352 ~~serving each such locality county or city. For the purposes of this section, "public school capital projects"~~
 353 ~~means construction and major renovation of public school buildings and facilities, including building new or~~
 354 ~~enlarging existing buildings, restoring structural integrity, retrofitting or upgrading operational~~
 355 ~~infrastructure, and site acquisition. Such tax shall be added to the rates of the state and local sales tax~~
 356 ~~imposed by this chapter and shall be subject to all the provisions of this chapter and the rules and regulations~~
 357 ~~published with respect thereto. No discount under § 58.1-622 shall be allowed on this local sales tax.~~

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

364 B. 1. This tax may be levied only if the tax is approved in a referendum within the ~~qualifying locality~~
 365 ~~county or city~~ held in accordance with § 24.2-684 and initiated by a resolution of the local governing body.
 366 Such resolution shall state (i) ~~if the capital projects for the construction or renovation of schools are to be~~

367 financed by bonds or loans, the date by which such bonds or loans shall be repaid or (ii) if the capital projects
 368 for the construction or renovation of schools are not to be financed by bonds or loans, a specified date on
 369 which the sales tax shall expire that revenues resulting from the imposition of this tax are to be used on
 370 public school capital projects, and may state that such revenues resulting from the imposition of this tax may
 371 be used for the debt service of such public school capital projects.

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

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

383 D. Any local sales tax levied under this section shall be administered and collected by the Tax
 384 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state
 385 sales tax; however, the local sales tax levied under this section shall not be levied on food purchased for
 386 human consumption or essential personal hygiene products, as such terms are defined in § 58.1-611.1. Any
 387 local sales tax imposed under this section shall be collected and distributed separately from any local
 388 general retail sales tax imposed under § 58.1-605.

389 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the
 390 state treasury to the credit of a special fund that is hereby created on the Comptroller's books for each
 391 ~~qualifying locality~~ county or city under the name "Collections of Additional Local Sales Taxes for Public
 392 School Capital Projects in ____ (INSERT NAME OF THE ~~QUALIFYING LOCALITY COUNTY OR~~
 393 ~~CITY).~~" Each fund shall be administered as provided in § 58.1-605. A separate fund shall be created for each
 394 ~~qualifying locality~~ county or city. Only local sales tax moneys collected in that ~~qualifying locality~~ county or
 395 city shall be deposited in that ~~locality's~~ county's or city's fund.

396 F. 1. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any
 397 month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in the proper
 398 amount in favor of each ~~qualifying locality~~ county or city, and such payments shall be charged to the account
 399 of the ~~qualifying locality~~ county or city under its special fund created by this section. If errors are made in any
 400 such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some
 401 other fact, the errors shall be corrected and adjustments made in the payments for the next two months as
 402 follows: one-half of the total adjustment shall be included in the payment for each of the next two months. In
 403 addition, the payment shall include a refund of amounts erroneously not paid to each ~~qualifying locality~~
 404 county or city and not previously refunded during the three years preceding the discovery of the error. A
 405 correction and adjustment in payments described in this subsection due to the misallocation of funds by the
 406 dealer shall be made within three years of the date of the payment error.

407 2. Any county that contains any incorporated town constituting and operating a special school district
 408 separate from the school district operated by the county within which such incorporated town lies shall pay
 409 into such town's treasury the proper proportionate revenues received by such county from levying the tax
 410 authorized by this section in the ratio that the school age population of such town bears to the school age
 411 population of the entire county. Such payments shall be made as soon as practicable after receipt of funds by
 412 the county each month pursuant to subdivision 1. A town receiving revenues pursuant to this subdivision shall
 413 use such revenues solely for public school capital projects as provided in this section for counties and cities.

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

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

422 A. 1. The governing body of a ~~qualifying locality~~ county or city may levy a use tax at the rate of such
 423 sales tax under § 58.1-605.1 to provide revenue for *public school* capital projects for the construction or
 424 renovation of as defined in § 58.1-605.1 for schools in serving such ~~locality~~ county or city. Such tax shall be
 425 added to the rates of the state and local use tax imposed by this chapter and shall be subject to all the
 426 provisions of this chapter, and all amendments thereof, and the rules and regulations published with respect
 427 thereto, except that no discount 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 construction or

429 renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans shall be
430 repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by
431 bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the
432 provisions of subsection B. Such expiration date shall not be more than 20 years after the date of the
433 resolution passed pursuant to the provisions of subsection B.

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

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

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

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

461 F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E of §
462 58.1-605.1. The Comptroller shall distribute the revenue to the ~~qualifying locality~~ *county or city*.

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

469 **2. That any county or city that has imposed a local sales or use tax under § 58.1-605.1 or 58.1-606.1 of**
470 **the Code of Virginia, as amended by this act, as of June 30, 2025, and that wants to extend such local**
471 **sales or use tax beyond the expiration date provided in the referendum imposing such local sales or use**
472 **tax shall, prior to the expiration date of such local sales or use tax, receive approval of such extension**
473 **in an additional referendum held in accordance with the provisions of § 58.1-605.1 of the Code of**
474 **Virginia, as amended by this act, and initiated by a resolution of the local governing body.**